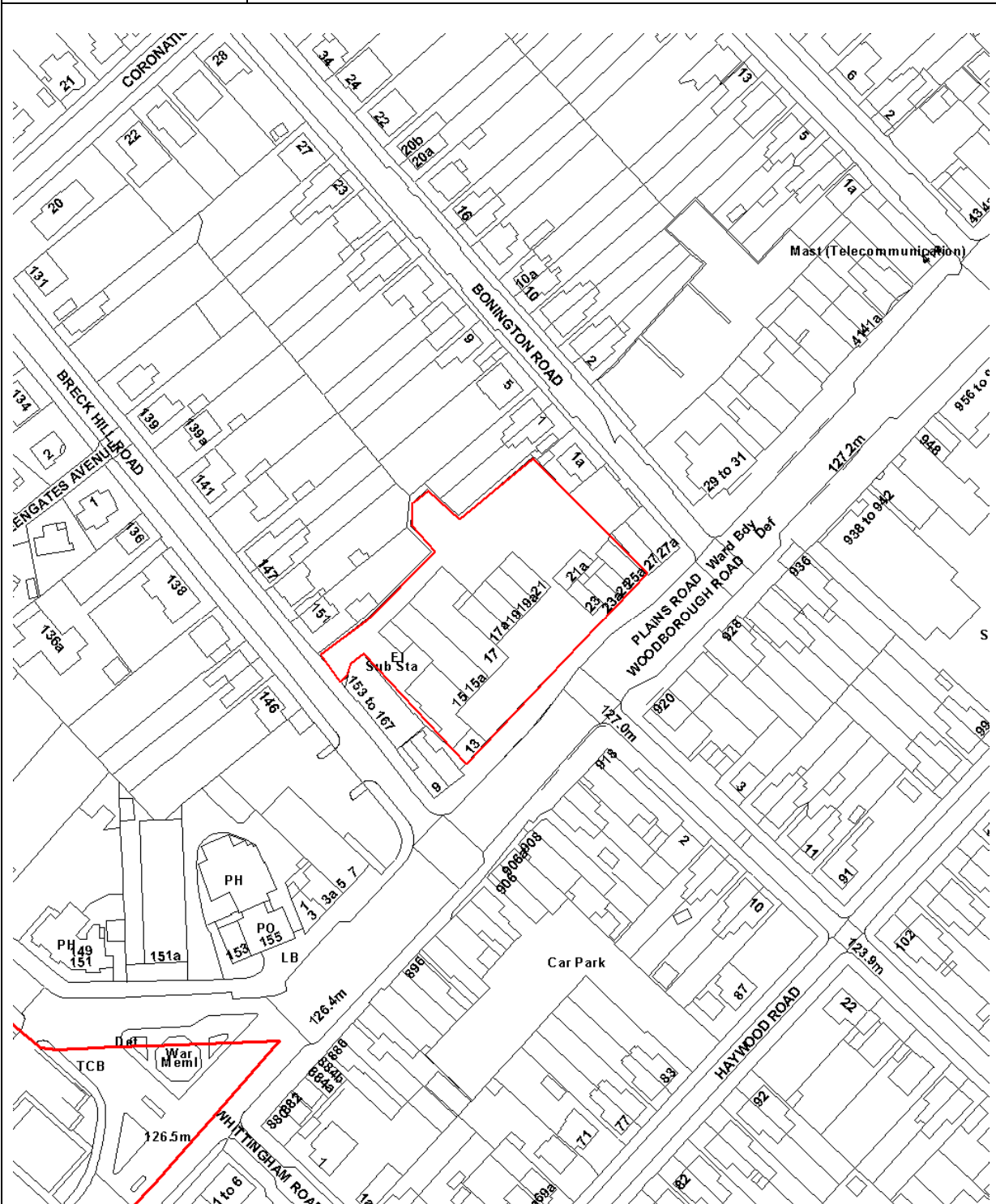


Planning Report for 2013/0162

Location :

The Precinct 13-25 Plains Road Mapperley



NOTE This map is provided only for purposes of site location and should not be read as an up to date representation of the area around the site

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APPLICATION NO: 2013/0162

LOCATION: The Precinct 13-25 Plains Road Mapperley Nottingham

PROPOSAL: A 50 sq m prefabricated kiosk for A3 planning use class and associated external works.

