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Our ref: 332010591

05 August 2021

Jade Ellis
Principal Planning Officer
Planning Services
Havant Borough Council
Public Service Plaza
Havant
PO9 2AX

Dear Jade,

**RE: FULL PLANNING APPLICATION REF. APP/20/01221 – PROPOSED RETAIL FOODSTORE,
LAND TO THE WEST OF B&Q, PURBROOK WAY, HAVANT**

RETAIL PLANNING ADVICE

Scope of Work

Council officers have sought advice from Stantec in relation to the sequential test for retail planning matters. Our advice will therefore have regard to the following:

- The suitability of the catchment area identified by the applicant, taking account of the foodstore proposed.
- Our desktop review of the applicant's assessment of sites considered as part of the sequential assessment.
- Our conclusions in terms of compliance with relevant local and national planning policies, specifically in relation to the sequential test.

Specifically, Council officers would like Stantec to review the following documents:

- Planning & Retail Statement by SimplyPlanning, dated December 2020;
- Objection from Aldi by Planning Potential, dated 9 April 2021;
- Rebuttal of an objection from Aldi by SimplyPlanning, dated 28 May 2021;
- Revised Sequential Assessment by SimplyPlanning, not dated; and
- Letter from Columbia Threadneedle Investments, the owner of the unit formerly occupied by Waitrose, dated 7 July 2021.

Sequential Test

Planning Policy

The development plan comprises the Local Plan Core Strategy (adopted March 2011) in combination with the Local Plan Allocations (adopted July 2014).

Paragraph 3.39 (explanatory text) of Policy CS4: Town, District and Local Centres of the Local Plan Core Strategy states that *'all applications for the development of town centre uses and in particular new retail floorspace outside designated centres will need to demonstrate in a robust and transparent manner the application of the sequential approach to site selection.....'*

The Local Plan Allocations does not contain any relevant policies in relation to the sequential test for proposals of the scale of the current application proposal.

The emerging Havant Borough Local Plan was submitted for examination to the Secretary of State for Housing Communities and Local Government on 12 February 2021. Until adoption, the Submission Local Plan has limited weight in determining planning applications, but it does represent the Council's direction of travel. Policy C6: Local Centres, Local Shops and Services of the Submission Version of the Local Plan states that *'main town centre uses will only be permitted outside the designated town, district and local centres where it has been demonstrated that there are no other sequentially preferable sites within or on the edge of the Borough's designated town, district or local centres'*.

Material Considerations

Paragraph 87 of the NPPF (last updated on 20 July 2021) sets out that *'Local planning authorities should apply a sequential test to planning applications for main town centre uses which are neither in an existing centre nor in accordance with an up-to-date plan. Main town centre uses should be located in town centres, then in edge of centre locations; and only if suitable sites are not available (or expected to become available within a reasonable period) should out of centre sites be considered.'*

Paragraph 88 of the NPPF sets out 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. Applicants and local planning authorities should 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 and Appeal Decisions

Specifically in relation to the Aldergate Properties High Court Judgment (Case No. CO/6256/2015), in relation to suitability and availability, the Judge confirmed that *"'suitable' and 'available' generally mean 'suitable' and 'available' for the broad type of development which is proposed in the application by approximate size, type and range of goods (para. 35)".* As such, a likely occupier of a site subject to sequential testing should be disregarded.

Catchment Area

In the Planning & Retail Statement dated December 2020, at paragraph 3.28, the applicant states that Lidl, as with other Limited Assortment Discount stores, typically trades from a very localised catchment within urban areas of dense population. A 4-to-5-minute drive-time is typical for such stores' primary trading catchment. Paragraph 6.38 of the Planning & Retail Statement states that the primary catchment of the store is broadly expected to lie within a 5-minute drive-time. The catchment area includes Middle Park Way, Bedhampton, Crookhorn, Purbrook, Leigh Park District Centre and Drayton.

The applicant has since considered sites within Havant and Waterlooville town centres as part of the sequential test.

A 5-minute drivetime in an urban area is typical for discount foodstore operators and, as such, we are of the opinion that the catchment area for the application proposal is appropriate, as is the inclusion of Havant and Waterlooville town centres. Planning Potential, on behalf of Aldi, is also of the opinion that the application proposal's catchment area should include Havant and Waterlooville town centres. The applicant has accepted this argument by considering sites sequentially preferable sites within Havant and Waterlooville.

Requirements of the Application Proposal

The application seeks permission for a discount foodstore of around 1,899 sq.m (GIA) with customer car parking (132 spaces), access road, servicing area and associated hard and soft landscaping. The overall site area required to accommodate the Lidl foodstore is around 1.08 ha (excluding the areas of the site within highways land and the existing private access road which currently serves the adjacent B&Q store).

The applicant should demonstrate flexibility on issues such as format and scale when considering whether sequentially preferable sites are suitable for the development proposed.

