

14 October 2010

Dear Councillor

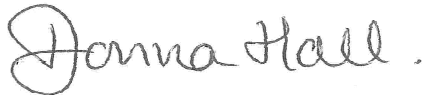
DEVELOPMENT CONTROL COMMITTEE - TUESDAY, 12TH OCTOBER 2010

The following report was tabled the above meeting of the Development Control Committee.

Addendum – Application 09/00933/FULMAJ – Land North of Duke Street including QS Fashions and bounded by Pall Mall and Bolton Street, Chorley (Pages 1 - 6)

Addendum for the above application circulated at the meeting (enclosed).

Yours sincerely



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Chief Executive

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આ માહિતીનો અનુવાદ આપની પોતાની ભાષામાં કરી શકાય છે. આ સેવા સરળતાથી મેળવવા માટે કૃપા કરી, આ નંબર પર ફોન કરો: 01257 515822

ان معلومات کا ترجمہ آپ کی اپنی زبان میں بھی کیا جاسکتا ہے۔ یہ خدمت استعمال کرنے کیلئے براہ مہربانی اس نمبر پر ٹیلیفون

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ADDENDUM – ASDA APPLICATION**ERRATA IN THE OFFICER'S REPORT:**

A number of paragraphs refer to 'errors' in the applicant's transport assessment, when it should refer to differences in opinion on the use of base data and assumptions between the applicant and the highways authority and Singleton Clamp.

Paragraph 11.1 should read: No relevant recent planning history.

FURTHER OBJECTIONS:

Further objection letters/emails have been received from NJL Consulting on behalf of Reef, and also from Steve Abbott Associates on behalf of Booths. Both consultants have commented on the lateness of the report, and also on the lateness of the proposed planning conditions. The officer report was published on Wednesday 6 October, while the conditions were published on Friday 8 October. Steve Abbott Associates have also provided further comments after the receipt of the proposed planning conditions. The two letters of further comment have been provided in full to the members of the Development Control Committee.

Steve Abbott Associates (SAA) - on behalf of Booths

While SAA note the progress by the local planning authority on the principle of the car parking condition, they respectfully request an alternative wording to the proposed condition on car parking in order to prevent harm to the northern end of the town centre (the primary shopping area). This is based on their view that a free car park within the proposed scheme (or one that is cheaper) would draw customers away from the Primary Shopping Area (including Booths) and that this would be detrimental to the vitality and viability of the focus of the town centre, and be harmful to the whole as a consequence, and not in accordance with national and local policy.

SAA consider that the following alternative wording is a robust, fair and effective condition, and that the currently proposed condition defers important considerations, notably in that it does not require the charging regime to align with the rest of the town centre or the Flat Iron car park in particular. Without a suitable wording, Booths maintain their objection.

Condition: "With effect from the opening of the Class A foodstore or the retail development opportunity site (use classes A1/A2/A3/A4/A5) the customer car park shown on the approved plans shall at all times be subject to a charging regime identical to the one operating at the Flat Iron car park for the parking of motor vehicles in accordance with a car park management plan to be submitted to and approved in writing by the Local Planning Authority.

Reason: *To ensure that the management of the car park is consistent with the main Town Centre Car Park (The Flat Iron) so that the vitality and the viability of the Town Centre as a whole is not compromised."*

Officers welcome the view that an effectively worded condition to control car parking is required for the proposed scheme. It must be noted that the reason for the condition as currently proposed details the need for a consistent car parking regime. The objector is correct in that it is the wording of the actual condition and not the reason that provides the effective control. However, based on the advice of the Highways Officer and Singleton Clamp, the control should be consistent with town centre car parks, not just the Flat Iron.

Should this application ultimately be approved, the application for the discharge of this condition would be subject to consultation, and the objector will be notified of that

application. It is of course open to the committee to request that the application for that condition discharge be placed before it.

Accordingly, it is recommended that:

a) Condition 24 is modified as follows:

Condition: No development shall take place until a scheme for the car park management, car park charges ~~charging~~ and a charging review mechanism for the class A1 foodstore and retail development opportunity site for use classes A1/A2/A3/A4/A5 has been submitted to and approved in writing by the local planning authority. The charging mechanism will be consistent with the main town centre car parks within Chorley town centre.

