

PLANS BOARD

Minutes of a meeting of the Plans Board held on Wednesday, 6 January, 2010 at 6.00 p.m. in the Civic Offices, Telford, Shropshire

PRESENT: Councillors I.T.W. Fletcher (Chairman), J.A. Francis, R.G. Chaplin, N.A. Dugmore (Vice-Chairman), G.M. Green, F.R. Picken, H. Rhodes and M.J. Smith

PB-73 MINUTES

RESOLVED – that the minutes of the meetings of the Plans Board held on 7 December and 16 December, 2009 be confirmed and signed by the Chairman.

PB-74 APOLOGIES FOR ABSENCE

None.

PB-75 DECLARATIONS OF INTEREST

Councillor I.T.W. Fletcher declared a personal and prejudicial interest in planning application W2009/0168 and indicated his intention to vacate the Chair and leave the room during discussion and determination thereon.

Councillor G.M. Green declared that she wished to speak on planning application W2009/0962 in her capacity as Ward Member for Madeley following which she would leave the room during discussion and determination thereon.

PB-76 PLANNING APPLICATIONS FOR DETERMINATION

(In accordance with his declaration of interest, Councillor I.T.W. Fletcher vacated the Chair in favour of Councillor N.A. Dugmore and left the room.)

(a) W2009/0168 – Former Windsor Flats site, Arleston Lane, Wellington, Telford, Shropshire

This application was for the demolition of the existing Windsor Flats and erection of eleven flats and nine houses. A previous application, W2008/1006, had been considered by the Board at its meeting on the 19th November, 2008 at which it was resolved to grant planning permission subject to the applicant entering into a Section 106 Agreement to provide £12,000 towards off-site outdoor recreation provision. On the 8th April, 2008 the Board had considered a further application, W2009/0168, which amended the layout of the proposal, and which was approved subject to a Section 106 Agreement for an off-site contribution towards outdoor play facilities. The application was again considered by the Board on 29th April 2009 as the applicant was unwilling to provide a financial contribution but would provide 100% affordable housing. Members resolved to grant planning permission subject to a Section 106 Agreement to provide 100% social housing and a financial contribution towards the improvement of recreational facilities in the vicinity of the site, the figure of the contribution being delegated to the Head of Planning & Transport to negotiate.

Since the 29th April 2009 officers had attempted to negotiate this financial contribution but the Wrekin Housing Trust had been unable to meet the provision of 100% social housing as it had not been possible to achieve housing grant in respect of this site. Subsequently, the Trust had reverted back to the 8th April 2008 approval and to the approval of W2008/1006. However, due to the lack of housing grant, the applicant could now only provide a contribution of £5,000 which the Board was recommended to accept in order that the applicant could proceed with site clearance and redevelopment.

The Head of Planning & Transport advised the Board that, given the current economic climate, the importance of bringing forward housing provision in the Borough, and the fact that the applicant was still willing to make a contribution to open space, the revised recommendation before them should be approved.

Members agreed that a realistic approach was necessary in the circumstances and approval would allow a derelict site to be dealt with.

RESOLVED – that with respect to planning application W2009/0168 delegated authority be granted to the Head of Planning & Transport to grant planning permission subject to the applicant entering into a Section 106 Agreement to provide a financial contribution of £5,000 towards off site play facilities and to the conditions as set out in the report.

(Councillor I.T.W. Fletcher returned to the room and chaired the remainder of the meeting).

(b) W2009/0915 – Land at Malinslee House, Malinsgate, Telford, Shropshire

This was an application for full planning permission for the erection of a 7,897 sq.m. (gross) superstore, a 6 bay automatic petrol filling station, a 500 space car park, servicing and associated landscaping and access including the realignment of part of Southwater Way, as detailed in the report. The application had been deferred from the Plans Board meeting of 16th December, 2009 following receipt of objections from the owners of the Telford Shopping Centre (Telford Trustee No.1 Limited and Telford Trustee No.2 Limited (“the Trustees”). Copies of these objections together with the response from the applicant’s solicitors had been sent to the Board members.

The planning application covered a site of 2.7 ha., which was located between Malinsgate/Coach Central and Southwater Way, and comprised Malinslee House and Walker House Civic Offices, and the surrounding terraced surface level car parking and landscaped areas. Directly across Southwater Way to the west of the application site was the Malinslee Link site, which was the subject of a separate outline planning application for residential development (see W2009/0945).

The application had been advertised in the local press and on site as one subject to an Environmental Impact Assessment, as a Departure Application and of major significance. Comprehensive publicity and consultation had been undertaken, including with the principal technical consultees.

The report detailed the consultation responses received, in particular those received from the Trustees. They had submitted a strong objection to the proposed development covering conflict with the sequential approach, unacceptable impact on the town centre, conflict with the adopted Wrekin Local Plan (1994-2006) (WLP) as acknowledged by the applicant), prematurity, uncertainty of the replacement of the civic offices, inadequate addressing of highway impacts, and the scheme's failure to address key urban planning requirements, as detailed in the main report within the Lilac Schedule.

The report set out the local and national planning policies against which this application needed to be considered. Following submission of the application, in support of their respective positions, both the applicant and the Trustees had placed considerable reliance upon PPS6: Planning for Town Centres but this, as identified in the main report, was to be replaced by PPS4, then in draft. However, PPS4 proposed to refine the policy approach to planning for town centres rather than to make significant changes. In relation to the new retail provision, the quantitative need had been identified as part of the White Young Green Retail and Leisure Study 2006 (updated 2009) commissioned by the Council.

The key issues and planning considerations in relation to the application were outlined in the main report. With regard to the Central Telford Area Action Plan (CTAAP), the main report acknowledged, as stated by the Trustees that this document should be given no weight in determining the application as it had been suspended by the Planning Inspector in agreement with the Council.

With regard to design considerations, the proposed building would be located to the north-west of the site and would incorporate undercroft parking, as set out in the report. There was a fall across the site running north-west to south-east of some 9 metres which had resulted in the terracing of both the built form of the Civic Offices and the car parks and which had placed constraints on this scheme. The pre-application discussions between the Council and the applicant had identified pedestrian linkages as being fairly crucial particularly in creating strong pedestrian linkages between the Malinslee residential areas and the town centre and south-east towards Southwater. In conclusion, officers were of the opinion that the majority of the development was well designed and likely to achieve the BREEAM very good standard of sustainability. Therefore, given suitable conditions requiring the submission of further details the development was considered acceptable.