Sites Considered

The applicant has considered whether various sites within the catchment area of the proposed development are both available and suitable for the development proposed, as summarised in the following table:

Site	Suitable	Available
Nos. 23, 26 and 27 Bedhampton Road, Bedhampton	No – the site is too small for the development proposed	No – 3 units all occupied
Imperial Palace, Belmont Grove, Bedhampton	No – the site is too small for the development proposed	Yes
Centurion Public House, Crookhorn	No – the site is too small for the development proposed	No – the site is occupied
Community Centre and Church of the Good Shepherd, Crookhorn	No – the site is too small for the development proposed and the elongated shape is not appropriate for a foodstore	No – the site is occupied
Purbrook Masonic Centre, 10 Stakes Road	No – the site is too small for the development proposed	No – the site is in use as a Masonic Centre
Purbrook Motor Company and Ladybridge Road Car Park	No – the site is too small for the development proposed, the two land parcels are in separate ownership and they are separate by residential uses	No – the site is occupied
138 Purbrook Way	No – the site is too small for the development proposed	No – the site is occupied
Crown Bingo, Somborne Drive, Leigh Park	No – the site is too small for the development proposed	No – the site is occupied
Units 4 & 5, Solent Retail Park, Havant	No – the site is too small for the development proposed and	Yes

Site	Suitable	Available
	lacks dedicated car parking and includes charging for car parking	
44-54 West Street, Havant	No – the two units combined are too small for the development proposed	No – construction is underway to deliver two retail units on site
East Street, Havant Town Centre	No – the assembly of the site would be complicated and would involve several heritage concerns to negotiate	No – the site is unavailable
Town End House, Havant	No – the site is too small for the development proposed and it would not be possible to provide the level of car parking required	No – the site is unavailable
Post Office, Delivery Office, Havant	No – the site is too small for the development proposed	No – the site is occupied
Market Parade, Havant	No – the assembly of the site would be complicated	No – the site is unlikely to be available in a reasonable period of time
Former Carphone Warehouse, 1 Park Way, Central Retail Park	No – the site is too small for the development proposed	Yes
Meridian Shopping Centre, Elm Lane, Havant	No – the vacant units within the shopping centre are unsuitable for the development proposed due to poor levels of footfall, lack of prominence and lack of surface level car parking	Yes
Portsmouth Water Headquarters, Havant	No – the site is being promoted for residential development in line with the Development Plan	No – the site is occupied
Wellington Way, WaterlooVille	Yes	No – there is a planning application currently being processed for residential development at the site
Asda / Community Centre, Portland Road, WaterlooVille	Yes	No – the site is occupied

We are in agreement that the above sites do not appear to be suitable and/or available for the development proposed. Unit 1, Dukeswall, WaterlooVille (the former Waitrose unit) requires further consideration; we provide our related observations, below.

Unit 1, Dukes Walk, WaterlooVille (Former Waitrose Unit)

In its revised sequential assessment, the applicant has said that the former Waitrose unit is within the primary shopping area of WaterlooVille town centre and is an in-centre site; thus, the site is sequentially preferable to the application site.

The applicant has also stated that the former Waitrose unit is vacant but does not appear to be actively marketed.

The letter from Columbia Threadneedle Investments, the owner of the unit formerly occupied by Waitrose, dated 7 July 2021, sets out that the unit is unoccupied and that the owner is working with the leaseholder to identify a new tenant for the premises. The owner is of the view that the unit is suitable for occupation by a supermarket operator, as a whole or in part.

The applicant sets out that the former Waitrose unit is a large purpose-built retail unit as part of a relatively modern retail complex, with a shared surface level car park, along with a service yard. Waitrose vacated the unit in Summer 2020.

The applicant argues that the former Waitrose unit is not suitable for the development proposed by virtue of the following factors:

- The unit is larger than the unit proposed by the planning application.
- Due to the unit's configuration and irregular footprint.
- The unit takes the form of an anchor destination store, rather than a modest neighbourhood store as proposed.
- The service yard is at a lower ground floor level, along with the main warehouse and back of house spaces. Additional accommodation (including staff welfare / ancillary facilities and offices) is provided at first floor level. Lidl requires level access from back of house accommodation direct to the sales floor.
- Multiple columns across the sales floor prohibit the efficient display of goods and merchandising.
- Lidl has specific requirements that limit its ability to be flexible including a store of an appropriate size; the need for a high proportion of sales relative to storage space; the need to enable efficient movement of palletised goods; and that Lidl concentrates on selling a limited range of primarily convenience retail goods. The unit fails on a number of these fundamental operating requirements, but the applicant does not specifically state which operating requirements the unit fails on.
- The shared pay and display car park would not be acceptable to Lidl and would not meet the minimum car parking space requirements set out in the Havant Parking SPD. The applicant argues that limited pay and display car parking would put Lidl at a significant trading disadvantage when compared with its competitors.
- The applicant states that, as Waitrose has vacated the unit, the location of the unit has already failed in commercial food retail terms. The applicant speculates that Waitrose departing the unit could be because the unit faces away from the centre and due to a perceived lack of pedestrian flows.

