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Appendix A.

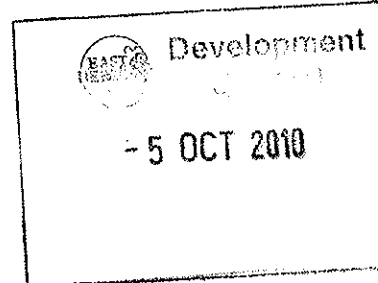
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CHASE & PARTNERS
Retail & Leisure Property Specialists

C&P

Mr Tim Hagyard
East Herts Council
Wallfields
Pegs Lane
Hertford
Herts
SG13 8EQ

Email: hpw@chaseandpartners.co.uk



1st October 2010

Our Ref: HPW
Your Ref: 03/10/0386/FP

Dear Tim

**WARE – APPLICATION BY ASDA STORES LTD
CINTEL SITE. WATTON ROAD, WARE (Ref 03/10/0386/FP)**



I am writing in response to Planning Potential's letter dated 27th September and its enclosures dealing specifically the questions of impact and the sequential approach.

On the basis that you now need to finalise your report to the Committee on this application, I have tried to provide an overview of the extent to which all the material Planning Potential has submitted in support of this application addresses the relevant retail policy tests and what, in my opinion, are the key issues for members to consider when determining this application.

The applicant's solicitors clearly endorse my earlier advice that if compliance with the sequential approach has not been demonstrated in the first instance, and it has not then been shown that the proposal would not lead to any significant adverse impacts under the criteria set out under both Policy EC10.2 and EC16.1, then permission should be refused. It is only when both these tests have been satisfied that consideration can be given to the benefits that may arise as a result of the development and any other material considerations that may also be relevant.

**20 Regent Street, St James's, London SW1Y 4PH T: 020 7389 9494 F: 020 7389 9456
www.chaseandpartners.co.uk**

Partners: Graham Chase FRICS FCIArb FRSA CRE FInstCPD Gregory Moore BSc(Hons) FRICS Keith Nelson BSc(Hons) MRICS Mark Paynter BSc MRICS
John Shuttleworth BSc FRICS ACI Arb Ian Campbell BSc MRICS Huw Williams BA(Hons) MRTPI
Associates: Stephen Rose BA(Hons) MRTPI

 **RICS** Chartered Surveyors  **RTPI** Chartered Town Planners

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Regulated by RICS

There are a number of points arising from Planning Potential's latest submission and I will now focus on these in so far as they might help crystallise the retail policy issues before the Committee when considering the Asda application.

The Sequential Approach

The applicant would appear to now accept that, based on its physical relationship to the Primary Shopping Area (PSA) of Ware, the Crane Mead/Swains Mills site can be considered 'sequentially preferable' to the Cintel site. The latest submission provides further comments on whether the former can be considered suitable, available and viable. It re-iterates some earlier points that I will not revisit here; I have concentrated on the new points that have been made in so far as they may be relevant.

Before doing so, it is worth making a further comment on the potential visibility of the two sites from the town centre and, specifically, the PSA as this is something Planning Potential sought to deal with in their submission dated 19th July. Whilst Chase & Partners accept that the Asda store may be visible from the northern end of Baldock Street, for the reasons outlined in paragraphs 3.16-3.18 in our earlier report, we do not believe that Baldock Street forms part of the Ware's PSA. In the absence of detailed proposals for the Crane Mead/Swains Mill site one cannot categorically say at this point whether the Waitrose store would be visible – although it seems unlikely. Accordingly Chase & Partners believe that neither site currently is – or potentially would be – visible from the PSA.

Turning now to the question of whether the Crane Mead/Swains Mill site can be considered suitable, available and viable, Planning Potential's latest letter concentrates exclusively on the question of the **suitability**. They, quite rightly, point to the advice contained in the Practice Guidance accompanying PPS4 and, specifically, the requirement for a "balanced judgement" based on the specific circumstances of the case and site in question.

The question of suitability is also raised in the email from the applicant's solicitor that was appended to Planning Potential's letter. This also makes the point that when considering the potential suitability of the Crane Mead/Swains Mill site the question should be whether it is capable of accommodating a store:

"of the form and scale of that Asda are proposing or at least a store capable of meeting the need for such a store that asda have identified."