With regard to highways and transportation the application showed a main access via a proposed priority junction off Southwater Way providing access/egress for customers and servicing plus access/egress to the Petrol Filling Station (PFS). A secondary access was proposed from Malinsgate providing a left-in/left-out arrangement for shoppers. Improved and enhanced pedestrian linkages to the remainder of Southwater and from Malinslee to the town centre had also been given precedence in the design of the store. Configuration changes were also proposed to facilitate these proposals to Malinsgate/Woodhouse Central/Coach Central. Whilst the basic form of these junctions would remain unchanged, it was proposed to enhance conditions for traffic and pedestrians by introducing a full traffic signal control that would be integrated with the existing House of Fraser car park traffic signals. The entire junction, including the bus priority lanes, car park entrance and

flow systems along Malinsgate/Coach Central/Woodhouse Central would be improved and be less 'highway dominated'. It was considered that pedestrian accessibility and permeability were key to the successful integration of this proposal. However, the Local Highways Authority (LHA) had suggested revisions to meet the standards contained in the Design Manual for Roads and Bridges and supported with a safety audit and AutoTrak runs and, therefore, had recommended a conditional consent. The site had a pedestrian entrance off Southwater Way, which would tie into the realigned footway link to Malinslee (see W2009/0945). The submitted plans showed a raised pedestrian table at this point but the Highways Engineer considered that a signalised crossing point should be used.

The proposal showed a 500 space car park partly at grade, partly undercroft. Whilst PPG 13 required a maximum of 580 spaces, a slightly lower allocation was proposed to reflect the site's central location and opportunities for more sustainable forms of transport. 500 spaces were deemed acceptable as sheltered bike parking/storage was also proposed. Servicing arrangements appeared to be sufficient and largely separated from customer traffic and pedestrian movements. The Highways Engineer had advised minor changes to the car parking arrangements and undercroft parking.

The Design & Access Statement submitted with the planning application had been designed in conjunction with the proposed Malinslee housing site to the south. Specific landscape planting had been included within the design proposal to lessen the landscape and visual impact of the new supermarket, as set out in the report. There were proposals for tree felling which would impact upon the local scene and a condition would need to be imposed requiring further details of the translocation of some of the other trees on the site.

With regard to the noise and pollution control issues, while the report accompanying the Environmental Statement had addressed these in terms of overall noise levels, there was limited detail which would need to be clarified in respect of appropriate standards and control measures, with appropriate conditions imposed.

The applicants had requested that approval should be accompanied with a 5 year time limit as opposed to the usual 3 year approval, on the grounds that the relocation of the Telford & Wrekin Council offices needed to be completed prior to vacant possession of the site being available, the likely timetable for which was early 2013. The Local Planning Authority (LPA) had the discretion under section 91 of the Town and Country Planning Act 1990 (as amended) to grant permissions for longer than the statutory default period and, although it was considered that this request was reasonable and justifiable, it was recommended that a period of 4 years be granted to allow for vacant possession of the site and implementation of the store, in accordance with predicated timetables and to assist in preventing disruption of the operation of the existing store.

The Council was an interested party to the application and, therefore, the avenue of a Section 106 Obligation under the Planning Act was not available. Instead it was recommended that commitments be made on behalf of the Council, as landowner, to abide by the planning 'obligations' and, should the land be transferred, to make it a condition of that transfer that the new owner would have to enter into a Section 106 agreement in respect of these obligations.

The LHA had assessed the impacts arising from the development and had recommended that, in accordance with the plan-led approach, a financial contribution of £720,000 would be required towards the provision of Major (highway, transport and traffic) Schemes and the new pedestrian crossing hub at the junction of Coach/Malinsgate/Woodhouse. An additional sum of £5,000 would be required for monitoring the store travel plan and a contribution of £75,000 would be sought to commission public art on the site in line with Local Plan Policy. As with recent planning approvals, a sum of £10,000 would be sought to monitor and enforce the Section 106 Agreement and conditions.

The application had been the subject of an Environmental Statement (ES) under the Town & Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 1999 and following full assessment by the LPA it had been concluded that any outstanding environmental effects could be satisfactorily mitigated with the use of planning conditions.

Following the preparation and publication of the main report further representations were received from the applicant and the Trustees, copies of which were sent to the Board members in advance of the meeting, put on the Council's website, placed in the members' library and tabled at the meeting. In addition, detailed officer comments on all the objections received from the Trustees were sent to the Board in the form of an update sheet, as summarised below. Further, PPS4: Planning for Sustainable Economic Growth had been published on the 29th December 2009 and was now relevant. This publication had been placed in the members' library and was available on the DCLG website. The planning officer introduced PPS4 as an important material planning consideration and emphasised to members they must properly consider all correspondence received last month and this year.

Councillor P.A.E. Homer, Ward Member for Malinslee, supported the application and stated that, after reading all of the correspondence sent to him, he could see no reason to change his opinion.

Letter of objection dated 11 December 2009 from Nabarro LLP, Solicitors of London, acting for Telford Trustee No 1 and Telford Trustee No. 2 Ltd and accompanying Briefing Note:

The update report summarised the main issues raised in these documents. One main issue was the submission by the Trustees of a planning application for a food store on the Red Oak Car Park and their belief that this and the Asda application should be determined at the same meeting.

The officer response was that the Asda proposal had been properly considered and, importantly, had been the subject of intensive pre-application discussions with planning and other relevant officers. In addition, the main report to the Board had been the subject of scrutiny by Counsel appointed by the Council and was an adequate basis for the determination of this application. Whilst, it was open to the Council to defer consideration of both applications from Asda until the Red Oak Car Park site planning application was considered, there were very good reasons for not deferring their consideration. The planning officer commented that a deferral would

mean a potential delay of several months in the determination of the Asda application.