APPLICANT: Mr Matthew Smith

AGENT: Imogen Hunt

Site Description

The application relates to land within the pedestrianised precinct fronting nos.13 – 25 Plains Road, Mapperley. The site is located within the Mapperley Plains District Shopping Centre as identified on the proposals map for the Gedling Borough Replacement Local Plan. Commercial uses occupy the units to the perimeter of the precinct and the precinct is paved and includes existing benches and trees.

Proposed Development

Full planning permission is sought to erect a prefabricated kiosk for uses falling under the A3 Use Class, and associated works to the precinct.

The proposed kiosk would be located to the foreground of nos. 19 – 23 Plains Road and would be positioned a minimum of 7.4m from units 19 and 19A and 6.6m from unit 23.

The kiosk would have maximum dimensions of 9.7m width x 5.0m depth. The proposed roof would have a shallow pitch and would measure a maximum 3.0m in height. The roof would have a bituminous polyester roofing membrane and would have a concealed gutter as well as 3no. recessed lights in the overhang at each end. The majority of the elevations of the proposed kiosk are proposed to be clear glazed with grey pre painted aluminium frames. Entrance doors are proposed to the front and rear elevations of the kiosk and folding sliding doors are proposed to the south west elevation. The north eastern end of the kiosk would have composite infill panels comprising of laminate timber cladding. A young tree would need to be removed from the precinct to make way for the kiosk.

Internally the proposed kiosk would have a store and toilet to the north eastern end of the building with the remainder of the building housing the food preparation and order area and internal seating and tables for customers.

Existing and proposed street scene and site section plans have been submitted as part of the application.

The submitted plans also indicate that the existing car park is to be delineated with new white lines and appropriate signage.

A revised plan submitted on 17th April 2013 indicates that the existing fixed seating within the precinct is to be relocated to the foreground of the proposed kiosk and that

loose outdoor seating is also proposed for the kiosk and that this is to be stored in a proposed kiosk store within the car park.

A Design and Access Statement has been submitted. This includes consideration of alternative shapes taking into account views towards existing units to the rear of the proposed kiosk. The appendices of the Statement include consideration of a market layout and Christmas Tree / Nativity Scene layout for the precinct.

A separate application is currently being considered by the Borough Council for signage on the proposed kiosk (Planning Application no.2013/0163).

Consultations

Notts County Council (Highways) – The Precinct is private land and not in the control of Gedling Borough Council or Nottinghamshire County Council.

All associated work within the Precinct in regards to moving of benches and relocation of lighting should not be moved onto any highway land or cause glare from any lighting column onto Plains Road.

In view of the above, the Highways Authority would have no concerns, subject to the inclusion of a condition requiring that the kiosk should not be Opened/Operational until the car parking areas for customers and staff in the rear car park is lined/signed and is available for staff and customers.

Environment Agency – No comments received

Severn Trent Water – No objections subject to a condition being attached to any consent requiring drainage plans to be submitted.

Wildlife Trust – No objection

Police Architectural Liaison – Having viewed the plans, no objections. The plans are acceptable from a natural surveillance and designing out crime perspective.

Natural England – No specific comments. It is for the Borough Council to determine whether or not this application is consistent with national or local policies on biodiversity and landscape.

Scientific Officer – No comments to make.

Economic Development Officer – Raises the following points:

- The environmental improvements to the precinct and car park would be welcomed.
- Notes the applicant has considered the potential impact on the existing and future community events and markets which currently take place on the site. However, there is concern that the space which remains once the kiosk is in place may prove insufficient for events to remain viable. The current Arts and Craft Fair and any future markets require sufficient space to make them deliverable, as the organiser will need enough space to achieve the requisite number of stalls to cover costs. Although there are suggested layouts provided in the application, there is concern over whether there would be

enough space for stalls to be placed alongside the North East and North West elevations of the kiosk, with the access point on those elevations being close to the proposed stalls. The placement of stalls adjacent to the kiosk would result in loss of light and visibility for any tenant.

