

Our Ref: 2944/LR/LT20170629

28th July 2017

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By Email Only

Dear Ms Farrer,

P/2017/00141 – PROPOSED ALDI FOODSTORE, LAND ADJACENT TO PIRELLI FACTORY, DERBY ROAD, STRETTON, BURTON-UPON-TRENT, DE13 0DW.

We act for Tesco Stores Ltd, and write to raise concerns with the above proposal. Tesco operates an existing superstore on St Peter's Bridge.

We are particularly concerned about two matters:

- 1) Compliance with the Development Brief
- 2) Retail Impact Test

Compliance with the Development Brief

The Pirelli Factory Development Brief was adopted in July 2011. It was underpinned by a comprehensive local consultation exercise. Whilst it doesn't have the same weight as a development plan document, it is an important material consideration here.

The applicant's agent seeks to argue that it "*is of limited relevance to the current proposals*" on the basis that it was "*prepared in the context of the previous Local Plan*".¹ However the reality is that it was prepared subsequent to the publication of the Core Strategy Issues and Options (July 2007) – which was the first draft of the current adopted Local Plan. Furthermore, the adopted Local Plan has not caused the Brief to be 'overtaken'. The two documents sit comfortably side by side, and the Council has not revoked the Brief. It must therefore continue to hold its maximum weight.

¹ 4.19, Planning Statement

The Brief is clear that the application site is to be developed for *“complimentary development to Burton Albion Football Club”*. Hotel, pub and restaurant are cited as the appropriate uses. Retail is not cited anywhere.

The proposal is therefore clearly contrary to the Pirelli Factory Brief.

The agent seeks to argue that hotel and pub uses are unavailable at this location. In terms of the former, a summary of correspondence with operators is provided at Appendix 1 to the Planning Statement. But this is not substantiated with copies of the actual correspondence received from each of the operators – at the very least, this would be expected to be provided. It is also not clear whether the instructed agent indicated a likely price, and whether it is reasonable within that locality.

We note that a new hotel in this location would have a synergy with the adjacent football ground, but moreover would significantly enhance the viability and attractiveness of the existing and planned employment units adjacent.

The agent also explains that *“it has also not been possible to secure a pub operator”*. Again, this has not been substantiated.

Given that the majority of the proposed uses are contrary to the Pirelli Factory Development Brief – an important material consideration in decision taking here – we would expect the applicant to have provided robust evidence, substantiating its claim that market viability is weak. Until this has been provided, it is only right that the Council is minded to refuse the application.

Retail Impact Test

The proposal is out-of-centre. Paragraph 27 of the NPPF is clear that *“where an application...is likely to have significant adverse impact...it should be refused”*.

The applicant’s agent contends that the retail impact assessment is not required in this instance. Its justification is that the convenience goods proportion of the store’s GIA is 1,485m² – marginally below the 1,500m² threshold within Strategic Policy 21 of the Local Plan.

We note that Strategic Policy 21 is not explicit as to whether ‘gross’ refers to GIA or GEA. Indeed the East Staffordshire Retail and Leisure Study 2013 (which recommended this threshold) is not specific either. It is therefore logical to turn to national policy / guidance to see whether it can assist. The NPPF is again silent, but helpfully the NPPG explains, under the heading ‘When should the impact test be used?’ that *“gross retail floorspace (or gross external area) is the total built floor area measured externally”*. It must therefore hold that the 1,500m² threshold is also in terms of GEA.

We cannot find a figure for the store’s GEA within the application. Convention however is that it is circa 5% greater than GIA (gross internal area) for these sorts of units. Indeed that is supported by the applicant’s figures for the proposal’s total floorspace – 6,017m² GIA (on the application form) and 6,334 GEA (on the covering letter). Applying this factor

to the proposed foodstore's GIA of 1,857m², generates a GEA of 1950m². Then using the agent's '80/20 split' methodology generates a gross convenience retail floorspace figure of 1,560m². This is above the policy threshold, and hence an impact assessment is required.

It would be unreasonable for the LPA to positively determine this application in the absence of a town centre impact assessment of the proposed foodstore. Should the applicant submit one then we wish to be notified as such.

It may be that the proposal causes substantial trade diversion from the town centre, such that a significant adverse impact is caused. This analysis will need to be undertaken by the applicant's agent, and we reserve the right to make further comments once we have had sight of this.

We now turn to the other strand of the impact test – the effect on in-centre investment. We are aware that the Council has very recently granted planning permission for a redevelopment of the town centre Octagon Centre, and that the owner of the town centre Coopers Square Shopping Centre also has redevelopment plans (indeed planning permission was granted for such in 2011). The Rugby Club is also subject to extant planning permission for a retail-led development (and we note that they have objected to this application). There may be others that the Council is aware of. These planned and committed investments are key to the future success of Burton Town Centre, which the Council's Retail Study finds has "*signs of weakness and potential indicators of decline*"². Again, the impact of the proposal on these investments must be carried out by the applicant, and we reserve the right to make further comments once we have had sight of this.

Conclusion

For all the reasons given above, the planning application should not be supported.

Yours sincerely,

Luke Raistrick
Director

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² Paragraph 9.2.1