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Project/File: 333101177

Planning Department
Kirklees Council
Riverbank Court
Wakefield Road
Huddersfield HD5 9AA

Dear Sir/Madam,

Reference: Planning Application for reconfiguration of Units 57-58 and associated car parking area (loss of 8 spaces), and external alterations to shopfront and loading area to provide a single unit for food retail use (to facilitate the extension of Aldi) at Huddersfield Retail Park, Beck Road, Huddersfield, HD1 5DG

On behalf of Ropemaker Properties Ltd ('the Applicant'), we hereby submit a planning application for the following development:

Reconfiguration of Units 57-58 and associated car parking area (loss of 8 spaces), and external alterations to shopfront and loading area to provide a single unit for food retail use.

The planning application seeks to facilitate the extension of Aldi (Unit 58) into the B&M unit (Unit 57) to redress existing operational deficiencies and provide an enhanced Aldi retail offer within an improved store environment for customers and staff. An upgraded shopfront with additional glazing will provide more natural light.

No additional retail floorspace is created as part of these proposals. The existing 891 sq m B&M store would allow the Aldi store to increase to 2,453 sq m GIA

Alterations to the car park area will provide additional accessible customer parking spaces, click and collect spaces, parent and child spaces and EV charging spaces. In total the car park will provide 156 customer parking spaces (compared to 164 spaces as existing) including 10 accessible spaces and 12 parent and child spaces, 2 click and collect spaces and 6 EV parking spaces.

In addition to this covering letter, the planning application comprises the following documents and drawings:

- Completed planning application forms, certificates and notices
- Site Location Plan
- Existing and Proposed Site Plans
- Existing and Proposed Ground Floor Plans
- Existing and Proposed Block Plans
- Existing and Proposed Roof Plans
- Existing and Proposed Elevations
- Transport Note, prepared by Hydrock Fore

- Preliminary Bat Roost Assessment, prepared by Peak Ecology
- Design and Access Statement (including assessment of sustainability), prepared by Harris Partnership

The requisite fee of £293 has been made online via the Council's pre-application webpage.

The application site boundary comprises less than 25 sq m of on-site habitat. The proposals therefore fall within the de minimis exception category and mandatory biodiversity net gain targets are not relevant.

Site Context

Huddersfield Retail Park (formerly known as the Ridgeway Centre) is located to the north of Castlegate on the edge of Huddersfield town centre.

The Retail Park comprises 6 units; Aldi, B&M and Matalan are located to the east of Beck Road with associated off-street car parking; and Poundstretcher, Dunelm and Wynsors are located to the west of Beck Road with associated off-street car parking. Vehicular access to both car parking areas is via Beck Road.

Planning Commentary

Planning permission for the Retail Park was originally granted on 13th December 1985 through outline permission ref. 85/60/01011/B2 ('original permission'). As part of this decision, Condition 3 stated that *"the premises shall; not be used for the sale of food other than confectionary"*; it is considered that this Condition applied to all units.

An application to extend, alter and sub-divide Units 54, 55, 57 and 58 and change use from non-food to food (ref. 2007/62/93410/W2) was granted on 28th November 2007 ('2007 permission'). As part of this application, existing Unit 57 was subdivided and extended to create Unit 58 (now Aldi). Condition 5 of that permission stated that for Unit 58 only, *"no more than 10% of these premises shall be used for the sale of clothing, including sportswear and children's clothes, fashion accessories including handbags and luggage, watches and jewellery, perfume and toiletries, books, music records, video tapes, audio tapes, and computer software, without the prior consent in writing of the Local Planning Authority"*. No other conditions were attached to the decision restricting use of any of units, including Unit 57 (currently B&M).

The 2007 permission includes the change of use from non-food to food within the description of development, and whilst it may have been intended for the change of restrictions to relate to Unit 58, the description of development does not specify this, and the decision notice does not restrict any other of the units from being used for food retail by condition either, should that be desired.

Therefore, it is our view that the 2007 permission already allows food retail in Unit 57 and therefore the amalgamation of Units 58 and 57 to create a larger Aldi food retail store is not in contradiction of any restrictive conditions on use. It follows that only the works to the building and car parking area requires planning permission.

This notwithstanding, in line with the requirements of Policy LP13 and the NPPF, we have provided a proportionate retail assessment of the proposals below that considers the sequential test and impact of the proposals, in order to demonstrate the limited effects the proposals would have on existing retail centres.

In accordance with the pre-application advice received, we have also undertaken a Preliminary Bat Roost Assessment to meet the requirements of Policy LP30. No bat activity has been identified from the site visit undertaken.

The re-use of an existing retail property to provide the enhancements to the Aldi store is considered the most sustainable approach to development. New refrigerator units and ventilation and heating systems will also be installed improving the energy performance of the buildings. It is therefore considered that the proposals would meet the objectives of Policy LP24d.

