

Daphney Haywood
Planning Department
Havant Borough Council
Public Service Plaza
Civic Centre Road
Havant PO9 2AX

9th April 2021

Our Ref: 5808

Dear Ms Haywood,

Objection to APP/20/01221 – Land to the west of B&Q, Purbrook Way, Havant

On behalf of my client Aldi Stores Ltd (Aldi), we write to lodge an objection to the planning application (ref. APP/20/01221) submitted on behalf of Lidl Great Britain Ltd ('Lidl') for the 'Erection of retail foodstore with associated car parking, access, landscaping, and engineering works' at the out of centre site at land to the west of B&Q, Purbrook Way, Havant.

As officers will be aware, Aldi have a store in Havant Town Centre, which is an anchor facility enhancing the wider offer of the centre. This letter draws attention to a number of significant concerns in the planning justification that has been put forward to support the application, with the result that it is not possible to fully understand the likely impacts arising as a result of the proposals. Specific concerns include:

- Contradictions in setting out the true likely catchment area of the store;
- Failure to undertake a robust sequential assessment – the submitted assessment has not demonstrated any flexibility and has been operator rather than format driven;
- As a result of these deficiencies, it is not possible to understand likely impacts on the vitality and viability of existing centres.

Catchment Area

The application contains confusing and contradictory justification in respect of the catchment area of the proposed store. The Retail Catchment Plan enclosed as Document 2 of the submitted Planning and Retail Statement (P&RS) suggests an unusually small catchment area for the store, mostly limited to the to the west of the A3(M) and excluding both Havant and Waterlooville Town Centres. Paragraph 6.38 of the statement suggests that "the primary catchment of the store is broadly expected to lie within a 5 minute drive-time", however, applying such an approach should expand the catchment area including areas to the east and south of the store, such as Leigh Park and the edge of Havant Town Centre, as well as Waterlooville Town Centre to the north-west of the store. These centres would appear to fall within a 5 minute drive of the store, as demonstrated in extracts from 'AA Route Planner' included in **Appendix 1**. The applicants have provided no evidence to support application of a 5-minute drivetime, but even if this were applied it is apparent that the true catchment area of the store is greater than that implied in the P&RS.

Directors
Helen Outhbert | Stuart Slater | Claire Temple | Alastair Close
Don Tompkins
Associate Directors
Kate Hurvey | Heather Vickers | Alan Williams

Consultant
Emma Byrne
Associates
Sally Arnold | Rob Eddding | Penny Moss | Sam Deegan | Paul Calgey
Nia Harrahan | Phil Marsden | Charlotte Perry | Charlotte Hunter

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info@planningpotential.co.uk

Indeed, it is noted that the submitted Transport Assessment states at paragraph 2.32 that:

"An 800m walk from the site includes some residential areas in Bedhampton accessed from Purbrook Way and Hulbert Road. Extending walking distances to 2km suggests that a large area of northwest Havant is located within an appropriate walking distance of the site."

There is clearly a discrepancy in this respect between the Planning and Highways statements, which in turn causes confusion over the true catchment area of the store and especially with regard to the extent of the catchment area to the east of the A3(M).

Existing retailers adjacent to this site describe their store location as "Havant" and indeed it would appear as though the new store would, in fact, serve the Havant catchment area. The applicants should be invited to clarify the true extent of the store's likely catchment area. Such confusion then means that it is not possible to accurately assess other aspects of the proposals, particularly in respect of sequential and impact considerations. We discuss this point further below.

Sequential Site Assessment

The sequential test is designed to guide main town centre uses to town centre locations first and failing that to edge of centre locations before out of centre locations are considered. Para. 90 of the NPPF confirms that, *"Where an application fails to satisfy the sequential test... it should be refused"*.

The test ensures that more central locations are assessed thoroughly, with para. 87 of the NPPF stating that, in applying the sequential test, applicants 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"*.

Further clarity on the application of the sequential test has been provided through the Courts. Of relevance, attention is drawn to the conclusions of *'Aldergate Properties Ltd v Mansfield District Council and Another'* [2016] EWHC 1670 (Admin). In this case, it was established that the town centre approach in the sequential assessment should be format rather than operator driven, therefore sequentially preferable locations cannot be discounted due to particular operator's existing retail provision. It is set out at paragraph 39 of the judgment that *"...any alternative approach would reduce the sequential test to one of the individual operator's preference, with the suitability of centres, sites and their availability varying from applicant to applicant each proposing the same broad type or even identical form of development"*.