- In terms of retail mix for the centre, it is made clear within the application that there is no loss of A1 as a result of this development. However, there is concern that there is a relatively high saturation level of non-A1 within Mapperley – in particular café outlets. The centre is a well performing centre, with a 3.3% ground floor vacancy rate (as at July 2012) and a high level of visitor satisfaction. Any change in the centre needs to be carefully considered, especially one that has an impact on the appearance of the centre and a loss of public space (albeit space that is on private land).
- Would like to see some commitment from the developer to encourage local employment from the end user of the kiosk.
- Concern as to the impact of the kiosk in relation to visibility of the existing shops within the precinct. Although it is stated that the majority of the structure will be glass, is concerned that there will be a substantial loss of visibility for those units in the North corner of the precinct, which may have an impact on those particular businesses.

Forestry Manager – The loss of the small tree situated within the precinct to facilitate development should be subject of mitigation replacement to ensure the landscape character of the area is maintained.

The Forestry Manager is mindful of the position of the adjacent larger highway tree which no doubt will be placed under pressure for maintenance to enable operation of the facility. The removal of this tree if suggested will be resisted but in terms of the design of the structure and the habitat of nesting birds (especially pigeons), the applicant is advised to take note of this with regards to the position of the structure. It may be advantageous to consider an alteration to the position of the structure to overcome future issues.

Urban Design Consultant – No objection. Considers the kiosk will add to the visual amenity of the area and create a focal point on the frontage. Having viewed the plans and seeing that a large part of the structure is glass and will be see through, has no concerns with regards to the shape of the kiosk and its potential to create a dark area to the rear. The kiosk is of a simple design which is contemporary and suits the location. The Consultant is also in favour of the idea of seating relating to the kiosk fronting out onto the pavement.

Planning Policy – The proposal would result in significant additional investment in the District Centre which is strongly supported by the NPPF and there would be no less of A1 use and an overall increase in retail floorspace in the shopping centre. Planning Policy note in particular that the applicant proposes significant external improvement works to the precinct and car parking facilities which would accord with Policy S2. Planning Policy therefore would not wish to object to this proposal provided that Development Management is satisfied that the proposal satisfies policies ENV1, ACS Policy 10, S16 and S17.

Public Protection – No comments received.

A site notice has been posted and units fronting the precinct have been notified –
21no. written representations have been received raising the following issues:

- The trees, street furniture, tables, chairs and proposed kiosk will reduce the space availability by two thirds for all local groups who enjoy this facility and in the case of the Arts and Crafts Fair it is very likely that the fairs will not be commercially viable.
- There is not another 'community' open space in the area and the precinct is an important community focus point. The use of the space for community events should be encouraged rather than curtailed by a kiosk.
- The proposal would inhibit the use of the space for community events such as the switch on of the Christmas lights.
- There are already a number of empty retail outlets in the area.
- The proposed kiosk will hide the frontage of a number of existing units which could be detrimental to these units.
- Concerns about the size of the kiosk.
- Detrimental impact on existing food outlets.
- Costa Coffee has increased footfall in the area but this could tip the balance with existing small private coffee and food outlets becoming empty.
- Object to the ease that some businesses seem to get A3 planning consent e.g. Costa Coffee, yet it appears much harder for local smaller businesses.
- It is unfair that consideration cannot be given as to whether the proposed occupier is a national chain or not. Small local businesses cannot compete with the national chains.
- The centre is becoming saturated with coffee establishments. Why can the local Council not protect the area from too many of the same types of business and secondly why can the Council not protect the independent businesses against big chains?
- The applicants own the precinct and car park to the rear of the precinct. The owners should be made to carry out maintenance of these areas before any further proposals are considered.
- Will there be adequate toilet facilities. The Council appears to be removing its own facilities and expecting local business to provide these facilities.
- The precinct provides a breathing space within the building line.
- Buses are frequently delayed by vehicles parking in the bus lay by. This will be exacerbated by people who will stop in the lay-by to purchase refreshments from the new unit.
- The issue of inadequate car park markings is irrelevant and should be taken up by the Council as an enforcement matter.
- The provision of mesh roller shutters will do little to enable 'see-through' vision potentially leading to an increase in anti-social behaviour.
- The proposal will restrict pedestrian access.
- The A3 designation will allow for the kiosks conversion to a fast food / takeaway outlet of which there are already sufficient in the locality.
- What evidence is there that there is demand for another coffee outlet.
- Loss of this attractive space will put off potential housebuyers in the area if the centre loses its present appeal.
- Is the application for a kiosk or advertising space?
- There are already ample places to buy coffee but only a few places where you can just sit down and relax.
- The position of the kiosk will create a corridor which will be unsafe in the evenings.
- The proposed storage facility to serve the kiosk will take up parking space.
- The overall variety of shops in the area has been lost.

