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Date: 03 April 2021

Kevin Cartwright  
Principal Planning Officer  
Development Services  
Gedling Borough Council  
Civic Centre,  
Arnot Hill Park,  
Arnold,  
Nottingham  
NG5 6LU

Dear Kevin

**2020/1292. Planning Application for Commercial Uses at land at Teal Close, Netherfield.**

We write with regard to the above planning application and with particular reference to our instruction to advise Gedling BC (hereafter referred to as 'the Council') on the merits of the proposals of A C Lloyd Holdings in terms of its compliance with retail and town centre policy as set out by the statutory development plan and the NPPF.

This is written in response to the applicant's most recent submissions dated 31<sup>st</sup> March 2021 which comprised a detailed letter. This ATP letter should be read in tandem with our earlier letter dated 23<sup>rd</sup> March 2021, responding to the applicant's original submission and the letter dated 31/03/21.

This responds to our earlier requests for a more comprehensive analysis of the retail planning implications of the proposals both in the scope of the work but also consideration of the potential requirement for planning controls. Through our review of this subsequent material, we would now agree that the applicant has provided an appropriate response to impact assessment and suitable consideration of the sequential approach to site selection. Given that the scheme is not in conflict with main town centre uses planning policy, we note the scheme's contribution to economic development objectives and conclude that there is no reasonable basis to sustain an objection on these grounds.

## The Proposals

The proposal comprises an application for an Aldi foodstore to serve as part of an extended local centre. There is a separate application (reserved matters 2019/0613) for mixed use commercial use in 6 units. This comprises:

- Public house;
- Day nursery; and
- 4 no. flexible use units (in a single terrace) which could provide retail or other main town centre uses.

We raised a concern insofar that the original submission material for the application did not expressly seek to justify the potential end uses of these four units in terms of retailing. However, the applicant has now provided

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sensitivity analysis which responds to this point, adding that there is an initial preference for any subsequent consent to preserve the opportunity for flexibility.

## Context

The subject site is out-of-centre forming part of a broader Sustainable Urban Extension allocation from the 2014 Joint Core Strategy. Whilst the Core Strategy envisages the delivery of a local centre in the Plan period as part of a wider scheme, it is not identified in the hierarchy of centres. As such, development management proposals must consider NPPF requirements in the context of being “out-of-centre” albeit having regard to other Development Plan policies.

There is an outline approval for a comprehensive development from 2013 which includes a local centre. The outline approval includes conditional controls which limit provision as follows:

- Maximum 2800m<sup>2</sup> floorspace for the local centre (uses falling within A1-A5, B1 and D1 of the 1987 UCO);
- Maximum 2499m<sup>2</sup> floorspace for retail or D2 uses (from the 1987 Use Classes Order); and
- Maximum 1500m<sup>2</sup> floorspace for retail uses of which the maximum size of any foodstore being 750m<sup>2</sup>.

## Proposal

Application for an Aldi foodstore (1894m<sup>2</sup> GEA, 1315m<sup>2</sup> net sales) with associated parking and other works. We understand that DM process has established that the boundary of the proposed “extended” local centre will align with the employment areas to the north.

Our previous letter extracted plans from the application’s submitted Design and Access Statement and indicated the strategic location and the proposed site layout. We understand this remains unchanged. This letter is principally concerned with the policy implications of the Aldi store and the four flexible use units.

## ATP’s Role and Advice

The applicant has submitted an application to the Council and given the technical nature of the application Gedling BC have decided to seek specialist advice as a bespoke commission. ATP is therefore acting for the local planning authority to provide appropriate planning advice, but it has also been agreed (as part of the Council’s positive approach to development management) that ATP would liaise with the applicant and seek to identify an approach which would allow meaningful robust planning conclusions to be reached.

ATP’s role is to consider the retail planning effects of the proposal for the Aldi store which therefore encompasses impact and sequential considerations. The site is outside a defined town centre and the proposal will result in additional floorspace above the threshold set by Local Plan policy LDP52.

We are pleased to confirm that there has been positive engagement by the applicant’s agent which has resulted in the provision of a more comprehensive analysis of the retail planning implications of the proposals, particularly

in the scope of the potential impact through sensitivity testing to ensure that the submission has tested the potential for future harm under specific scenarios.

Through our review of this subsequent material, we note that the majority of the various matters we have previously raised have been addressed to an extent where the planning merits of the proposal (in terms of policy pertaining to main town centre uses) can be properly adjudged.

