

30th March 2020

Bethany Brown
Trafford Council
Trafford Town Hall
Talbot Road
Stratford
M32 0TH

Via email only
Bethany.brown@trafford.gov.uk

Dear Bethany,

Re: Application 98127/FUL/19 | Unit 1 Altrincham Retail Park | Extension, refurbishment and subdivision of the existing Homebase store to provide a downsized unit for Homebase and a new Class A1 retail unit to be occupied by Lidl.

Asda Stores Limited ("Asda") maintain their **objection** to the above application submitted to Trafford Council ("the Council") by Lidl UK / Orchard Street Investment Management LLP ("the applicants").

This letter refers to the following documents submitted by the applicants:

- Letter prepared by Rapleys in relation to retail impact (24th December 2019)
- Letter prepared by Rapleys in relation to sequential assessment (15th January 2020)
- Noise Impact Assessment prepared by REC (December 2019)

This objection is based on two main points, which are discussed in more detail below, and are summarised as follows:

1. The application currently fails the sequential test, does not comply with Policy W2.12, and should be refused on this basis; and,
2. The details of the noise mitigation measures have not been provided and as such the application fails to demonstrate that they are achievable and that the proposal will not have a significant adverse impact in this regard.

Sequential Test

With regards to the sequential assessment, Policy W2.12 Out of Centre Development says:

"Outside the centres identified above, there will be a presumption against the development of retail, leisure and other town centre-type uses except where it can be demonstrated that they satisfy the tests outlined in current Government Guidance."

The relevant "Government Guidance" is the sequential test set out at paragraphs 86 and 87 of the NPPF.

Firstly, we consider the matter of disaggregation.

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In this regard it is necessary to consider the Secretary of State called-in appeal decision at Tollgate Village, Stanway for a mixed-use development comprising leisure and retail uses¹ (the 'Tollgate decision'). The Tollgate decision suggests that there could, in some instances, be a requirement to consider the disaggregation of a scheme through the sequential test. In considering this matter, the Inspector's Report at paragraph 12.3.11 concluded that:

*'In this case there is **no evidence that the proposed format is necessary or fundamental to the proposal...***

The Secretary of State's decision does not provide any comment on this matter other than stating that he had carefully considered the Inspector's analysis at IR12.3.1-12.3.30. The matter of disaggregation was also considered in an appeal decision for A1, A3 and A5 units at Ashcombe Road/Barnes Way, Kingswood, Hull² (the 'Kingswood decision'). In the Kingswood decision, as with the Tollgate decision, the Inspector concluded that, there was a requirement to consider the disaggregation of the appeal proposals being considered³.

Whilst, in the case of the Tollgate and Kingswood decisions, there was no named operators we are of the view that these two decisions are completely relevant to the Lidl / Homebase proposal. The applicants have not provided any compelling evidence that the proposed format is necessary or fundamental to the proposal. Indeed, Lidl are flexible in terms of format as evident in their desire to bring forward their 'metropolitan format' at the Altair site (which we consider in more detail later).

The applicants suggest that there is no requirement to consider whether the proposed Lidl can be disaggregated from the re-configured Homebase unit on the basis that the two are dependent on each other. However, it has not been demonstrated by the applicants that the downsizing of the Homebase unit is dependent, from a viability point-of-view, on a discount convenience retailer occupying the remaining space. No details or evidence has been provided as to why Homebase cannot downsize irrespective of the occupant of the remaining space and the question remains as to why exactly it needs to be occupied by a discount convenience retailer. An alternative option, and one which would comply policy W2.14, would be for a comparison retailer to occupy the remaining space. Without sufficient detail setting out why the downsizing of Homebase is dependent on the remaining space being occupied by a discount convenience retailer it would be wholly suitable to disaggregated Lidl and consider the suitability of sequential sites to accommodate Lidl alone.

Secondly, we consider the sequentially preferable Altair site.

The Altair site is suitable for Lidl who are close to entering into a legally binding contract with Nikal Developments for the provision of a 'metropolitan format' Lidl store at the site. We welcome the fact that Lidl has offered to share details of the contract to the Council on a confidential basis to confirm the position. Indeed, we consider that until such a time that the contract is entered and shared with the Council the Altair site remains sequentially preferable. As such, we consider that the contract should be shared with the Council at the earliest opportunity and before a conclusion is reached on whether the proposal passes the sequential test. Indeed, the applicant themselves suggest that the contract should be shared before a decision is reached on the application.

¹ APP/A1530/W/16/3147039

² APP/V2004/W/17/3171115

³ Para. 52-57



In short, the application currently fails the sequential test, does not comply with Policy W2.12, and should be **refused** on this basis.

We also have concerns that the impact on Altrincham town centre has not taking account of the closure of the key Debenhams store within the town, which closed in January 2020 and seemingly subsequent to Rapleys letter in relation to sequential assessment, since no reference is made to it. It is also unclear at this stage what effect the temporary store closures following Government advise in the wake of COVID-19 will have on the vitality and viability of the town centre, particularly the independent offer within the town.

Noise

With regards to noise, Policy L7.3 Protecting Amenity says:

"In relation to matters of amenity protection, development must:

- *Be compatible with the surrounding area; and*
- ***Not prejudice the amenity** of the future occupiers of the development and/or occupants of adjacent properties by reason of overbearing, overshadowing, overlooking, visual intrusion, **noise** and/or disturbance, odour or in any other way."*

The applicants seek 24 hour deliveries to the Lidl unit. The applicants suggest that "usually" each store has one or two dedicated deliveries per day.

Table 9 of the Noise Impact Assessment shows that, without mitigation, the noise rating level exceeds measure background sound level at the garden of 8 Huxley Street, the nearest noise sensitive receptor, by **+10dB**. This is clearly unacceptable and likely to be an indication of a significant adverse impact. As such mitigation measures are required for external amenity areas. Two mitigation measures are therefore proposed within the Noise Impact Assessment, which are:

- Effective site management; and,
- A 3m barrier along the north eastern site boundary.

We consider that given the **significant adverse impact** that would arise should these mitigation measures not be implementable or implemented, it is imperative that a delivery management plan and a plan and elevations of the 3m barrier are provided as soon as possible and consulted upon before a decision is made on this application to ensure that they are achievable. This information would be relevant, necessary and material and therefore in line with the requirement of paragraph 44 of the National Planning Policy Framework. We do not consider that it would be appropriate to deal with these matters by way of condition.

We also note that the 3m barrier has not been considered within the Heritage Statement prepared by Stephen Levrant Heritage Architecture (20th December 2019) so a view cannot be taken on the effect of the barrier on the significance of the nearby heritage assets.

Summary

In the absence of all the necessary information it cannot yet be concluded that the application passes the sequential test. In this regard, it is worth remembering paragraph 90 of the National Planning Policy Framework which says:

Where an application fails to satisfy the sequential test or is likely to have significant adverse impact on one or more of the considerations in paragraph 89, it should be refused.

Accordingly, unless the applicants can demonstrate that the Altair site is not suitable and available, the application should be refused planning permission.

Furthermore, as things stand it has not been demonstrated that the noise mitigation measures are achievable as such that a significant adverse effect would not occur in this regard.

We trust these comments will be considered prior to determination of the planning application and would be grateful if you could keep us informed as matters progress.

Yours faithfully

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Rebecca Dennis

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