1 no. written representation has been received in favour of the proposal and can be summarised as follows:

- The rectangular design is in keeping with the shape of the precinct.
- The glazed façade allows views through which is good.
- A café in the precinct would be good and comparable to squares in other European countries.
- Tables and chairs outside the kiosk will help improve the atmosphere.
- The present seating is poor and looks inwards rather than outwards.
- It is a shame trees will be lost but it is possible that the new establishment could have some greenery in pots.
- It is good there will still be some space for community events.
- The only reservation is that there should be some better seating for members of the public.

A petition stating 'Please show your support and sign the petition to help local independent businesses and stop plans for yet another coffee outlet in the precinct' has also been submitted. The petition has 272 signatures.

Planning Considerations

In my opinion the main planning considerations in the determination of this application are the appropriateness of the proposal in this location, the likely impact on the vitality and viability of the district centre and the relationship between the size and design of the proposal and the appearance of the area. The Highway implications of the proposal also need to be considered.

The following sections of the National Planning Policy Framework (NPPF) (2012) are particularly relevant in considering this proposal:

- NPPF Paragraph 19
- NPPF Paragraphs 23-27
- NPPF Paragraphs 56-68

At the local level the following policies of the Gedling Borough Replacement Local Plan (Certain Policies Saved 2008) are relevant:

- RLP Policy ENV1 (Development Criteria)
- RLP Policy S1 (Retailing in Shopping Centres)
- RLP Policy S2 (Non-Retail Uses in District Shopping Centres)
- RLP Policy S4 (Environmental Improvements)
- RLP Policy S8 (Mapperley Plains)
- RLP Policy S16 (Design of Shop Fronts)
- RLP Policy S17 (Security Shutters)

Gedling Borough Council at its meeting on 13th February 2013 approved the Gedling Borough Aligned Core Strategy Submission Documents (ACSSD) which it considers to be sound and ready for independent examination. Consequently, Gedling Borough in determining planning applications may attach greater weight to the policies contained in the ACSSD as it is at an advanced stage of preparation with the level of weight given to each policy being dependent upon the extent to which there are unresolved objections (the less significant the unresolved objections, the greater weight that may be given). It is considered that the following policies are relevant:

- ACS Policy 6 (Role of Town and Local Centres)
- ACS Policy 10 (Design and Enhancing Local Identity)

Paragraph 19 of the NPPF states that “*significant weight should be placed on the need to support economic growth through the planning system*”.

Paragraphs 23-27 of the NPPF specifically address town centres and seek to protect the vitality and viability of town centres. It adopts a sequential approach with sites within town centre boundaries, as this proposal is, being preferred to those on the edge of or outside town centres.

Policy S1 provides for retail development (class A1) in district centres. Policy S2 permits the development, redevelopment or change of use for non A1 retail uses including A2 – A5 and D2 at ground floor level provided they would not:

- Create an unacceptable grouping of 4 or more non A1 retail units: and/or
- Result in the proportion of non – A1 retail uses exceeding 35% of the frontage in the shopping centre.

Policy S8 relates to the change of use from retail (A1) and financial services (A2) to restaurants and cafes (A3), drinking establishments (A4) and hot food (A5) provided they do not result in the loss of the predominantly retail character. This policy applies to proposals for the change of use and does not apply in this case as this involves the development of new retail floorspace.