The Red Oak Car Park site would not be required to demonstrate “need” as it was within the Primary Shopping Area (PSA) and, in retail terms, was likely to be ‘in principle’ acceptable, albeit that it had not been tested in EIA or development control terms nor had any conclusion been reached by officers as to its overall acceptability. Nevertheless, the Red Oak Car Park site had to be regarded as being sequentially preferable to the Asda site in planning terms and, if granted planning permission, would complement the town centre retail offer within the PSA. However, there was sufficient headroom retail capacity for more than one large food supermarket in the town centre. In addition, the Red Oak Car Park site could not be considered to be available until 2014, at the earliest, in the event of that Asda remained in occupation of their present store should this application be refused. The Red Oak Car Park site was, therefore, not ‘available’ within the meaning of PPS4 and the recently published PPS4 Practice Guide (which had superseded PPS6), having regard to the local circumstances of Telford. To wait some four years or more for a new food supermarket to replace the current inadequate Asda store was considered excessive given the significant benefits of approving this application now, as set out on the update sheet.

Briefing Note 0.1 (v.3) – Waterman dated 5 November 2009 but lodged with the above letter 11 December 2009. This is a “critique” of the Environmental Statement lodged with the planning application

At the core of the Trustees objections was their belief that the applicant’s ES did not fully comply with EIA Regulations together with a number of concerns relating to environmental and consultation issues. These issues were summarised in the update report and set out in full in the documentation provided to members in advance of the meeting.

In response the planning officer confirmed that the Council had had the benefit of experts looking at the application. If they had not understood the environmental impacts of the development proposals they would have asked the planning officer to seek more information. The planning officer reassured members in respect of the soundness of the ES. Further, it was clarified for members that alternatives had been included in the ES including consideration of alternative sites and site layouts, thereby meeting the relevant EIA Regulations. Officers were also content that the issue of demolition and construction phases had been addressed within each chapter of the ES and a sufficient understanding of environmental effects gained.

In relation to noise, the main report explained that adequate control measures were either in place or could be conditioned as part of any approval to militate against potential noise arising from supermarket activities, in accordance with PPG24.

Relocation of TWC offices had been considered in terms of timescales and the impacts arising from the proposed new land use at the Civic site. As stated in the update report, operationally, it would be difficult for the Council to not provide new

alternative office space; similarly, it was accepted that the proposal would provide for the retention of Asda jobs within Telford post 2014.

The planning officer pointed out that the Trustees had alleged that there was a lack of cumulative impact assessment but confirmed that officers were content concerning the issue of cumulative impact. Only the combined impacts of development proposals either already begun or with planning permission needed to be considered. . Further, as stated above, the Red Oak Car Park site was not available within the meaning of PPS4 and the PPS4 Guidance. Construction impacts from the combined Asda and Malinslee Link residential development were at an acceptable level.

The Planning Policy section of the application/ES covered Development Plan issues satisfactorily and the main report had set out the policy framework and the respective materiality of the various policies.

The Transport section of the ES had dealt with all forms of transport in accordance with their likely impact and had concluded that local provision was adequate, that the development would lead to improvements for pedestrians/cycle users and would not lead to increased demand for additional bus/rail transport.

Through the update report, the planning officer outlined the officer position regarding flood consequences, SUDS issues and ground conditions.

Letter of Objection from Nabarro Solicitors on behalf of Trustees Nos. 1 & 2 dated 14 December 2009 containing report “Comments on Additional Materials Submitted” ... in connection with W2009/0915

This letter set out further detailed objections on the main report, as submitted to the Plans Board of 16th December, 2009. The officer response to these was as follows.

The main report had clearly explained the approach taken to sequential analysis, i.e. that alternative, sequentially preferable sites needed to be available, suitable and viable. The planning officer made reference to the PPS6 analysis and again clarified and summarised how it had been superseded by PPS4. For the reasons stated, the Red Oak Car Park site formed part of the present Asda store’s car park and would be significantly diminished during building operations and result in unacceptable trading impacts on what was a key anchor to the Town Centre. In addition, Asda maintained that the current lease arrangements would prevent the Trustees from commencing work on the store until 2014. The planning officer questioned whether the Red Oak site was readily available. With regard to the Trustees point that the Ash Grey Car Park was also an available, suitable and viable site alternative site for a supermarket development, officers had serious doubts as to whether a store of the size proposed at the Civic Office site, together with a PFS, could be built at that location or that the site was readily available.

With regard to Retail Impact, it was a matter of conjecture whether by allowing a development on the Civic Office site, this would reduce the prospects of the Red Oak Car Park site attracting a quality supermarket operator. The planning officer acknowledged the relevance of this point but confirmed that no evidence had been

submitted that would demonstrate that this would be the case and the Council's evidence suggested that there was sufficient retail capacity for more than one new large supermarket store at the town centre.

Officers acknowledged that the number of vacant shop premises could be an indicator of the health or vitality of a town centre and there was conflicting evidence between the parties on this point in relation to Telford. The planning officer pointed out the relevance of PPS4 in this respect. He confirmed to members that PPS4 gave greater emphasis to the consideration of "impacts" on the town centre. It was incorrect to suggest that the LPA had failed to provide sufficient supporting evidence of its own to substantiate this proposal and it had commissioned the WYG Retail Study that took full account of the health of Telford Town centre albeit recognising that circumstances could change rapidly in a declining national economic climate. Given the current economic climate, Telford continued to perform reasonably well by comparison with other shopping centres as a 'sub-regional' shopping centre, with a higher proportion of comparison shopping and national operators. The planning officer pointed out that PPS4 focussed heavily on a "town centre first" policy and that Members would need to carefully consider whether the proposal would be likely to damage the viability and vitality recognising the need to promote competitive town centres and consumer choice.

The main report dealt with the issue of conflict with the Development Plan and acknowledged at the outset that the application was a Departure to the Local Plan where the provisions of Policy EC16 of PPS4 should apply. The planning officer made it clear that the Local Plan was increasingly out of date in respect of retail policy and it was incumbent upon the Council as the LPA to respond to future needs in accordance with PPS4, as supplemented by the Practice Guidance (December 2009). The planning officer opined that that the proposal was fully compliant with the criteria a) to e) of Policy EC16 of PPS4, particularly with regards to the impact of the proposal on the viability and vitality of the centre in the context of impact on trade turnover having regards to the expenditure capacity identified in the WYG Retail Study. It was further explained that even if this proposal went ahead, there would be sufficient expenditure capacity to permit other retail development opportunities in the town centre.