In terms of the points of clarifications sought by our Note of 23/03/21, the only substantive matter which has not been specifically addressed was one of clarification (in terms of the argument pertaining to population growth and resultant need) so we explore this directly. We had previously set out that the applicant's consideration of the sequential approach was effective and adequate, but nevertheless note that they have provided some supplementary clarification which is helpful.

ATP is not instructed to assess the reserved matters for the local centre application that includes 4 small units. We have requested that the applicant should provide sensitivity impact analysis that has regard to the potential turnover and sources of trade. This has been undertaken and we are satisfied that this has been completed effectively by the applicant and allows ATP to confirm its viewpoint in terms of the magnitude and materiality of effects upon defined centres. We trust that the local planning authority will impose planning controls as they feel appropriate and necessary in the context of the retail uses proposed through the reserved matters application.

## Sequential Analysis

The applicant has identified that the purpose of development is to provide an effective shopping offer to meet food shopping needs for the new population planned in the Sustainable Urban Extension as well as the existing local area. This foodstore (with associated parking and servicing) has minimum requirements outlined below:

- Single-floor development
- Capability for HGV servicing to meet hours requirements
- Ideal floorspace aligned to the submission but then showing flexibility by applying 15% parameters
- Identifying (as an alternate metric) a minimum site area (0.65 hectares);
- Location in or edge of a defined centre;
- Locally identified need and 5 minute drivetime accordingly; and
- Surface level customer parking.

Given that the store will serve the existing local area, the applicant has identified a five-minute drivetime catchment and considered the opportunity to identify sites in or edge of the four defined centres which comprise:

- Burton Joyce
- Carlton Square
- Netherfield
- Gedling Village

We did set out a concern that a five minute drivetime catchment may underplay the shopping offer that can be provided by an ALDI store and that the proposed Gedling Colliery centre would fall within a functional catchment. However, we note that (despite the above) the applicant has already had consideration of Gedling Colliery.

The scheme can be considered as a solus foodstore or as an anchor to a local centre. Whilst the centre is not identified in the hierarchy of centres, it is clearly a Plan-led development and it envisages the ability to meet local shopping and service needs. In terms of site area, it would clearly be more challenging to find a competitor site to accommodate the extended local centre than a solus foodstore. The applicant has had proper regard to disaggregation and flexibility of format where it has considered alternative sites on the premise that:

- They could accommodate the ALDI foodstore as a solus development; and
- That the size of the plot for the ALDI foodstore could feasibly be fluid (within parameters) thus providing flexibility of format.

We have confirmed through our Interim Note that we are satisfied that the applicant has effectively set out the purpose of development and the parameters of search. The applicant has demonstrated consideration of disaggregation and reasonable application of flexibility in respect of the sequential approach.

The applicant identified three sites for detailed review and the Council has agreed that this is appropriate for this catchment and do not propose any additional sites. ATP confirms that this represents an appropriate consideration of alternative sites that could provide the potential to be sequentially preferable. We now provide a brief summary of each of the three sites below (please refer to our Interim Note for more detailed analysis).

#### Site 1 – Netherfield Local Centre

We agree that the site is unavailable and would in any event have been constrained.

#### Site 2 – Netherfield, Former Kendon Packaging

We note that the site is available albeit its configuration is sub-optimal. More importantly, it is impeded by access and proximity to housing uses which would fetter the required servicing hours. We agree that the site is unsuitable.

#### Site 3 – Gedling Colliery Site

The proposed local centre is limited and the ALDI store cannot straightforwardly be accommodated both in terms of its own footprint but the associated requirements for parking and servicing. We agree that the site is unsuitable.

### **Sequential Summary**

ATP accepts that there is no clear evidence that there are genuinely available existing units or development sites either within or edge of the identified centres which would meet the reasonable requirements of the proposed development. Given that we agree that the applicant has identified a need and that (as we understand it) there are no more centrally located sites to accommodate it, then we would concur that the requirements of the sequential approach have been met.

## Impact Analysis

Impact assessment for schemes providing main town centre uses is necessary in the context of schemes providing floorspace in excess of a locally adopted threshold or the NPPF figure of 2500m<sup>2</sup>, whichever is the lower. In this instance, the Council has adopted a lower threshold of 500m<sup>2</sup> and the scheme is therefore caught by consequence of the scale of the proposed foodstore, setting aside the smaller format units in the local centre.