Paragraphs 56-68 of the NPPF, ENV1a, and ACS Policy 10 cover matters of design. Broadly these require that the design of the proposal is of high quality and improves the townscape. Of specific relevance is the requirement in the NPPF to provide high quality and inclusive public spaces and ACS Policy 10.4 which requires that development must have regard to the local context including valued townscape characteristics.

Policy S4 encourages environmental improvements including improved rear servicing and the provision of off street parking. S4 also states that planning permission will not be granted if proposals prejudice environmental works. Policy ENV1 also includes criteria b) and c) which seek to ensure that proposals would not have an adverse effect on the amenities of neighbouring occupiers or the locality in general and includes adequate provision for the safe and convenient access and circulation of pedestrians. ENV d) is also relevant as it requires appropriate crime prevention measures in the design and layout.

Non retail uses in District Centres

The proposal involves the development of new floorspace fronting Plains Road and would effectively create a new shopping frontage. The proposed development is set back 4.7 metres from the public footpath on Plains Road and is located some 6.6 metres from the closest units. As well as a frontage to Plains Road, shoppers would be able to circulate the proposed kiosk and access the shops behind effectively meaning that most of the perimeter of the proposed kiosk would result in additional shopping frontage (frontage comprising glazed windows is counted as shopping frontage. The North West elevation is not counted as it is a blank or solid wall frontage). On this basis, the proposal would increase the percentage of non A1 frontage in Mapperley District Centre from around 36% to just under 39% further exceeding the 35% limit set out in Policy S2.

The purpose of Policy S2 is to protect the core retail A1 function of the District Centre. Given that the whole perimeter of the kiosk is effectively “frontage” development, granting planning permission for this proposal would result in the proportion of non A1 retail uses increasing from about 36% to just under 39% even though the amount of actual new A3 floorspace is a relatively modest increase of 46 square metres.

However, the proposal would not result in the loss of A1 retail units and Policy S2 is not intended to preclude new retail floorspace being developed but rather to ensure that retail A1 uses are not lost and continue to predominate as these A1 retail uses are important in terms of maintaining the vitality and viability of a centre. Whilst acknowledging that when recalculated the resultant increase in the proportion of non A3 frontage would be significant (due to the proposal having a “perimeter” type frontage as opposed to a single frontage) the actual amount of non A1 floorspace proposed is not that large and would not result in a significant shift in the retail function of the District Centre.

I am also mindful that the NPPF requires that significant weight should be placed on encouraging sustainable economic growth. Although the proposed new floorspace is relatively modest, the proposal would result in a significant additional investment in the District Centre and in my opinion the proposal is unlikely to harm the vitality and viability of the District Centre and may have a positive impact on the existing A1 uses within the shopping centre. Given these considerations, whilst the proposal contravenes the maximum percentage of non A1 uses within the district centre set out Policy S2, I consider there are material considerations in this instance that outweigh the provisions of this Policy.

Impact on the precinct

A key planning issue is the impact of the proposed coffee kiosk on the precinct which is a privately owned space accessible to the public and which holds a number of important local events including an Arts and Craft Fair and Christmas events. The planning application includes external works to the precinct which the applicant considers will improve the layout including re-locating street furniture and the Design and Access Statement puts forward layouts to demonstrate that the precinct would continue to facilitate the holding of local events. The proposal also includes improvements to the existing car parking arrangements to the rear of the precinct.

In seeking to protect existing shopping frontages it will be important that any proposal does not obscure views of existing shopping frontages surrounding the precinct from the vantage point of shoppers walking along Plains Road. I consider the design of the unit, which has clear glazing to a large proportion of its elevations, will provide views through the unit to the shop frontages immediately behind. I also note that the Urban Design Consultant is supportive of the design of the proposal and its likely impact on the appearance of the area.