The Trustees argued that the Council should not determine a planning application that might comprise a development proposal in accordance with the provisions of a Development Plan document that might be considered unsound in due course, i.e. the CTAAP. The planning officer disagreed with this point. Whilst officers acknowledged that CTAAP had been suspended by the Planning Inspector and could, therefore, be given little or no weight, this was not a reason to prevent determination of this application on the grounds of prematurity.

In response to the Trustees comments regarding publicity and consultation, as well as what was stated in the update report, the planning officer commented that officers had received some good responses and that the pre-application responses were also good which was significant.

The planning officer clarified how the revised PPS4 concentrated on sequential analysis and town centre impacts and the objector's criticism of the qualitative

arguments was not accepted as there were deficiencies with the existing Asda store (described by the planning officer as not being a fully up to date modern store) and this proposal would provide significant improvements.

The update report acknowledged that the Red Oak Car Park site was sequentially preferable but that there were outstanding questions about the availability of this site at least until 2014 when Asda's lease of the car park expires. In addition to other comments made, the update report added that development earlier than 2014 at this location would seriously disrupt trading operations at the existing Asda store – a town centre and shopping centre retailing “anchor” and that this could, if a significant part of the store needed to be closed for redevelopment at any one time, undermine the viability and vitality of the town centre acting as a sub-regional shopping centre. PPS4 tests had been applied and site location and impacts on the town centre proven to be acceptable. The identity of the future operator at the Civic site was immaterial, provided the site could provide for the needs of a quality operator. However, as stated, the Red Oak Car park site could not be regarded as “available” having regard to local circumstances at Telford.

The objections to the design, including highways, were considered to be largely subjective. There were interesting aspects to the design, as referred to in the main report, and the store would be accorded BREEAM very good standard by achieving the sustainability objectives for the site. Whilst the objectors wished to raise highway objections to the scheme, both the LHA and the Highways Agency were satisfied with the development and that adequate mitigation, including Section 106 contributions, could be achieved.

With regard to the Trustees allegation that the application had been “fast-tracked” or treated in anyway differentially, this was denied by the planning officer and the Board was informed that the application had benefited from extensive pre-application discussions, which had shaped much of the proposal before Members. This approach was advocated by Government and had served significantly to minimise the timescales required for post-application determination.

The update sheet informed the Board that the Highway Agency had removed its initial holding objection in a letter of 15th December, 2009. The proposal would not cause operational problems on the M54 but the cumulative impact of this and other development on the Strategic Road Network would require appropriate mitigation to be funded through the Council's strategy. There was no objection, therefore, under TR110.

The planning officer referred to the submissions from Osborne Clarke on behalf of Asda dated 22nd December 2009 which members had already seen. He confirmed that, as soon as these were received they were emailed to the Trustess who were given until 4th January 2010 to respond. The planning officer commented that this coincided with the publication of PPS4 and the Guidance on 29th December 2009.

1. **Letter of objection from Nabarro Solicitors on behalf of Trustees Nos. 1 & 2 dated 4 January 2010**
2. **Drivers Jonas (on behalf of Trustees) report on planning application W2009/0915 following release of PPS4 “Planning for Sustainable Economic Development” on 29 December 2009**
3. **Nabarro LLP’s comments (on behalf of Trustees) dated 4th January 2010 on rebuttal of Waterman’s briefing note prepared by Osborne Clarke (on behalf of Asda) on 22 December 2009**

The main point raised in Nabarro’s letter of 4 January 2010 was that of PPS4: Planning for Sustainable Economic Growth, published 29 December 2009, which they claimed raised fundamental implications and material consideration for the Council. Many of the other points raised had either been raised in earlier correspondence or dealt with under previous officer comments. PPS4 was clearly a relevant consideration of considerable weight and had, in part, replaced earlier policy contained in PPS6. Consideration had to be given to both PPS4 and the Practice Guidance on need for its full terms and effect. However, the officer recommendation remained the same having considered all the points made by Nabarro LLP, the consultants acting on behalf of the Trustees, and the contents of PPS4 and the Practice Guidance. The principal objections raised had been rebutted in the update sheet or, where not specifically rebutted, officers considered that none of the points raised were of sufficient concern to cause a delay either in the determination of this application or the determination of W2009/0945 or a refusal of either of these applications.

In his concluding remarks and with reference to the update report, the planning officer confirmed in the update report and at the meeting that the application has been the subject of an Environmental Statement under EIA Regulations and the impacts had been fully assessed by the Council and its stakeholders. Planning officers and the statutory consultees believed that the ES adequately describes the significant environmental effects that would arise from the development, provided mitigation in the form of planning conditions.

He further reiterated that the new PPS4 was an important additional material planning consideration for Members and must be given full weight. In addition he again referred to the objectors’ suggestion that the Red Oak Car Park application recently lodged with the Council and Asda’s applications should be considered together. He said that it was of course open to the Council to defer consideration of the Asda applications until the Red Oak Car Park site planning application is considered, possibly 16 weeks from submission but that there were very good reasons why the Council should not defer consideration. The Red Oak Car Park site would not be required to demonstrate “need” as it was within the PSA and in retail terms was likely to be ‘in principle’ acceptable, albeit that it had not been tested in EIA or development control terms nor had any conclusion been reached by your officers as to its overall acceptability. Nevertheless, the Red Oak Car Park site must be regarded as being sequentially preferable to the Asda site in planning terms and if granted planning permission would complement the town centre retail offer within the PSA. However, the planning officer again clarified that there was sufficient headroom retail capacity for more than one large food supermarket in the town centre. Even if it was assumed that the Red Oak Car Park site application was granted planning

permission, there was no good reason on planning grounds to refuse planning permission for the Asda proposals currently being considered. In addition, the Red Oak Car Park site could not be considered to be available until 2014, at the earliest, in the event of Asda remaining in occupation in their present store. This was to be assumed if planning permission was refused for their current application. The Red Oak Car Park site was therefore not 'available' within the meaning of PPS4 and the recently published (Dec 2009) PPS4 Practice Guide (which superseded PPS6), having regard to the local circumstances of Telford. To wait some 4 years or more for a new food supermarket to replace the current inadequate Asda store was considered excessive by Officers. Reasons included the significant retail and other planning benefits brought about by the Asda development going ahead at an early stage, as set out in the main report, especially the early stemming of leakage from Telford Town Centre including to unsustainable out of town retail locations, the fact that subject to planning permission being granted Asda was committed to going ahead, and the significant benefits of regeneration of the Town Centre which were likely to be triggered by the new Asda edge of centre development which was likely to act as a catalyst for further development within and adjacent to the town centre.