### Establish existing shopping patterns using appropriate evidence

Following discussions with the applicant, it was agreed that the use of the Greater Nottingham Retail Study could provide an acceptable starting position for local shopping patterns, subject to this being supplemented by the potential effects of commitment uses and any changes to available expenditure by consequence of robust base data and benchmark guidance. ATP are satisfied that the applicant has provided robust and up-to-date evidence which demonstrates the nature of established shopping patterns in the local area.

### Set out the nature of the proposal and its potential turnover

There is an outline consent which would have provided for a local needs foodstore of up to 750m<sup>2</sup> as part of a wider retail offer up to 1500m<sup>2</sup>. Clearly this development will be larger in isolation (1894m<sup>2</sup> GEA) as well as in tandem with the four flexible use units (total potential retail floorspace of 2266m<sup>2</sup>).

In the context of the ALDI store, the applicant has set out that the 1894m<sup>2</sup> store will achieve a net sales area of 1315m<sup>2</sup>. In the context of the net sales area, they model it on the basis of 80% of it being devoted for the sale and display of convenience goods (the remainder as comparison goods). They then utilise sales densities data from Global Data on a goods basis which are then factored to a design year.

We highlighted in our Interim Note that the projected sales densities from Global Data vary from those advised by Retail Rankings and requested a clarification. Pegasus have provided a cogent response and we agree that there is no substantive basis to require the utilization of Retail Rankings densities and therefore the application of Global Data projections are concluded to be acceptable. The design year turnover of £12.6m (£10.2m convenience goods) is reasonable.

In the context of the smaller flexible use units, we note that the applicant has set out that it is unlikely that they would all be used for retailing (more likely used across the broader range of uses permitted by the outline consent) but has nevertheless modelled them all for retail use to demonstrate an effective worst-case effect in terms of retail impact. The applicant has modelled turnovers through application of an 80% net to gross ratio and a base year sales density of £5500 per square metre per annum. This base sales density of £5500 per sq m is then factored on a goods basis using turnover efficiencies to the design year.

We confirm that the £5500 base figure is consistent with the Greater Nottingham Retail Study for local facilities and is acceptable. For completeness, the use of the higher density for “top four” retailers would not be applicable because the format available in these four units would not align to the trading models of those operators.

The design year turnover of these 4 smaller units is modelled at circa £1.6m and this has been modelled 50/50 in terms of use by food and non-food retailers respectively. This is considered to be a reasonable approach for this sensitivity analysis.

We therefore confirm that we are satisfied that the revised material now provides credible information to set out the nature of the proposal and its potential turnover, including reference to the smaller units promoted through the reserved matters application for sensitivity purposes.

*Assess likely patterns of trade diversion based on sound judgment*

Consumers will typically gravitate to the store that provides the best balance of being convenient and more generally meeting their requirements. Whilst we therefore agree with the concept of “like competes with like” it has to be in the context of convenience hence the notion of a primary catchment.

In the context of discounter stores such as Aldi and LIDL, customer perceptions of the offer they provide has changed in recent years both as a function of their scale (typically larger than older stores so can therefore support a greater depth of range of goods) but also their marketing profile. Whilst they would have historically been considered as a secondary food offer they are now recognised to provide a strong food offer more than capable of meeting main food shopping needs. As such, we would consistently anticipate that new discounter stores will largely compete with other similar discounters and other main food facilities. The likelihood of trade overlap with smaller local stores will typically be limited, unless there is a localized scenario where the main food offers are distant and even the smaller local stores are meeting some of that requirement.

In this context, there are a number of established larger foodstores in the locality and we agree that these existing larger stores will represent the majority of the sources of trade for the proposed store. In the context of the solus trade diversion effects for the proposed Aldi store, we did raise concerns in regard to the status of the approved Sainsbury store at Colwick Loop. In summary, we sought further justification to reinforce why it would be appropriate to assume that the new Aldi store could draw trade from an as yet incomplete Sainsbury store.

The applicant has provided additional evidence in this respect, and in the light of this we agree that (on the balance of probabilities) that the planned Sainsbury store will open before the Aldi and will reach mature trading by the design year of 2024. It is therefore reasonable to anticipate that trade will have been drawn to the Sainsbury upon its opening and that the new ALDI would be well placed to secure some of that trade at the design year. With that residual point established, we conclude that the applicant’s projections of trade diversions to the proposed ALDI are reasonable and represent a sound proxy for impact analysis.

*Ascertain the current health and resilience of defined centres to change*

Health checks were supplied with the submitted application, these were underpinned by site visits undertaken in October 2020 and related back to historic health checks undertaken by the Council and within the Greater Nottingham Retail Study.