The proposed elevations of the new Aldi store will retain the existing materials where possible, with new glazing to the front of the store (south elevation) providing natural light into the store and a better interface with the customer car park. The metal cladding will be painted anthracite grey to uplift its appearance. The proposals will improve the façade of the stores and accordingly meet the intentions of Policy LP24.

The reconfiguration of the car park will allow the provision of increased amounts of accessible and parent and child spaces. While this leads to the loss of 8 spaces, this is considered acceptable in the context that the car park has sufficient capacity. A Transport note is provided by Hydrock Fore to further support the loss of these parking spaces.

Retail Assessment

Policy LP13 of the adopted Local Plan supports proposals that help to retain an existing centre's market share and enhance the experience of those visiting those centres. Conversely, proposals that have a significant adverse impact on the vitality and viability of a centre will not be supported.

In addition, Policy LP13 requires proposals for main town centre uses that are located outside defined centre boundaries to provide a sequential test to demonstrate there are no alternative sequentially preferable sites that could accommodate the proposals.

Sequential Test

The Application Site is located 'out-of-centre' in strict retail policy terms because it is over 300m from the primary shopping area of Huddersfield town centre - it is approximately 500 m north of Huddersfield train station. However, the site is easily accessible to and from the town centre and performs a more 'edge-of-centre' function whereby visitors may also link trips with shopping in the town centre. There is, nonetheless, a requirement to demonstrate compliance with the sequential test in both scenarios.

The NPPF (paragraph 92) states that when considering edge-of-centre and out-of-centre proposals, preference should be given to accessible sites which are well connected to the town centre. It also includes the requirement to demonstrate flexibility on issues such as format and scale so that opportunities to utilise suitable town centre or edge of centre sites are fully explored.

Case law has established firm principles on the application of the sequential approach. The Supreme Court decision in *Tesco Stores Limited v Dundee City Council* (March 2012) provides clarity on demonstrating flexibility in the consideration of alternative sites and that it is whether such sites are:

"suitable for the proposed development, not whether the proposed development can be altered or reduced so that it can be made to fit an alternative site" (paragraph 29).

This premise was reiterated in the *Rushden Lakes Secretary of State Appeal Decision* (APP/G2815/V/12/2190175) dated June 2014, which, at paragraph 8.45 of the Inspector's Report, set out the following:

"In summary it establishes [a] that if a site is not suitable for the commercial requirements of the developer in question then it is not a suitable site for the purposes of the sequential approach; and [b] that in terms of the size of the alternative site, provided that the Applicant has demonstrated flexibility with regards to format and scale, the question is whether the alternative site is suitable for the proposed development,

not whether the proposed development could be altered or reduced so that it can be made to fit the alternative site.”

The Secretary of State (who ultimately determined the appeal) agreed with the Inspector in respect of the above point.

Finally, the Warners judgement (June 2016) confirms that *“what bounds can reasonably be set on an applicants’ preference and intentions as to “format and scale” in any individual case will always, and necessarily, depend on the facts and circumstances of that particular case....”* (paragraph 30).

On this basis, it is relevant to give consideration to the unique and specific circumstances of the Application Site which has initiated the development proposal. These are outlined below.

- The site comprises existing floorspace which may become vacant upon the expiration of existing lease agreements (Unit 57).
- There is an existing, established retailer located in the adjacent unit who has an active interest in extending their operation and the potential availability of the Unit 57 offers a unique and locationally specific opportunity for them to achieve this.
- No new floorspace is proposed to be created and the proposal is brought about specifically in order to align the conditions governing the retail use of Unit 58 to the adjacent unit of Unit 57 in seeking to accommodate Aldi’s requirements.
- The proposals provide the opportunity to address a number of deficiencies and operational constraints at the existing Aldi store. For example, the proposals would provide a new improved internal layout and circulation with larger checkout area, new glazing to provide better natural light and store environment, a larger and reorganised back of house storage area and staff facilities; enhanced retail offer (provision of more products), and a ‘click and collect’ capability.

The combination of the above creates a locationally specific requirement for the proposal which is not capable of being satisfactorily met on an alternative, sequentially preferable site. Aldi will not operate the store in parts across two sites as this will not redress the current operational problems associated with the store, which can only be remedied on the Application Site.

Any sequentially preferable site must therefore be capable of accommodating a full new store of c2,500 sq m GIA on ground floor level with sufficient surface and accessible parking.

It is not, in our view, the proper application of the sequential approach, to consider the potential to develop the store as extended elsewhere. Where there is an existing store that in the absence of an extension fails to meet modern standards, it cannot be right to say that the provision elsewhere of a wholly new store on another site provides an acceptable answer to the need to improve the existing store. That is because the provision of the new store would still leave the existing store as an unsatisfactory retail outlet, failing to provide customers with the modern facilities they should be able to expect. The qualitative deficiencies of the existing store will remain.