Security Issues

I note the position of the kiosk away from the foreground of the Cash Machine at Barclays Bank which is situated at no.14 Plains Road and I am satisfied that the Cash Machine will still benefit from good natural surveillance. I also consider that the design of the kiosk with a large percentage of the frontage being glazed will help to retain views to the rear of the building to the space and units beyond. Any proposed internal or external shutters would need to be carefully designed so as not

to reduce the design benefits of the proposal and to maintain surveillance to the rear of the kiosk. It may also be possible to incorporate toughened glass to reduce the need for or the extent of any such shutters. Any consent could be appropriately conditioned requiring details of the glazing and any shutters to be prior approved and retained thereafter. I also note lighting is proposed within the roof of the building which will ensure the area either side of the building is well lit aiding natural surveillance. A further condition, requiring details to be submitted of security lighting to the front and rear elevations of the kiosk, will ensure any lighting helps to retain views through the building in the evening.

Highway Issues

I note the comments of the Highway Authority and no significant concerns are raised. The proposal is located within the district centre, on private land away from the adopted highway and therefore I am satisfied that there will be no significant highway implications. Whilst I consider that existing parking facilities in the centre and public transport links will adequately cater for any additional visitors to the district centre, I consider it would be reasonable to attach the condition suggested by the Highway Authority to ensure a satisfactory development.

Other Issues

Whilst I am mindful the proposal will reduce the amount of space available within the precinct for other activities, I am mindful that the land is privately owned and the use of the precinct for activities not requiring planning permission is at the discretion of the land owner. I am also mindful of Policy C4 of the Replacement Local Plan which relates to 'Loss of Community Facilities'. However, this Policy states that permission will not be granted if the loss of community facilities results in increased car journeys to the next available facility. I am mindful that the use of the precinct by groups such as craft fairs and Christmas events is infrequent and therefore the loss of part of the precinct is unlikely to result in a significant impact in terms of car journeys.

Any impact on trade for other A3 uses in the area relating to the extra competition for potential customers is not a material planning consideration in the determination of this application. Similarly, whether the occupier of the proposed kiosk is a national chain or an independent operator is not something that is controlled through the planning system. All applications are considered on their own merits against the national and local planning context in place at that time. The relevant policies in this instance do not require evidence to be provided that there is a need for another A3 use in this instance. Use of the kiosk by a take-away operator would require a further planning application for a change of use to A5 and this would have to be considered on its own merits.

The proposed kiosk includes an ancillary toilet. The provision of toilet facilities within the District Centre and the adequacy of the toilet facilities proposed within the kiosk is not a material planning consideration in the determination of this application.

With regards to the reference to there being a number of empty retail outlets in the area I note the Economic Development Officers comments and that vacancy rates in the District Centre are relatively low.

Whilst the proposed kiosk will partially obscure the frontage of some of the existing units from some vantage points, I am mindful that the kiosk retains good pedestrian circulation to these units and the glazed design provides views through to these units.

Approximately two thirds of the precinct will remain as open space between the highway and shop fronts which border the precinct and I am therefore satisfied that the precinct will continue to provide a valuable open space within the District Centre.

Any issues with vehicles parking in the bus lay-by is a traffic management enforcement issue. The existing inadequate car park markings are not a matter for the Borough Council's Parking Enforcement officer as this is a private car park. In any case the proposed plans will improve the appearance and usability of this car park complying with the aims of Policy S4 of the RLP.

The external tables and chairs relating to the kiosk are not fixed and I am satisfied that the relocated fixed benches is acceptable. I am satisfied that the remaining space around the kiosk and this seating is sufficient to allow good pedestrian circulation. I am also mindful that security vans are likely to drive over the precinct to access the bank at no.17 Plains Road. Given that the seating outside the kiosk is not fixed and that existing benches are to be relocated, I consider an access route for such vehicles will still be available.

Conclusion

The proposal would result in significant additional investment in the District Centre which is strongly supported by the NPPF. The proposal would not result in a loss of an existing A1 use and would result in an overall increase in retail floorspace in the shopping centre. The external improvement works to the precinct and car parking facilities accord with the aims of Policy S4. The proposal complies with the aims of policies ENV1, ACS Policy 10, S16 and S17.

For the above reasons I support this application.