All four centres that have been assessed are deemed as local centres in the shopping hierarchy, albeit that Netherfield is larger than the other three and has a stronger retail offer.

These health checks respond directly to the framework set out in the NPPG which is helpful. The healthchecks submitted argue that the centres provide reasonable vitality and viability reflective of their scale and function. In terms of vacancy levels, these typically fall below national average levels (the exception being Carlton Square but by function of its small scale this is not necessarily a conclusive determinant of its vitality).

The applicant's health checks consider the key indicators of vitality and suggest that the identified centres are performing reasonably well and there are no obvious signs of vulnerability or decline. Through our review of the submitted material and cross-reference to historic studies, we would agree that there is no substantive evidence of decline or poor performance. As such, we have no evidence to suggest that these centres are particularly vulnerable to change where smaller-scale trade diversionary effects could result in significant adverse impacts. This provides a degree of reassurance in the context of the potential for the development to result in impact that could impede a presumption in favour of economic development.

## **Commitments and Cumulative Impact Analysis**

The NPPG clarifies that planning applications should have regard to existing shopping patterns and the potential for these to be adjusted by commitment schemes as well as the proposed development. This approach provides a better prospect of giving the decision-maker a credible basis to adjudge whether the development (in solus or by accumulation) would result in impacts upon identified centres that would materially prejudice their vitality and viability, to the extent where it would impede their ability to meet that functional requirement to serve the local catchment as part of the hierarchy of centres.

### *Take account of commitment schemes and their trade diversion patterns*

The applicant's original submissions modelled the three key retail commitments in the locality as identified below. The three key commitments are identified below and all bar the last store are now open for trading. These are modelled as commitments as they were not open at the point where the household survey was undertaken:

- Aldi East Point Retail Park
- M & S Food Hall, Victoria Retail Park; and
- Sainsbury, Colwick Loop Rd

Further to dialogue, the applicant has also modelled the trading effects of the proposed local centre units (as a sensitivity) on the basis that they would all be used for retailing. We concur that this is unlikely, but it provides reassurance that the assessment provides a robust and cautious analysis.

In regard to the sales densities used for the commitment schemes, they reflect the Global Data approach used for the proposed store and we confirm that the densities used are reasonable and acceptable.

We did raise some concerns in terms of the proposed use of the Sainsbury store given that it assumed 40% of the sales area would be devoted to comparison goods sales which appears high in the current retail environment. We would agree that the 60/40 figure aligns with the modelling for the original consent and thank the applicant for the material provided in the context of a more recent Sainsbury scheme. Whilst we maintain our view that 40% is on the high side, we note that the applicant has now modelled the use of a 65/35 split for sensitivity purposes and confirm that this is acceptable and provides a reasonable and cautious proxy.

The three key commitment schemes all represent main food facilities all of which will draw the vast majority of their trade from stores that can meet that main food function. None of the stores within the centres in the catchment are shown to perform that function by reference to the household survey. By that proxy, any trade diversion from these centres through these foodstore commitments is likely to be very limited.

The applicant has predominantly had regard to the material submitted by other applicants (which is a standard and reasonable approach) and it is clear that very limited trade is identified across these three schemes. The highest percentile impact from commitment schemes is identified as Carlton Hill, but we would treat this with significant caution. The base turnover levels (albeit drawn from survey data) appears far too low and our judgment is that these base turnover levels are likely to be considerably higher and therefore any percentile impact would reduce on a commensurate basis.

We find that the applicant's approach to assessing trade diversion from these commitment schemes is reasonable and that they are applied to the base shopping patterns consistently. As above, whilst in the case of Carlton Hill the percentile impact would appear somewhat high we would treat this with caution because the survey derived base turnover appears to be suppressed. This is simply a product of the household survey, where turnover levels for the smaller stores can be very vulnerable to the small sample size of respondents to these surveys.

*Undertake a cumulative assessment and adjudge whether impact levels reach significant adverse*

In similar vein to the commitment schemes, the proposal represents a main food facility which will draw the vast majority of trade from larger stores that can function as a main food destination. None of the stores within the centres in the catchment are shown to perform that function by reference to the household survey. By that proxy, any trade diversion from these centres will be very limited in scale and effect.

Other than Netherfield, the household survey evidence would suggest that none of these centres have a design year turnover exceeding £2.10m (considerably less for Gedling Village). By consequence of this very low base figure, any judgments in terms of trade diversion will have a more substantive effect. Our judgment is that these turnover levels are so low as to be unrealistic- analysis of percentile impact should be had with caution.