Given the information set out in both the main report, in the update sheet and presented to members, officers had concluded that the application was acceptable. For Members' further information a list of all the conditions proposed to be attached to any approval was tabled at the meeting.

One Member commented that the planning officer had given a thorough report but felt that there was still a lack of clarity. That member thought that the Asda application and the Red Oak application should be dealt with together and would not be voting on the Asda application. Another member expressed concern at the amount of additional information that had been forwarded to Members over the New Year period and considered that determination of the application should be deferred for say seven days to allow them to analyse the new information. Another member expressed concern as to the potential issues that could arise from the void created in the Shopping Centre by Asda transferring to the Civic Offices site and invited further officer thoughts on that point.

Other Members, however, considered that sufficient time had been available to understand the additional information and wished to see the application determined at this meeting. One member commented that a further deferral would see the same thing happening, that is the Trustees inundating the Council with more of the same points. One member commented that users of the Civic Offices car parks at weekends and Bank Holidays appeared to have no problems moving between that site and the Shopping Centre and considered that the same would apply if the Asda store was relocated. One member commented that there had been a lot to read in respect of this application, that the member had read the papers, had found the final one very useful and the officer presentation had been positive and complete.

The Head of Planning & Transport stressed that this was an important decision which needed to be taken in a timely manner with the objections being treated seriously. In response to Members' comments he said that the main report on the application had been available since the 16th December 2009 and the additional information and updates had been provided to them over a period of time. The

planning officer's presentation had been very extensive and thorough and had drawn out the critical points that Members needed to bear in mind when reaching a decision. He, therefore, recommended that Members approved the application on the basis of the information before them.

The Planning Officer stressed that it was not in Asda's gift to propose a solution to the potential void in the shopping centre as that was a decision for the Trustees as owners of the Centre, and it would be unreasonable to defer a decision based upon that issue. He accepted that Members had received a considerable amount of additional information which had been compounded by the need to respond to the issuing of PPS4 on the 29th December, 2009. However, he reassured members that the content of PPS4 was not entirely new but rather had built upon where PPS6 had left off. He commented on the similarities between PPS6 and PPS4 particularly in terms of Policy EC16 with the additional emphasis to the "town centre first" approach promoted in PPS4. He commented that it was still for Members to judge the extent to which the applicant had demonstrated compliance with the sequential approach and whether the proposal would significantly impact on the town centre..

In conclusion, the Council's Solicitor explained that the draft conditions, as tabled, might require adjustment and, therefore, requested that delegated authority be granted to the Head of Planning & Transport to make any minor changes with any required major changes being brought back to the Board for approval.

Members' attention was drawn to the reference to PPS6 in the recommended reasons for the Granting of Permission section of the main report. Noting the introduction of PPS4 and that the application was being determined with reference to PPS4 rather than the superseded PPS6, Members acknowledged that the reference to "PPS6" in those reasons would be replaced with a reference to "PPS4"

RESOLVED:

For the reasons set out in the Reasons for the Grant of Permission" section of the main report, as amended by replacing the reference to "PPS6" with a reference to "PPS4", members resolved

- (a) that the application W2009/0915 be referred to the Secretary of State under The Town and Country Planning (Consultation) (England) Direction 2009 and subject to confirmation from the Secretary of State that she did not wish to call-in the application for determination and subject to the Council as landowner agreeing that the land would be bound by the obligations in respect of the provision of a sum of monies comprising a contribution of £720,000 for the provision of major highway schemes including a new pedestrian crossing hub at the junction of Coach/ Malinsgate/Woodhouse, £5,000 for monitoring of the store travel plan, £5,000 for the monitoring of air quality post development, £75,000 for the commissioning of public art on or off site as may be subsequently agreed and £10,000 for monitoring of covenants and planning conditions the Head of Planning & Transportation be authorised to grant planning permission, subject to the conditions as set out in the report.;

- (b) That the Head of Planning & Transport be granted delegated authority to make any minor changes to the draft conditions, as tabled, with any major changes being brought back to the Board for consideration.

Informatives

NS – Environment Agency guidance

NS – Environmental Health guidance

NS – Advertisement requires separate consent

Sie20 – Land Contamination

- (c) W2009/0919 – Victoria Park, Water Lane, Newport, Shropshire

This application by Telford & Wrekin Council sought planning permission to upgrade Victoria Park to improve its accessibility and to enhance its value as leisure open space for the local community. However, its planning history suggested that no significant improvements had been made since the late 1970s. The scheme had been developed in consultation with and with the support of the Newport Regeneration Partnership.

It was proposed to relocate the public car park further east along Water Lane with improved vehicular access, visibility, improved lighting and surveillance and retention of the existing 37 parking spaces. The existing vehicular access on to Water Lane would be retained with new lockable metal gates for future maintenance of the canal and to provide parking facilities for the private residential properties in Water Lane, which currently used the public car park. The relocation of the car park would enable the canal basin and adjacent land to become an area of significant amenity value with planting and seating replacing the existing tarmaced and paved area.

Landscaping of the site would include additional footpaths through the park, regrading of land, wild flower meadow planting, and marsh habitat with a timber footbridge link. The soft landscaping had been designed to increase biodiversity in the Park. New benches would be provided at a variety of locations adjacent to the new footpaths with picnic tables being sited adjacent to the canal basin on the site of the former car park. Along Water Lane there would be 1.5 metre high fencing and decorative metal feature gateway panels to the pedestrian entrance. It was not intended to lock the park at night and the area would be illuminated by a combination of lighting columns and bollards.