Recommendation: GRANT PLANNING PERMISSION subject to the following conditions;

Conditions

1. The development must be begun not later than three years beginning with the date of this permission.
2. The development shall be completed in accordance with drawing nos. 12014/004 Rev C, 12014/007 Rev B, 12014/008 Rev A, 12014/009 and the materials set out on the plans, accompanying application forms and design and access statement.
3. The development hereby permitted shall not commence until drainage plans for the disposal of surface water and foul sewage have been submitted to and approved in writing by the Borough Council. The scheme shall be implemented in accordance with the approved details before the development is first brought into use.
4. The kiosk shall not be brought into use until the works to the precinct and car park set out on the proposed site schedule on drawing no.12014/004 Rev C have been completed.

5. Before development is commenced precise details of the glass to be used in the elevations of the kiosk and details of any internal or external security shutters shall be submitted to and approved in writing by the Borough Council. Once approved the glass and security shutters shall only be installed in accordance with the approved details and shall be retained as such at all times.
6. Other than any security shutters approved under condition 5 of this consent, no internal or external shutters shall be installed on or within the kiosk without the express consent of the Borough Council.
7. Before development is commenced precise details of the proposed new bins, proposed waste and recycling store and the proposed kiosk store annotated 9, 16 and 17 respectively on drawing no.12014/004 Rev C shall be submitted to and approved in writing by the Borough Council. Once approved the bins, waste and recycling store and the kiosk store shall be retained in accordance with the approved details at all times.
8. Before development is commenced, precise details of security lighting to be installed to the front and rear elevations of the kiosk shall be submitted to and approved in writing by the Borough Council. Once approved the security lighting shall be installed on the kiosk prior to the kiosk first being brought into use and shall be retained and kept operational at all times thereafter.

Reasons

1. In order to comply with Section 51 of the Planning and Compulsory Purchase Act 2004.
2. For the avoidance of doubt.
3. To ensure that the development is provided with a satisfactory means of drainage as well as to reduce the risk of creating or exacerbating a flooding problem and to minimise the risk of pollution.
4. In order to ensure a satisfactory development, in accordance with the aims of Policy ENV1 of the Gedling Borough Replacement Local Plan (Certain Policies Saved 2008).
5. In order to protect the visual amenity of the area and in the interests of crime prevention in accordance with the aims of Policy ENV1 of the Gedling Borough Replacement Local Plan (Certain Policies Saved 2008).
6. In order to protect the visual amenity of the area and in the interests of crime prevention in accordance with the aims of Policy ENV1 of the Gedling Borough Replacement Local Plan (Certain Policies Saved 2008).
7. To ensure the details of the development are satisfactory, in accordance with the aims of Policy ENV1 of the Gedling Borough Replacement Local Plan (Certain Policies Saved 2008).

8. In the interests of crime prevention in accordance with the aims of Policy ENV1 of the Gedling Borough Replacement Local Plan (Certain Policies Saved 2008).

Reasons for Decision

In the opinion of the Borough Council the proposed kiosk would result in significant additional investment in the District Centre which is strongly supported by the aims of the National Planning Policy Framework (2012). The proposal would not result in the loss of an existing A1 use and would result in an overall increase in retail floorspace in the shopping centre. There are therefore material considerations which outweigh the criteria under Policy S2(b) of the Gedling Borough Replacement Local Plan (Certain Policies Saved 2008). The external improvement works to the precinct and car parking facilities accord with the aims of Policy S4. The proposal also complies with the aims of policies ENV1 and S17 of the Gedling Borough Replacement Local Plan (Certain Policies Saved 2008).

Notes to Applicant

The proposed development lies within a coal mining area which may contain unrecorded coal mining related hazards. If any coal mining feature is encountered during development, this should be reported immediately to The Coal Authority on 0845 762 6848. Further information is also available on The Coal Authority website at www.coal.decc.gov.uk. Property specific summary information on past, current and future coal mining activity can be obtained from The Coal Authority's Property Search Service on 0845 762 6848 or at www.groundstability.com.

Your attention is drawn to the attached comments of the County Council's Forestry Manager.

Decision Statement - The Local Planning Authority has worked with the Applicant in accordance with the requirements of the National Planning Policy Framework paragraphs 186 to 187.