By way of response I would refer to paragraph 6.42 of the Practice Guidance accompanying PPS4. This states:

"When judging the suitability of a site it is necessary to have a proper understanding of the scale and form of development needed and what aspect(s) of that need are intended to be met by the site(s). It not necessary to demonstrate that a potential site can accommodate precisely the scale and form of development being proposed, but rather to consider what contribution more central sites are able to make, either individually or collectively, to meeting the same requirement." (my emphasis)

It is argued that the proposed store would offer greater potential for "clawback" of trade to Ware than the proposed Waitrose – by virtue of its size and by bringing a new 'fascia' into the Hertford/Ware area. This is not disputed but we do not necessarily believe that this, in itself, simply allows the Crane Mead/Swains Mill site to be discounted in the way Planning Potential's latest submission advocates.

Chase & Partners' view remains that while the proposed Waitrose may not offer the same potential for clawback, it is still capable of increasing competition and serving the needs of Ware shoppers and doing so in a way that is unlikely have any greater impact on the town centre than that Planning Potential are suggesting a new Asda store at the Cintel site might have. In this respect, whilst it may not offer all of the advantages of the Cintel site, it still remains acceptable for the uses proposed and can be considered suitable.

Planning Potential also seek to argue that the regeneration benefits of the Asda proposals should form part of the sequential assessment – although do not explain how this relates to the advice contained in the Practice Guidance. Chase & Partners accept that the application does offer potential benefits for regeneration and restoration of historic buildings, etc, but these can only be 'weighed in the balance' once the applicant has demonstrated compliance with the sequential test and shown that all impact considerations have been satisfied. They factors do not, in our view, form part of the assessment of suitability (or unsuitability) of sites when undertaking a 'sequential assessment'.

Whilst Planning Potential's submission confines itself to the question of suitability, the accompanying email also makes some further comments on both availability and viability of the Crane Mead site. It – rather helpfully – accepts that the Crane Mead/Swains Mill and the Co-Op site at Star Street have to be considered **available**.

It then goes on to question the potential **viability** of both sites. In doing so it clearly alleges that the promoters of both sites are using the prospect of making planning applications as means of, in the first instance, protecting Waitrose's existing trading position in Hertford and in the second, simply to protecting a possible future development opportunity.

Contrary to the assertion in the latest submission, Chase & Partners do not believe that merely contemplating making a planning application means a proposal is necessarily viable. We would probably share the applicant's suspicion about the proposed application from the Co-Op and, in paragraph 3.6 of our earlier report, we expressed reservations about its potential viability given current market conditions.

On the other hand we would lend little weight to the notion that Waitrose's involvement in Crane Mead/Swains Mill site is simply a device to protect its existing trading position in Hertford town centre. However, we share some of the concerns expressed about the length of time taken to progress the proposals since the initial meeting with the planning authority in late 2008 and the delay in making a planning application as well as the deliverability of the proposed scheme and its linkages to the town centre. Despite this, and having regard to the continuing dialogue between the Council and LXB/Waitrose representatives, we currently remain of the view that Crane Mead/Swains Mill is a serious proposal and should be treated as a viable development opportunity for the purposes of the assessment.

Impact

Planning Potential's letter fails to address the concerns that Chase & Partners (and others) have raised about the adequacy of their original impact assessment.

The latest letter maintains the convenience turnover of the proposed store would be £18.8m (as originally proposed), and ignores the larger figure contained in the letter of 19th July which supposedly took into account likely "top-up" trade at the store. It is simply asserted that additional "top-up" turnover "does not increase the average turnover anticipated for the store". Although Chase & Partners would concede that the higher turnover:floorpace ratios (and turnover) suggested by both NLP (and subsequently, Firstplan) have not been clearly explained, the derivation of Planning Potential's turnover estimates are equally opaque.

Planning Potential's overall approach, and particularly their contradictory statements about the derivation of the turnover of the proposed store, has done little to instil confidence in their assessment or assist ourselves, or the Council, in reaching a clear conclusion on whether the store would have an unacceptable impact on Ware or other nearby town centres. This remains a major shortcoming of the applicant's submission and something that should give the Council cause for concern.