With regard to consultation responses, the report by Evolution Ecology had established that a number of the existing trees were dangerous and required removal whilst others were to be removed to accommodate car parking and a new tarmac footpath. Although this would mean the loss of a number of semi-mature tree species, the Council's Arboricultural Officer was supportive of the proposed replacement tree planting and, as set out in the update sheet tabled at the meeting, the Council's Agent had confirmed that one or two alternative species might be considered following ongoing discussions. However, this would not alter the overall scheme, as the Agent had selected species that were appropriate for the specific conditions of the site.

As set out on the update sheet the Highways Engineer had formally confirmed that there were no highways objections to the proposal, but had requested the imposition of two additional conditions regarding visibility splays and vehicular access together with the standard informative for work on the adopted highway.

Telford Angling Association had submitted an objection to the relocation of the car parking spaces adjacent to the canal basin on the grounds of the potential impact upon the disabled fishing facilities and comments had been received from local residents of Water Lane during a meeting with the Council, as summarised in the report.

In response the Agent had stated that 2 designated disabled parking spaces had been included within the 37 space car park, which would be located as close as possible to the canal basin and adjacent to the footpath leading to the canal basin and fishing platforms. As there were currently no designated disabled spaces, the provision of disabled parking would be an improvement, even if it was slightly further from the fishing platforms than the existing parking. In addition, the new footpath had been designed to conform to the Disability Discrimination Act requirements in order to provide greater accessibility to the Park.

In conclusion, the proposal would accord with the relevant Core Strategy policies and would provide improved facilities for the local community and aid regeneration of this part of Newport, with the intention of initiating redevelopment of further sites on Water Lane and maintaining the vitality of Newport.

Members expressed concern at the loss of the parking currently used by disabled anglers but the Planning Officer explained that the proposed scheme would provide designated spaces together with a path and hard surfaces, which were currently not available. Members, therefore, asked if the footpath could be put in place at the start of the scheme. The Head of Planning & Transport agreed with the importance of access for disabled users of what was a very popular sport and said that a Building Plan would be prepared which would ensure that all the proposed work was undertaken in a cohesive manner.

RESOLVED – that with respect to planning application W2009/0919 planning permission be granted subject to the conditions as set out in the report, the additional highways conditions as set out in the update report tabled at the meeting, and with the inclusion of the standard informative relating to work on the adopted highway.

Informatives

1. The inclusion of a 5m minimum stand off from the canal to prevent damage to the SSSI and local wildlife habitats
2. Approval to be sought from Natural England
3. Removal of trees to be carried out outside nesting season (March through August)
4. Removal of hedges to be carried out before the beginning of February, when it has been known that blackbirds will nest in suitable weather

5. **Follow the recommendations in the tree and hedgerow survey regarding the tree species to plant**
6. **Adding refugia and hibernacula to enhance the area for wildlife, particularly in the marshy area, the wildflower areas and near the canal. These can include piles of logs, rocks and grass cuttings.**

(d) W2009/0945 – Land off Southwater Way, Town Centre, Telford, Shropshire

This application, which had been deferred from the Plans Board of 16th December 2009, sought outline planning permission for a residential scheme of approximately 79 units, as shown on the indicative layout plan, together with access, all other matters being reserved for later consideration. The application site was currently open space in a prominent location at Malinslee Roundabout, and was designated as a 'gateway' site and for employment use in the Wrekin Local Plan (WLP). It had an area of 2.6ha. but, due to constraints in terms of trees, green network etc, only approximately 1ha was potentially developable.

The application had been advertised as a Departure to the Development Plan thereby recognising that the proposed residential development was in conflict with allocations detailed in the WLP. To date there had been no interest in an employment use on the site and Policy TC7 of the WLP did permit housing development in the Town Centre on land that was not committed or required for other uses. If greater weight was given to the more recent policies in the Core Strategy rather than those in the WLP, this was also a suitable site for residential development in accordance with Policy CS4 of the Core Strategy.

Access to the site would be from a single point off Southwater Way and its central location would allow for greater travel by foot and bicycle and the use of public transport. A simple priority junction was proposed, which the Highway Authority considered was appropriate for a development of this scale. However, concern had been raised about the proximity of this junction to the raised pedestrian crossing point for the Silkin Way and it was, therefore, recommended that the access be formed as a raised table junction incorporating the existing raised crossing through the imposition of a condition.

The transport assessment had been carried out on the assumption that the site would accommodate 79 dwellings and the Highways Authority had recommended that, due to the number of dwellings and the location of the development, a contribution of £85,278.13 for off-site highway works contributions was required based on the number of additional journeys created by the development. The proposal was, therefore, considered to be in accordance with Policies CS9 of the Core Strategy and 'saved' policy T4 of the WLP.

Part of the site was designated as Green Network and the proposed residential development had been planned to ensure that this area was retained with the rest of wildlife habitat on the site being managed by the imposition of relevant conditions. Accordingly, it was considered that the proposal was in accordance with 'saved' Policies OL3 and OL4 of the WLP, Policy CS12 of the Core Strategy and PPS9.

Whilst the indicative layout had shown that 79 dwellings could be accommodated on

the site, some concerns had been raised that there was too heavy a reliance on apartments rather than an adequate mix of unit types. Whilst a high level of density was appropriate within this edge of centre location, the mix of development to create a sustainable community also needed to be reflected and it was, therefore, considered that a condition to limit the number of units to a maximum of 79 be imposed at the reserved matters stage. However, the type and level of affordable housing would need to be secured at between 25-30% at the reserved matters stage when a clearer idea of number and types of units was available. An informative of potential break downs of tenure for affordable housing would be included on the decision document. The proposal was, therefore, considered acceptable and in accordance with the requirements of 'saved' policy H23 of the WLP.

The development was proposed for a, in part, 'gateway' site, and would require a landmark building, which it was considered would be more appropriately located to the north of the development rather than, as shown on the indicative layout, its south-eastern corner. A condition relating to heights was considered necessary to ensure that a landmark building was provided in a suitable location.