Having regard to these considerations, specific attention is drawn to the approach that has been undertaken in this instance and principles applied. This is set out at paragraph 6.38 of the P&RS, which advises that the main centres of Havant and Waterlooville have been excluded as part of the sequential test as, *"...in addition to falling outside the primary catchment of the proposed store, they are also well served by alternative LAD provision"*. This continues at paragraph 4.76 of the Planning and Retail Statement, which concludes by stating that *"the need for development is entirely site specific (having regard to Lidl's existing representation [emphasis added] at Leigh Park, Waterlooville and Cowplain)"*. This approach is fundamentally at odds with the clear conclusions of Mansfield – the presence, or otherwise, of LADs, including existing Lidl stores, within any centres that are likely to be affected by a proposal is not a specific criterion of the sequential test. Indeed, on the contrary, the NPPF (Paragraph: 011 Reference ID: 2b 011 20190722) further confirms that *"...it is not necessary to demonstrate that a potential town centre or edge of centre site can accommodate precisely the scale and form of development being proposed, but rather to consider what contribution more central sites are able to make individually to accommodate the proposal"*.

The submitted sequential test has been entirely operator driven and been undertaken having regard to Lidl's own requirements. Contrary to the aims and objectives of the sequential test, as affirmed in Mansfield, the submitted test has not applied any flexibility and therefore fails to 'fully explore' the potential of alternative sequentially preferable locations.

We would reiterate also the concerns expressed above in respect of inconsistencies with the catchment area of the store. Once a more realistic catchment is applied, it is clear that further centres must also be assessed and 'fully explored'. We note this concern has been shared by the Council's own policy team, who comment, "...it is unclear as to how the sites have been identified and limited information is provided with regard to the overall site size".

In line with para. 90 of the NPPF, the application should be refused on the basis of the failure to provide a robust sequential analysis alone.

Impact on the Vitality and Viability of Existing Centres

Given the lack of clarity on the catchment area and the potential for impact of the proposal on designated centres, we would invite the council to request that appropriate evidence is submitted to understand the true likely catchment area and associated impacts on affected centres.

Para. 90 of the NPPF also confirms that where a proposal is likely to have a significant impact it should be refused.

In this context, it should be noted that there are three in-centre Limited Assortment Discounters (LADs) within the catchment area of the proposed new store. In addition to the Aldi store in Havant, the district centres at Leigh Park and Cowplain are anchored by Lidl foodstores, both of which are considered town centre in policy terms. Assessing the centres of the borough the 'Town Centres Study' (July 2020) concluded that 'there is no need for a further net increase in retail floorspace provision in the Borough'. The NPPG further sets out establishes that, "...as a guiding principle impact should be assessed on a like-for-like basis in respect of that particular sector ... retail uses tend to compete with their most comparable competitive facilities" (PPG paragraph: 2b-D15-20190722). It is therefore apparent that, as a LAD, the majority of trade draw will be from these in-centre LAD foodstores. The proposed Lidl store is out of centre. Any trade at the proposed store will be derived from existing convenience retailers, including these in-centre LADs and therefore gives rise to real potential to negatively impact on these centres. This is further justification for the council to request that an appropriate impact assessment is undertaken in order that this matter can be fully understood and without it is further grounds to refuse the application.

Protection of Other Stores

It is noted that Lidl suggest that it is not their intention to close other stores as a result of this application. However, Lidl's commitment to this statement is uncertain, and again highlights the potential for adverse impact on designated centres.

If the Council do reach a position where they are minded to support the proposal, this should also be subject to a S.106 requirement committing to keep all existing stores open for a significant period.

Summary

The NPPF advises that, "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".

As set out above the catchment area of the proposed new store has not been adequately defined, this has impacted on the scope of both the sequential site assessment and understanding likely impacts arising as a result of the development. Therefore, the applicant must provide robust and consistent justification to confirm the position with regard to the catchment area.

The submitted sequential analysis has been based entirely on Lidl's own requirements. It does not demonstrate any flexibility in exploring the potential of alternative sites and is therefore not robust. This alone is grounds to justify refusal of planning permission.

The lack of clarity around both the catchment area and inadequate sequential test means it is not possible to reach a robust conclusion on the likely impacts of the proposals. As outlined, there is significant potential that the proposals will directly compete with other discount stores already within centres.

In the absence of this robust justification, in line with para. 90 of the NPPF planning permission should be refused.

We reserve our position to submit additional representations in the event that the application submits additional information.

We trust this comment will be considered in determining this application, and kindly request that you keep us informed of the progress of the application.

Yours sincerely,



Penny Moss

Associate

Planning Potential

London

Enc.