As set out above, the Judge in the Aldergate Judgment confirmed, in relation to suitability and availability, that *"suitable" and "available" generally mean "suitable" and "available" for the broad type of development which is proposed in the application by approximate size, type and range of goods (para. 35)*". This means that for a site to be considered suitable, in this instance, the site needs to be suitable for a foodstore of approximately 1,899 sq.m (GIA), albeit the applicant needs to demonstrate a degree of flexibility in its requirements. For a site to be considered suitable, the site does not need to be suitable for the requirements of a specific operator.

It is clear that the former Waitrose unit is available for the development proposed, with the former Waitrose unit being vacant and with the owner of the unit seeking a foodstore operator to occupy the unit.

In forming our view on whether the former Waitrose unit is suitable, we consider whether the site is suitable for the development proposed, i.e. a foodstore which sells a small amount of comparison retail goods, as opposed to Lidl's specific operator requirements. We consider each of the applicant's

arguments in relation to why the former Waitrose unit is not suitable for the proposed development in turn.

In the first instance, it is important to note that Lidl and similar discount foodstores like to develop their own purpose-built foodstores in general, rather than occupying an existing unit, which may not meet their exact requirements. That being said, sequentially preferable sites within a catchment area of a proposal need to be considered as part of the sequential test; even sites that contain vacant units.

Our general view is that a purpose-built retail unit formerly occupied by a foodstore operator in a unit larger than the development proposed – with a shared, surface-level car park – sounds like it should be suitable for the foodstore proposed as part of the current application.

The applicant's first point on suitability is that the former Waitrose unit is larger than that proposed by the application proposal. We are of the view that this is not a strong reason as to why the former Waitrose unit is not suitable for the development proposed. We understand that the landlord is open to discussing how they can make the unit, or part of it, be reconfigured or adapted to meet the occupier's specification and requirements, including those of a supermarket operator.

The applicant claims that the former Waitrose unit is not suitable for the development proposed due to the unit's configuration and irregular footprint. We are of the view that the former Waitrose unit does not have an irregular footprint or a configuration that should prevent a foodstore operator from occupying the unit. The former Waitrose unit has an entrance that protrudes out from the main building. That aside, the former Waitrose unit is essentially a rectangular box. The western part of the building is stepped-in, but if the unit is larger than the development proposed, then the proposed foodstore may not need to utilise the whole of the unit.

The applicant argues that the unit takes the form of an anchor destination store, rather than a modest neighbourhood store as proposed. We are of the view that any foodstore on this site, whether it be occupied by Waitrose, Lidl or another operator, would be an anchor destination which attracts customers to this part of the town centre, helping to drive footfall to other nearby retailers.

The applicant sets out that the service yard is at a lower ground floor level, along with the main warehouse and back of house spaces. Additional accommodation (including staff welfare / ancillary facilities and offices) is provided at first floor level. Lidl requires level access from back of house accommodation direct to the sales floor. Firstly, a proposed foodstore should not have an issue with staff welfare / ancillary facilities and offices being at first floor level. On the second point, we appreciate that a foodstore operator would ideally have the service yard at the same level as the foodstore. However, we are of the view that a future occupier of the unit should be able to be flexible enough to make having a service yard at a different level to the foodstore work.

The applicant cites multiple columns across the sales floor of the former Waitrose unit as prohibiting the efficient display of goods and merchandising. We are of the view that this is a very minor point and a foodstore operator should easily be able to find a solution to this issue.

The applicant sets out a number of fundamental operational requirements of Lidl. It should be reiterated that for a site to be considered suitable, the site does not need to be suitable for the requirements of a specific operator. In any event, we consider that a foodstore operator should be flexible enough on the specific requirements raised which would enable a foodstore unit to occupy the former Waitrose unit.

The applicant argues that that limited pay and display car parking would put Lidl at a significant trading disadvantage when compared with its competitors. Whilst not ideal, we are of the view that car parking is not a compelling reason to argue that the former Waitrose unit is not suitable for the development

proposed. For example, a foodstore operator may be able to introduce an arrangement whereby customers can claim a refund for parking at the checkouts. We understand from the landlord that the current parking arrangement is currently under review and that the payment system may be removed altogether. According to the landlord, any occupier of the unit could benefit from a parking payment exemption for their customers as was the case with Waitrose.

The applicant states that the location of unit has already failed in commercial food retail terms due to Waitrose leaving the site. Only Waitrose knows why it decided to leave the site, but it could be for many reasons such as the unit struggling during the pandemic, the general consolidation of its portfolio due to restructuring in the retail industry, and so on. The applicant also argues that the unit faces away from the centre and lacks pedestrian flows. However, the unit does front onto a large surface-level car park and the applicant has not provided any evidence as to the lack of pedestrian flows in this area of the town centre.

For the reasons given above and based on the evidence provided, we are of the view that the former Waitrose unit is both available and suitable for the development proposed.

Conclusion

We have considered the documents set out in the scope of works section above and we are of the opinion that the application proposal does not pass the sequential test. In the absence of additional information submitted, in relation to the former Waitrose unit, the failure of the sequential test is a reason which would justify the refusal of the application.

We trust this advice is of assistance to the Council. If you have any queries, then please do not hesitate to contact me.

Yours sincerely,

Bernard Greep
For and on behalf of
STANTEC UK LIMITED