In order to retain the site's visual amenities, the existing tree bund to the north and west boundaries would be retained and conditions relating to construction methods and protective measures would be sufficient to ensure that the retained trees and the local bird and bat populations were not adversely impacted upon by the development to accord with 'saved' Policy OL11. The indicative layout showed that the development would be contained to the east of the retained tree belt, thereby screening it from the existing residential development of Malinslee to ensure that there was no adverse impact on residents' amenities through overlooking or loss of privacy, whilst reinforcing the residential nature of the area and providing natural surveillance to the used footpath link to improve access from the existing residential area and the wider Town Centre.

The level of residential development would have an impact on existing levels of educational provision and, in accordance with 'saved' Policy H22 and based on the indicative numbers provided, a sum of approximately £75,000 was required as a contribution for primary education facilities. Whilst the indicative drawings showed the potential for a LEAP within the development site, given its proximity to Telford Town Park this was not considered to be necessary. Nevertheless, the development would create a demand for such a facility and an off-site contribution of £600 per 2 bedroom plus units for improvement works to the Town Park would be acceptable. The Council also sought a sum of £10,000 to monitor and enforce the Section 106 Agreements and conditions on strategic projects within the Borough, in accordance with other recent developments.

The proposed development along Southwater Way would be set back due to an existing sewer easement, which would help to mitigate issues of noise arising from the road. In addition, the application for an Asda store (W2009/0915) included an acoustic fence to mitigate noise from the delivery and service yard located adjacent to Southwater Way. The Council's Environmental Health Officer had recommended appropriate conditions to ensure protection of residents' amenities, which could be achieved through the imposition of conditions. Accordingly, the development was considered acceptable and in accordance with guidance contained in PPG24.

The Council was an interested party to the application and, therefore, the avenue of a Section 106 Obligation under the Planning Act was not available. Instead it was recommended that commitments be made on behalf of the Council, as landowner, to abide by the planning 'obligations' and, should the land be transferred, to make it a condition of that transfer that the new owner would have to enter into a Section 106 agreement in respect of these obligations.

Following preparation of the main report two letters of objection had been received from the owners of the Telford Shopping Centre (Telford Trustee No. 1 Ltd. and Telford Trustee No. 2 Ltd.) ("the Trustees"), and an update report summarising these and the response of appropriate officers had been sent to the Board members and a copy tabled at the meeting. In response, officers had stated that they were of the opinion that the scope and extent of the details submitted for the planning application were sufficient to determine the nature and scale of the development and to assess any environmental impacts. The main report included on the Lilac Schedule included a number of conditions relating to the mitigation identified in the Environment Statement and considered by the technical consultees to be necessary and acceptable to approve the outline planning application.

With regard to Planning Policy, the update report stated that the enhancement of footpath links in the area was a priority and the changes to the existing footpath to the south of the site was important and should be subject to the imposition of an appropriate condition. The footpath link was indicated to be altered and realigned and a condition relating to this to ensure the design and lighting was of a suitable standard should be achieved by an additional condition, 26. NS – Footpath details and lighting.

The Highways Agency had submitted a holding objection to the proposal but this had now been withdrawn as the cumulative impact of the development on the Strategic Road Network could be appropriately mitigated through contributions to a fund to implement the Council's strategy.

Additional documents received from the Trustees were summarised and commented on by officers as follows:

Briefing Note 0.1 (v.3) – Waterman dated 5 November 2009 received with letter dated 11 December 2009. This is a "critique" of the ES lodged with the planning application

As the Environment Statement submitted by Asda covered both their applications, the comments under W2009/0915 above were also relevant to W2009/0945. In addition, the Trustees had commented on the potential impact of both applications, for example the increase in both duration and magnitude of noise and dust effects if both developments occurred at the same time. In response officers had commented that they were content that the issue of demolition and construction phases had been addressed within each chapter of the ES and a sufficient understanding of environmental effects gained. In addition, the issue of construction impacts from the combined ASDA and Malinslee Link residential development were at an acceptable level.

Letter of Objection from Nabarro Solicitors on behalf of Trustees No's 1 & 2 dated 4 January 2010 commenting on Rebuttal of Watermans Briefing Note Prepared by Osborne Clarke on 22 December 2009

The Trustees still maintained that outline planning permission would be insufficient in accordance with General Development Procedure Order 1995 (as amended May 2006) (GDPO). In terms of design they considered that the townscape and visual assessment report could not be justified without information on heights and massing. In addition, they considered that the socio-economic chapter of the ES had inconsistencies in relation to whether the housing would have a significant environmental effect. Other comments related to air quality, noise and vibration, ecology, and ground conditions.

In response officers commented that adequate information had been submitted in accordance with the GDPO for full consideration and determination of an outline planning application and had considered the issue of impact on the townscape and visual amenities. In addition, officers were content that the issue of demolition and construction phases had been addressed within each chapter of the ES and a sufficient understanding of environmental effects gained. With regard to the impact of the housing, officers felt that there were small socio-economic benefits to the redevelopment of this site for circa 79 dwellings. Officers were also content that the other issues raised by the Trustees had been considered in an appropriate manner.

The update sheet referred to the planning considerations set out in the main report and advised the Board that with regard to the principle of development the current status of CTAAP should read 'no weight', rather than limited weight. In addition, the update stated that Councillor P.A.E. Homer, Ward Member for Malinslee, was in support of the application.

Therefore, there was no change to the recommendation to grant outline planning permission. For Members' further information a list of all the conditions proposed to be attached to any approval was tabled at the meeting.

RESOLVED – that with regard to planning application W2009/045, for the reasons set out in the report,

- (a) **delegated authority be granted to the Head of Planning & Transport to grant outline planning permission subject to the Council as landowner agreeing that the land would be bound by the obligations in respect of the provision of a minimum of 25% affordable housing subject to an agreement of type, mix and location at the layout reserved matters stage, a sum of monies for highways improvements, a commuted sum of £600 per dwelling for play facilities, a commuted sum for maintenance of open space, £10,000 for the monitoring and enforcement of S106 agreements and a sum of monies for primary school education contributions and to the conditions as set out in the report and the update sheet;**

(b) delegated authority be granted to the Head of Planning & Transport to make any minor changes to the draft conditions, as tabled, with any major changes being brought back to the Board for consideration.