Appendix 1 – Havant & Waterloooville Drive Times



ROUTE PLANNER

Route planner Traffic news Maps & AA Hotels

From: Purbrook Way, Havant PO9 3QW, UK

To: B2149, Havant PO9 2AE, UK

+ Via

Options

☐ Avoid current traffic

Plan route



Print

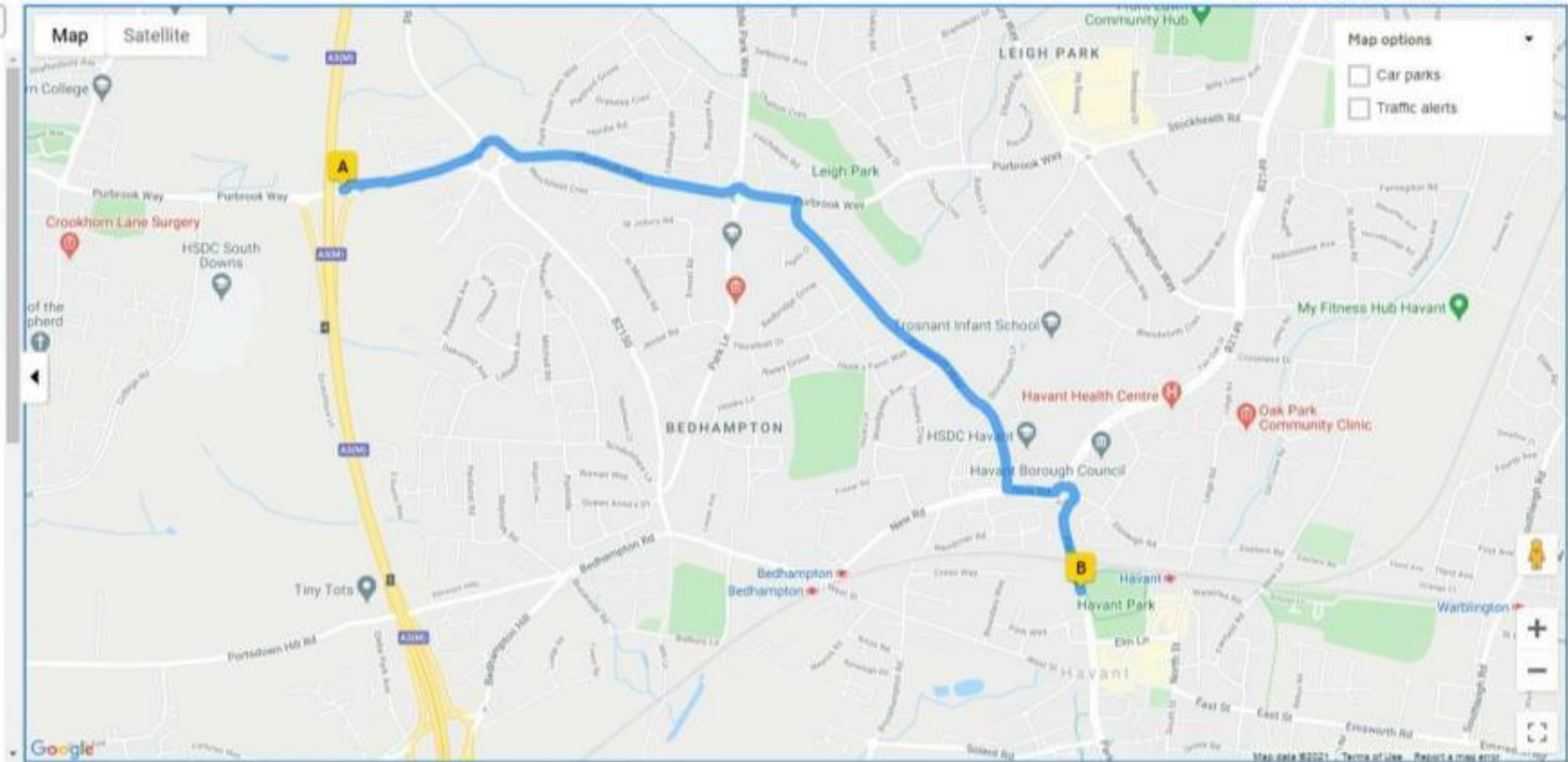
- ☒ Via Purbrook Way and Barncroft Way - 5 mins - 1.9 miles (show in km)
- ☐ Via Hulbert Rd/B2150 and B2149 - 5 mins - 2.1 miles
- ☐ Via A3(M) - 5 mins - 2.6 miles

Start: Purbrook Way, Havant PO9 3QW, UK

0.0 Head **east** on **Purbrook Way** towards **Purbrook Way**
Go through 1 roundabout

0.3 At the roundabout, take the **2nd** exit and stay on **Purbrook Way**

0.8 At the roundabout, take the **2nd** exit and





ROUTE PLANNER

Route planner

Traffic news

Maps & AA Hotels

From: Purbrook Way, Havant PO9...

To: 272 London Rd, Waterloo...

+ Via

Options

☐ Avoid current traffic

Plan route

Print

☒ Via Purbrook Way and Stakes Hill Rd - 5 mins - 1.7 miles (show in km)

☐ Via Hulbert Rd and Hulbert Rd/B2150 - 5 mins - 2.2 miles

☐ Via Elizabeth Rd - 7 mins - 2.4 miles

Start: Purbrook Way, Havant PO9 3QW, UK

0.0 Head **east** on **Purbrook Way**

0.0 At the roundabout, take the **4th** exit and stay on **Purbrook Way**

0.1 At the roundabout, take the **1st** exit and stay on **Purbrook Way**

Map

Satellite

Breakdown cover | Insurance | Travel

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- ☐ Car parks
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