The charging review mechanism shall include:

- a. Frequency / criteria for review
- b. Process of review
- c. Dispute resolution mechanism

The car parking spaces shown on the approved plan shall be made available at all times in connection with the use of the class A1 foodstore and the retail development opportunity site (use classes A1/A2/A3/A4/A5).

Reason: To ensure that the management of the car park is consistent with other car parks which serve Chorley Town Centre, which is necessary to ensure the vitality and viability of the town centre; and in accordance with PPS4 and PPS13.

b) any future application for the discharge of condition(s) for car parking controls be referred to the Development Control Committee for determination.

NJL Consulting on behalf of Rreef:: NJL have submitted a further letter of objection (8 October), the primary purpose of which is to reiterate their previous objection. In summary, NJL assert that the application fails on sequential and impact grounds, which preclude the further consideration and balancing of the likely positive and negative impacts.

In so far as the letter reiterates the matters previously raised and considered in the committee report, no further comments are made in response. Further advice has been sought from GVA Grimley on the letter and this has been provided in full to Members of the Development Control Committee.

NJL consider that the case officer's report states that their own application for an extension to Market Walk is a "blocking tactic", and are concerned that the Council have publicly stated that they do not consider their site to be deliverable. NJL advise that should the committee report be maintained in its current wording, they will be forced to consider their position both legally and in planning terms over the conclusions retained within it. This matter has been brought to the attention of the Council's Head of Governance.

The current situation and view on the Market Walk extension scheme is reported in paragraphs 8.92 – 8.101 and 8.123 – 8.125 of the report. While there is no evidence of 'blocking', GVA Grimley raise the possibility of it, and advise the Council to take a view (Letter 1 June 2010):

"It is possible therefore that the Rreef proposal is a commercially motivated response to 'block' the Asda scheme; PPS4 specifically raises caution when such applications are received and the Council must determine whether the Rreef scheme is a 'blocking' proposal with little realistic prospects of implementation. There is no evidence to suggest that both schemes are competing for the same

market opportunity given that the Reef proposal seeks an unrestricted class A1 planning permission at this time. This suggests that the scheme is not specifically targeting a foodstore operator”.

Officers acknowledge that an extension to Market Walk has been the subject of discussion for a time, and that Reef's application is an indication of their commitment to Chorley town centre. The report states (paragraph 8.99) that their application is considered to be a response to the Asda application. This may be the case in so far as it is a response to add to their existing investment to ensure the continued success of Market Walk, in the light of more consumer choice that may be brought by the Asda scheme. There was no intention to insult Reef.

NJL also incorrectly state that the 2007 'application' was supported by the Council – no 'application' for the previous scheme was submitted. However, it is acknowledged that there was Council support for the scheme at pre-application stage. Reef's conclusion that that their own extension scheme is facing unnecessary delays in order to force through the Asda scheme is strongly refuted. Officers are properly discharging their duties to consider this application before bringing a recommendation to members in due course. Indeed, the Asda application has been subject to the same careful examination by officers, and has been consequently been modified in relation to issues raised.

Cumulative Impact: NJL say that the Asda application cannot be determined independently of the Market Walk extension scheme and a **cumulative impact assessment is required**. However, GVA Grimley advise that PPS4 EC17.1b requires the Council to take only account of the likely cumulative effect of recent permissions, developments under construction and completed developments. A strict interpretation of the policy wording suggests that there is no formal requirement to assess the cumulative impact of competing proposals. Matters to be taken into account in any cumulative assessment are addressed in PPS4 practice guidance appendix D paragraphs D7-8:

“D7. First, it is relevant to consider the effect of known commitments, and to consider the cumulative impact of the proposals in question. Conventionally, cumulative impact assessments take into account the effect of known commitments i.e. schemes with planning permission. However, it may be relevant, in policy terms, to judge the cumulative effect of other proposals, particularly where there is a choice between two competing proposals and the combined impact of both needs to be considered.

D8. In judging which commitments should be taken into account, it will be relevant to consider, inter alia, the likelihood of them being implemented, and their potential scale and significance. The basic approach to assessing the impact of commitments, i.e. the key stages of the exercise, are set out later in this section.

GVA Grimley also advise that PPS4 practice guidance states that it may be relevant in policy terms to judge the cumulative affect of other proposals, particularly where there is a choice between two competing proposals; and that if the Council judges both schemes to truly be in competition with each other, then the cumulative impact becomes relevant.