In any event, we have reviewed the availability within Huddersfield for this scale of development and the only available sites are currently located in Leeds Road Retail Park, which, as an out-of-centre location, is not sequentially preferable. The largest available premise in Huddersfield town centre was 50 King Street (c925 sq m) but this site is not capable of accommodating Aldi’s requirements.

On this basis, the sequential test is considered to be passed and the policy requirements of the NPPF and Policy LP13 are met.

Retail Impact

Notwithstanding that the proposals do not involve the creation of any additional floorspace, we have undertaken a proportionate impact assessment having regard to the considerations set out under NPPF paragraph 94 and Policy LP13.

The proposals involve existing floorspace which is currently let to B&M. The floorspace therefore generates an existing turnover with an established trade draw pattern. Aldi currently occupies the adjacent Unit and also generates an existing turnover with an established trade draw pattern.

Once Aldi extend their operation into Unit 57, it is anticipated that the store's overall turnover would increase, albeit not substantially, and there is likely to be limited impact on the store's existing trade draw.

Using data from Global Data we can calculate a notional turnover of the Aldi based on a published average sales density figure of £14,548 per sq m. We have used an average sales density of £4,500 per sq m to calculate a notional turnover for the existing B&M store.

	Existing store area	Sales area	Sales Density (£ per sqm)	Turnover
Aldi	1,562 sq m	986 sq m	14,548	£14.34m
B&M	891 sq m	788 sq m	4,500	£3.55m
<i>Total</i>				<i>£17.89m</i>

Taking into account the loss of existing turnover generated by B&M, and the modest increase in turnover generated by Aldi (as extended) an overall limited impact on trade draw and turnover would be expected.

This is because it is widely accepted that extensions to existing stores, which provide new retail floorspace and also address operational inadequacies of the existing floorspace, do not ordinarily trade at the same levels of the existing floorspace. This was acknowledged within an appeal decision in Kidlington (extension to Sainsbury's store in 1997). In the Kidlington decision, the Inspector stated:

"In estimating the turnover of the extended store, it has been assumed that the proposed additional floorspace would trade at a lower sales density than the existing store. It has been assumed that this would be 33% of the existing retail sales density [7.19]... ..That is accepted by all parties and seems to me to be a reasonable figure."

Even if the Aldi extension traded at 50% of the existing store turnover, the new extended store would trade at c£18.6m, an increase of just 4% (£720,000) compared to existing trading patterns.

	Extended store area	Sales area	Sales Density (£ per sqm)	Turnover
Aldi	2,469 sq m	1,572 sq m (986 + 586)	14,548 + 7,274 for extended area	£18.61m
<i>Difference existing to</i>				<i>+£0.72m</i>

This increase in turnover compares to an expected increase in available convenience and comparison goods expenditure in Huddersfield of c£21m and c£213m respectively, in the period 2016-2031¹.

Accordingly, the propensity for the proposal to impact on existing centres (either in terms of existing, committed and planned investment and on overall vitality and viability) is very low and not to the degree which could be considered 'significant adverse' which is the test under NPPF paragraph 95 and Policy LP13.

Summary & Conclusion

This planning application seeks permission for the proposed amalgamation of Units 57 and 58 Huddersfield Retail Park to create a larger Aldi unit, and reconfiguration of the existing car park to meet tenant requirements.

It is considered that Unit 57 already benefits from planning permission to use this floorspace for food retail in line with the permission at Unit 58. However, consideration has been given to the NPPF and Policy LP13 requirements to undertake a sequential test and assess retail impact.

The rationale for the proposals can be seen as locationally specific. Aldi is an existing, established retailer, located in the adjacent unit who has an active interest in extending their operation and the potential availability of the Unit 57 offers a unique and specific opportunity for them to achieve this.

The proposals provide the opportunity for Aldi to address a number of deficiencies and operational constraints at the existing Aldi store. For example, the proposals would provide a new improved internal layout and circulation with larger checkout area, new glazing to provide better natural light and store environment, a larger and reorganised back of house storage area and staff facilities; enhanced retail offer (provision of more products), and a 'click and collect' capability – to bring it in line with their other store characteristics.

The proposal is not therefore considered capable of being satisfactorily met on an alternative, sequentially preferable site.

As the proposals involve re-using existing floorspace which is currently let to B&M, the floorspace already generates an existing turnover with an established trade draw pattern. Once Aldi extend their operation into Unit 57, it is anticipated that the store's overall turnover would increase, but not substantially, and given the existing B&M turnover would be lost, there is likely to be limited impact on the vitality and viability of Huddersfield town centre as a result.

Accordingly, it is hoped that the Council will consider these proposals favourably.

¹ Zone 1 expenditure calculations in the Kirklees Retail Capacity Study (August 2016).

Should you require any further information, please do not hesitate to contact the writer.

Yours faithfully,

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