In the absence of any further clarification on turnover, Chase & Partners have given consideration to the impact analysis Planning Potential has undertaken and believe it does demonstrate that even if the proposed store were to achieve a higher turnover than currently suggested it would still not affect the vitality and viability of Ware town centre as a whole.

Planning Potential has consistently claimed that any impact on the town centre would be offset by additional 'spin off' trade drawn that would be drawn to Ware by the proposed store. It is worth remembering that despite its location within Ware town centre, only 30.7% of customers using the Tesco store currently undertake linked trips¹. In undertaking its analysis Planning Potential has sought to claim that up to 20% of customers visiting the proposed store would undertake linked trips. Whilst Chase & Partners would accept that the store has potential to bring stem some of the existing outflow of trade from the Ware area to locations elsewhere, we have consistently advised that the levels of 'clawback' to the town centre that are being claimed by Planning Potential in its retail assessment are overstated – particularly given the relationship of the store to the centre and despite the enhancements being proposed in the S106 agreement.

If the proposed store at the Cintel site failed to achieve the levels of 'clawback' being claimed, then the argument that Planning Potential has sought to advance on sequential issues may also be overstated. The latest submission argues that any new store in Ware needs to be of a certain size in order to deliver the benefits the proposed store will supposedly deliver to the town centre. It is argued that, as a result, the Crane Mead/Swains Mill site cannot be considered suitable because it is unable to accommodate the size of store being proposed by Asda. But, if the benefits of the Cintel site are being overstated, as we believe, then argument regarding the need for a store of the size proposed is also weakened along with the claim that alternative site is unsuitable.

Conclusion

Having considered the latest submission from Planning Potential, Chase & Partners remain of the view that the site being proposed by LXB/Waitrose at Crane Mead/Swains Mill can be considered 'sequentially preferable' alternative to the Cintel site.

Taking the latest submissions into account we maintain that Planning Potential has failed to conclusively demonstrate that the Crane Mead/Swains Mill site is not available, suitable and viable for the development proposed. Probably the main issue between us concerns the suitability of the Crane Mead site and whether, having regard to the identity of the occupier and by virtue of the size of store proposed at the Cintel site, the Crane Mead/Swains Mill site is capable of meeting the needs of shoppers in Ware. Although Chase & Partners accept that the site is not capable of accommodating a development of the size proposed by Asda, it would in our view be able to provide a store capable of meeting the needs of local residents and enhance consumer choice.

However, Chase & Partners accept that this is matter of judgment and others (including some local residents and elected members) may take a different view. If, in their opinion, the benefits of introducing another retail fascia into the area with a larger store is being understated in our analysis and the proposed site at Crane Mead/Swains Mill would be incapable of fulfilling this requirement, then it could be deemed unsuitable in

¹ See Planning & Retail Statement paragraph 6.16

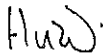
the way Planning Potential are suggesting. If that were to be the case, and the Crane Mead/Swains Mill site were deemed to be unsuitable and the 'sequential approach' was thereby satisfied, then the onus would shift onto whether the applicant had then demonstrated that the proposal would not lead to any of the significant adverse impacts contained in Policy EC10.2 and EC16.1 of PPS4.

Although the retail impact assessment presented in support of the application is far from satisfactory, our analysis indicates that the proposal is unlikely to materially affect the vitality and viability of Ware town centre as a whole and the test in these policies – in so far as they relate to retail impact – have probably been satisfied. On the other hand, the retail benefits of the Asda proposal for Ware town centre are, in my view, in danger of being overstated.

The absence of a formal planning application from LXB/Waitrose, combined with concerns about the potential availability of the whole site and uncertainty regarding the deliverability of good pedestrian links to the existing town centre means that Chase & Partners have some reservations about the proposed scheme on Crane Mead/Swains Mill site at the present time. In this respect if the Council were to reject the application on the Cintel site based on the availability of this alternative and proposals then failed to emerge, the Council's position at any subsequent appeal could be compromised.

I hope this is helpful but if you have any queries please do not hesitate to call.

Kind regards



Huw Williams
Partner
For and on behalf of Chase & Partners LLP