GVA Grimley also advise that the Reef scheme seeks an open A1 consent, and it would be extremely difficult to undertake a robust cumulative assessment without understanding what the Market Walk extension scheme could accommodate in terms of floorspace mix; and that while judgments could be made on the likely floorspace split, it is notable that NJL/Reef have not confirmed a likely floorspace split or end operator themselves for the purposes of cumulative assessment. As noted by GVA Grimley, and in the committee report (paragraph 8.124), there is no evidence to suggest that the two schemes are competing for the same market opportunity, and given the Reef scheme seeks an

unrestricted A1 consent, this suggests that the scheme is not particularly targeting a foodstore operator.

Members are reminded that the Market Walk scheme does not benefit from a permission nor an allocation in the local plan. The current application is subject to amendments submitted 28 September 2010. Further clarification on that scheme was submitted by NJL 6 October 2010 and the application is still not in a position to be determined at this committee. The clarification letter has been provided to members of the Development Control Committee in full. Rreef still seek an open A1 consent and do not wish to restrict the quantum of convenience floorspace. However, they also request the consideration of a condition to effectively limit the amount of convenience floorspace to 1000 sq m (net) in so far as it cannot be proven at this time that the scheme as proposed can satisfactorily be delivered with a convenience floor space greater than 1000sq m (net) and that a final conclusion on this is yet to be reached.

Members are therefore asked to note that for the reasons above and within the report, no request has been made of the applicant to undertake a cumulative impact assessment and it is not considered necessary to do so in this case. Members are also asked to note that there is no requirement to undertake the determination of one application prior to any other, or together, even if that application is sequentially preferable in locational terms.

Sequential Site Assessment: NJL restate points previously made and offer further comments on the sequential assessment and draw attention to GVA Grimley comments on the fact that their scheme is considered sequentially preferable in locational terms, and maintain their view that the sequential assessment by the application is scheme specific rather than site specific. GVA Grimley provide no further comments above those previously made in their advice, and it is considered that these issues are addressed in the committee report.

Impact: Rreef ask for regard to be made to the report of Martin Tonks, and to have regard to GVA Grimley comments on potential adverse impact upon the Rreef scheme. GVA Grimley further advise that the 2010 Central Lancashire Retail Study provides the most robust and up to date basis against which to assess the Asda application; and that PPS4 requires local planning authorities to assess applications on the basis of an up to date evidence base. In their view, it would be perverse to assess the proposal against the 2005 study, when the more up to date 2010 evidence base clearly shows that town centre/store performance and trading patterns have changed considerably. GVA Grimley remind the Council that in regard to comments by Martin Tonks on need and capacity, that “need” is no longer a relevant consideration in the light of PPS4 in assessing planning applications.

GVA Grimley further advise that it is for the Council in its assessment of the Asda application to balance the positive and negative impacts of the proposal in reaching an overall conclusion on planning balance.

Conclusion: For the reasons above and within the report, and taking into account the view of the Council's advisors, it is considered that no further issues have been made which would lead to a conclusion that would alter the recommendation within the report.

Additional Comment : A further letter of support has been received that supports the development and highlights that some public objections have been received from traders close to the Town Centre where the latest large scale investment has taken place. More investment is needed at the southern end of Market Street to make Chorley flourish again.

The points raised in the above additional comment do not raise any additional points to those covered in the report that would justify a different conclusion or recommendation.

Additional Comment : Cllr Murray has raised on behalf of constituents the desire to limit servicing hours and the hours imposed at conditions 13 & 15 and for these to be:

07.00 till 22.00 Monday to Friday

08.00 till 20.00 Saturday

09.00 till 19.00 Sunday

The hours shown within conditions 12, 13 & 15 have not been contested and an objection has not been received at consultation stage to these final times, however the World Health Organisation guidelines do identify that “night time” (a period when lower noise levels should be reasonably expected) does extend until 07.00. It is therefore a balanced judgement if the time period for conditions 12, 13 & 14 should be restricted further until 07.00. The other proposed restrictions can not be justified based on advice and the relevant guidelines.

A request was also made by Cllr Murray to alter condition 22 regarding the delivery of the Big Lamp Development Opportunity site that it should be delivered within one year of the opening of the store. Having considered the requirements and tests associated with conditions that the condition is reasonable and meets the tests to secure its delivery

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