In the case of Burton Joyce, the cumulative impact is 7.6% of which 2.4% is a solus impact. In the context of Carlton Hill, the cumulative impact is 14.3% but the solus impact is zero.



As we have inferred above, whilst we note percentile changes to pre-impact turnover for Burton Joyce and Carlton Hill, we must point out that the base shopping patterns may well have underplayed the extent of existing turnover and therefore any trade diversion effects need to be considered in that vein. For Carlton Hill, all of the assessed impact is resultant from commitment schemes which are already planning approved. In the context of Burton Joyce, we feel that the potential for trade impact upon the Co-Op is likely to be limited and therefore treat the applicant's analysis as cautious and robust.

In our judgment there is unlikely to be any diversionary trade impact on any other defined centre (outside the catchment) which would approach or reach the relevant threshold where the presumption in favour of economic development would be impeded.

In our judgment, the impacts upon identified centres do not reach the threshold of significant adverse and therefore the NPPF presumption for refusal (if there were significant adverse impact) should not apply.

## Mitigations

Whilst we agree that there will be a degree of impact upon identified centres by reference to the proposed development, we have set out that these are unlikely to reach a threshold where the presumption in favour of sustainable economic development is impeded. This is based upon our understanding of the relevant policy framework and the applicant's modelling of the trade diversion effects of the scheme in solus and on a cumulative basis, as required by national policy. Given the caveat above, it is appropriate to impose a planning control upon the use of the store to align with what the applicant has modelled in their submission and supplementary material. We recommend this in our Summary.

We would also note that the store will form part of a local centre that is intended to serve a new Sustainable Urban Extension aligned to the Local Plan. Whilst the Local Plan has (somewhat regrettably) failed to identify the Plan-led local centre within its hierarchy, it is plain that there was a long-standing intention to provide local needs facilities for the new resident population all as part of the allocation.

We can see that the base population projections (which underpins the available expenditure) for the applicant's retail work does not assume the new resident population, if it had done so it would clearly provide additional spend that would generate a quantitative and qualitative need for new facilities.

The applicant has noted that if the Plan-led quantum of new homes was delivered by the 2024 design year, this would support a reasonable proportion of the convenience turnover of the Aldi and small format stores. We agree with that concept but we query the assumption that all of the Plan-led homes would be occupied by 2024. However, the applicant has not sought to refer to the latent demand which would be created from the workforce on the adjacent employment zone by way of secondary shopping trips or indeed lunchtime spend. We therefore conclude that there is a likelihood that there will be a considerable quantum of "new spend" directed to the store which will reduce reliance on trade to be diverted from existing stores, such as those located in identified centres.

## Planning Balance Considerations

In the event that there is adverse impact but it falls below the threshold of significant adverse, the NPPF instructs that a planning balancing exercise be undertaken to adjudge whether the development can be acceptable in planning terms. Clearly there will be some trading impacts on centres, but these are likely to be limited in scale and effect. There is no compelling evidence to suggest material impediment to delivering planned investment.

The NPPF makes clear that significant weight should be afforded to economic development and the proposed development will create employment. The site is currently vacant so (even having regard for any ramifications from trade diversion from existing shops in centres) there will be net uplift. Whilst there will be adverse impact, it will not reach the threshold of significant adverse and the potential job creation weighs in favour of the proposal.

## Summary

Whilst we do not agree with all components of the applicant's submission, we are now comfortable with the proposal strictly subject to the imposition of a planning control for the use of the ALDI store aligned to the scheme modelled by the applicant and assessed accordingly. We propose the following condition for your consideration:

*"The total amount of net retail sales floorspace in the foodstore hereby approved shall be limited to a maximum of 1,315 square metres, of which no more than 20% should be devoted to the sale or display of comparison goods."*

We have assessed the cumulative effects of the ALDI store and the local centre units but the above condition would not be applicable to the 2019/0613 scheme and nor do we propose any conditions upon that consent as that is outwith our remit. Our formal advice to the Council is as follows:

- Our judgment is that the requirements of the sequential approach have been met;
- That there is no clear evidence that the development would result in adverse impact that would reach the relevant threshold and impede the ongoing vitality and viability of centres;
- That there is no likelihood that the development will impede planned investment in centres; and
- That subject to the above proposed condition the potential for future adverse harm is limited.

We trust that the above is of assistance to the Council, the applicant and its agent. We would be pleased to provide further clarification of the matters set out above should this be so required.

Yours sincerely



