

## Ediston Opportunity Fund

### Atholl House, Churchill Avenue, East Kilbride

Planning Application reference number : EK/10/0267

Submission to Planning Committee 7 September 2010

1. Ediston Opportunity Fund is not party to the Court proceedings instigated by Dawn Developments/ASDA against the Council in relation to the matter of considering all retail applications together.
2. There is no statutory basis to insist that all retail applications are considered together however retail applications, particularly for foodstores are different to most other applications as there is an inter-relationship between the proposals in relation to matters such as capacity and impact issues. These matters need to be considered in a cumulative basis as the approval or refusal of one application has an affect on the other applications/proposal which can be positive or negative. Indeed consideration should also be given to the proposals at Kitchfield which remain a Local Plan aspiration.

For this reason Ediston Opportunity Fund had requested that all three applications for foodstores in East Kilbride be considered together.

3. It is our opinion that this approach has many advantages as it allows the decision maker (South Lanarkshire Council) to consider all relevant information and make a determination having regard to all relevant material considerations.
4. Despite there being no statutory basis for this there is considerable precedent for this approach in practice. It is common for the Scottish Government to conjoin planning appeals for retail applications in the same towns. There are numerous examples of this Dalry, Thurso, Kelso, Arbroath to name a few.
5. There are also recent examples of planning authorities taking this approach for example West Lothian Council has considered 6 applications in Armadale and Fife Council are presently considering 3 proposals in Kirkcaldy. These applications have all been submitted at different times and therefore at different stages in the planning process. In those instances however the planning authorities chose to consider all the applications together.
6. We would also point out that consideration of all the applications at the same committee is not the only issue. All three applications require to be considered comprehensively and on an equal basis. All 3 applications are different and present information on an inconsistent basis, such as the retail information;

For example, in terms of population :

JHAG application	=	161,000
Dawn/ASDA	=	89,494
Ediston	=	92,052

In terms of spare expenditure :

JHAG application	=	£102M
Dawn/ASDA	=	£59M
Ediston	=	£41M

Planning officers should be made aware of the differences in this information so that the best and most accurate information is presented to the planning committee. Other issues relating to economic development and wider benefits need to be given consideration as it is likely that all three proposals will be able to offer such benefits. The weight attached to such matters needs to be balanced against each proposal.

7. It is accepted that this may delay consideration of the JHAG and Dawn/ASDA applications beyond the 4 month statutory period. Whilst this would be unfortunate it is generally accepted in the profession that major applications which involve foodstore development normally take much longer than the statutory period. The Council however is under no obligation to consider an application within 4 months and if it is unable to do so can ask for an extension of time to deal with matters. There is however a remedy built into the planning system if an applicant is unhappy with that approach. An applicant can appeal to the Scottish Government against non-determination. In that context we consider any delay in the consideration of the JHAG and Dawn/ASDA applications is justified in order for the Council to make a comprehensive and balanced view on all of the current applications before them.
8. Overall, the decision on a new foodstore in East Kilbride is an important determination for the Council to make. In this regard the Council needs to consider all available options and opportunities so that any development best fits the stated policy and economic aspirations of the Council. Simply how can the Council determine that one proposal offers the best and most appropriate development option for a new foodstore in East Kilbride when the other alternatives have not been fully considered.