(e) W2009/0962 – The Royal Oak, High Street, Madeley, Telford, Shropshire

This application sought permission for the change of use from a Public House (A4 Use) to a mixed use including a bar (A4 Use) and restaurant (A3 Use) operating from the existing lounge area and hot food takeaway (A5 Use) in the existing bar area to enable the applicant to move from smaller premises which he owned on the opposite side of the road. The premises were a Listed Building located within the Ironbridge Gorge World Heritage Site and the Severn Gorge Conservation Area. Councillor G.M. Green, one of the Ward Councillors for Madeley, had requested that the application be determined by the Plans Board, if the application was recommended for approval.

During the consultation period four letters of objection had been received stating a number of issues/allegations including anti-social behaviour, noise, nuisance and traffic, and confusion over the Use Class terminology. The enforcement issues were being investigated by the appropriate Council officers. Objections had also been made by Madeley Parish Council and further objections were later received, as set out in the supplemental report, and, as requested by them, the Planning Officer read out a statement relating to the Class Uses. With regard to parking issues, the Council's Highways Engineer acknowledged that the access to the car park was substandard and that there were on-going problems with on-street parking in the area. However, he had no objections to the proposed mixed use given the extant use of the building. The Council's Environmental Health Officer had also advised that there were no objections in respect of noise and potential vehicle/pedestrian movements given the extant use of the premises and the High Street location.

For clarification, the report set out the position with regard to the terminology used. Under the Use Classes Order 1987 restaurants, pubs, wine bars, snack bars, cafes, nightclubs and takeaways were all classed as A3. However, under amendments made to the Order in 2005 and 2006, these uses were reclassified as A3, A4 and A5 with the purpose of giving local authorities more control to manage town centre development while minimising the negative impacts of a proliferation of pubs, takeaways and nightclubs. Within the Use Classes Order was the provision for a change which did not require planning permission known as *permitted change*. This building currently had the benefit of an A4 use (drinking establishments), which could change to A3 (restaurant and café) under permitted change as per the Use Classes Order 2006. The Board was advised that there were no grounds to refuse the application on the grounds of the proposed A3 Use. Therefore, the main consideration in respect of this application was whether or not the additional use as an A5 (takeaway) element was appropriate.

The requirements of Policy S15 of the Wrekin Local Plan were set out in the report and, as the existing unit occupied an A4 use and was subsequently part of the defined 'A3 use', the proposal would not introduce any further A3 (now A3, A4 or A5) uses within Madeley. It was, therefore, considered that the proposal met the criteria of this policy. Policy CS10 sought to resist the loss of community facilities including

public houses but, following a recent test case at appeal, the Planning Inspectorate considered this policy to apply only to the rural community and not to the built up areas of the Borough. Therefore, as the proposal lay within the Secondary Zone of Madeley, it was considered that it was not in conflict with this Policy.

It was, therefore, considered that the proposal would not have a detrimental impact upon the vitality and viability of the High Street, or the character or appearance of this part of the Severn Gorge Conservation Area or the Universal Value of the Ironbridge Gorge World Heritage and was compliant with 'saved' policies UD2 and S15 of the adopted Wrekin Local Plan 1995-2006, policies CS5, CS10 and CS15 of the Core Strategy, and guidance contained in PPS1 and PPS6.

Councillor G.M. Green, in her capacity as a Ward Member, gave a general but cautious welcome to this change of ownership of the premises and the consequent investment in Madeley High Street. However, she expressed concern at the proposed use of part of Madeley's heritage and to the inappropriate signage and refuse collection arrangements of other nearby take-aways in this World Heritage Site area. She was also concerned that the application premises could be the subject of further retrospective applications. In conclusion, she stated that there were 30 private residents in the High Street who did not want to be disturbed by the potential vehicle noises and other nuisances associated with take-aways. (Councillor Green left the room at this point in accordance with her declaration of interest.)

Councillor Dugmore asked if it was possible to place a condition on any approval to preserve the existing pub sign. He was advised by the Planning Officer that a separate application in respect of advertisement consent would be required, to which negotiations could be undertaken to ensure this was considered.

RESOLVED – that with respect to planning application W2009/0962 planning permission be granted subject to the conditions as set out in the report.

(Councillor G.M. Green returned to the room for the remainder of the meeting.)

(f) W2009/0994 – Brockton Roundabout, Halesfield, Telford, Shropshire

Telford & Wrekin Council sought permission for the erection of four freestanding non-illuminated advertising boards measuring 1200mm x 500mm raised by 400mm on twin poles. The proposed advertisements did not currently have a sponsor and, therefore, the applicant was seeking consent for a large sign showing the corporate community sponsorship border.

Various signs to promote local businesses had been installed at several roundabouts in the Borough as part of the Telford & Wrekin Community Sponsorship Scheme. They were considered generally acceptable where they would not result in visual clutter or a distraction to highways users. In this regard, the Highways Engineer had raised no objections, subject to one of the signs being moved away from the run-off road. The signs were an adequate size for the island and, therefore, acceptable. To ensure that the proposed signage was not detrimental to the character and appearance of the surrounding area, a condition would be placed requesting details

of the proposed advertisements to be submitted and approved in writing by the Local Planning Authority. It was considered that the proposed application complied with local and national criteria.

The Planning Officer advised the Board that amended plans relating to the relocation of the one sign had yet been received and, therefore, recommended that delegated authority to approve the amended plans, when received, should be given to the Head of Planning & Transport.

RESOLVED – that with respect to planning application W2009/0994 delegated authority be granted to the Head of Planning & Transport to grant advertisement consent subject to the receipt of appropriately amended plans to relocate the one sign and to the conditions as set out in the report.

PB-77 SITE VISITS

None.

PB-78 APPLICATIONS DETERMINED UNDER DELEGATED AUTHORITY

The Board received for information details of the planning applications that had been determined under delegated powers.

The meeting ended at 8.30 p.m.

Chairman:

Date: