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19th May 2023

Your reference

Our reference 23/00276/PREAPP

By email

Dear Alexa

- **Proposed Class E Foodstore, 10 Barnard Road, Norwich**

Thank you for your request for advice relating to the above proposed development. This advice is provided further to a meeting between the council and yourself on 13th April 2023 and the submission of further correspondence relating to fall-back position received 5th May 2023.

You have applied for advice relating to proposals for redevelopment of the site to provide a Class E retail foodstore for a specific site operator (Lidl). You are seeking to agree the scope of the application, its retail assessment and transport assessment.

In terms of the acceptability of the proposals this has been assessed under the sections below.

Constraints

- Designated employment land – Bowthorpe Employment Area (policy DM16 applies).

Relevant planning policy

The following main policies, documents and guidance will be used in considering your proposal:

Joint Core Strategy for Broadland, Norwich and South Norfolk, 2011 amended 2014 (JCS) - available [here](#);

- JCS1 Addressing climate change and protecting environmental assets
- JCS2 Promoting good design
- JCS3 Energy and water
- JCS5 The economy
- JCS6 Access and transportation
- JCS7 Supporting communities
- JCS9 Strategy for growth in the Norwich policy area

- JCS11 Norwich City Centre
- JCS19 The hierarchy of centres
- JCS20 Implementation

Norwich Development Management Policies Local Plan 2014 (DMPLP) – available [here](#).

- DM1 Achieving and delivering sustainable development
- DM2 Ensuring satisfactory living and working conditions
- DM3 Delivering high quality design
- DM5 Flood resilience
- DM6 Protecting and enhancing the natural environment
- DM7 Trees and development
- DM11 Protecting against environmental hazards
- DM16 Supporting the needs of business
- DM18 Promoting and supporting centres
- DM20 Protecting and supporting city centre shopping
- DM21 Protecting and supporting district and local centres
- DM22 Planning for and safeguarding community facilities
- DM28 Encouraging sustainable travel
- DM30 Access and highway safety
- DM31 Car parking and servicing
- DM33 Planning obligations and development viability

Other material considerations

Relevant sections of the National Planning Policy Framework July 2021 (NPPF):

- NPPF 2 Achieving sustainable development
- NPPF 4 Decision-making
- NPPF6 Building a strong, competitive economy
- NPPF7 Ensuring the vitality of town centres
- NPPF8 Promoting healthy and safe communities
- NPPF9 Promoting sustainable transport
- NPPF11 Making effective use of land
- NPPF 12 Achieving well-designed places
- NPPF 14 Meeting the challenge of climate change, flooding and coastal change
- NPPF 15 Conserving and enhancing the natural environment

The NPPF is available at the following link:

<https://www.gov.uk/government/publications/national-planning-policy-framework--2>

- National Model Design Code,
- National Design Guide,
- Building for a Healthy Life

Emerging Policy

Greater Norwich Local Plan (GNLP) – still undergoing examination. Will replace the Joint Core Strategy and Site allocations and site specific policies plan only. Adoption likely early 2024.

The proposal

To demolish the existing building on the site (approx. 3,258sqm) to allow redevelopment and construction of a Class E foodstore, to be occupied by Lidl. The proposed building has a gross external area of 1,900sqm (approx. 1,250 sqm sales area) with 120-122 parking spaces, hard and soft landscaping and improved pedestrian and cycle access on the northern part of the site only. The site will continue to be accessed from the existing access from Barnard Road which is shared with the hotel site adjacent to the east. The southern part of the site may be subject to a further application in the future and would be served from the same point of access.

Planning history

Ref	Proposal	Decision	Date
4/2000/0399	Extensions and alterations to front of building, new mezzanine level restaurant and alterations to car park.	APPR	12/07/2000
4/1992/0793	No.2 Post mounted triangular signs.	TEMP	18/12/1992
4/1994/1013	Erection of signs.	APCON	06/01/1995
4/1999/0985	Extensions to building at front and rear and to car park.	APPR	17/02/2000
06/00056/O	Outline proposals for the demolition of existing bowling alley and erection of hotel and separate public house/restaurant.	WITHDN	27/04/2006
07/00056/O	Outline application for the erection of hotel and bowling alley.	REF APPEAL DISMISSED	30/04/2007

Principle of development

Loss of existing leisure use/community use

The site is in the Bowthorpe Employment Area and currently operational as a bowling centre, a leisure use which the NPPF defines as a 'main town centre use' and is therefore not currently in employment use (as defined by policy DM16). The existing bowling alley dates from the early 1990s and was approved prior to the adoption of the previous and current Local Plan (DMPLP), in the context of more permissive planning policies relating to the location of large-scale leisure development, and a relatively good supply of alternate sites and premises for B class employment use.

The premises is not currently vacant, however you suggest that the bowling centre will not be viable in the medium/long term. However, local knowledge together with historic information suggests that the business operating from the site is well attended by clubs and organised groups for structured bowling and provides a facility that meets specific demands which differ from other bowling facilities within Norwich aimed more at recreational/casual users, ensuring its continued success in this out of

centre location. The proposals would therefore result in the loss of a valued indoor leisure facility, currently used by community groups which falls within the local plan definition of 'community facilities/uses'.

DMPLP policy DM22 states that development resulting in the loss of an existing community facility will only be permitted where:

- a) adequate alternative provision exists or will be provided in an equally accessible or more accessible location within 800 metres walking distance; or
- b) all reasonable efforts have been made to preserve the facility but it has been demonstrated that it would not be economically viable, feasible or practicable to retain the building or site for its existing use; and
- c) evidence is provided to confirm that the property or site has been marketed for a meaningful period and that there is no realistic interest in its retention for the current use or for an alternative community use.

As no alternative provision currently exists within 800 metres then you will need to satisfy the requirements of both (b) and (c) of the policy and demonstrate lack of viability concerning the continued use of the site for the existing use and lack of realistic interest in retaining the building for an alternative community use.

Based on the requirements of policy DM22 there may be merit in maintaining a continued bowling centre use of the site at a smaller scale than the existing if you are able to demonstrate that the need for a reduced size of facility would perhaps be a more viable longer term alternative and if this could be accommodated on part of the site which would fall outside of the requirements of the current retail operator interest.

Need to retain employment areas

Any proposals for redevelopment for other uses of the site need to be assessed against current planning policies. In November 2019 a Reg 10A review took place and conclusions for DM16 and DM18 were that these policies are considered to be fit for purpose at the present time, however a future review is considered desirable. Whilst the GNLP notes that committed employment land is sufficient in quantity and quality to meet the potential for enhanced growth, paragraph 295 of the Reg 19 version of the GNLP sets out that the 'Employment Town Centre and Retail study' reviewed existing employment sites and allocations and did not conclude that any should be reallocated for other uses. This position will be given further consideration when a review of the DM policies plan takes place (after adoption of the GNLP). At this point in time however the existing employment areas still apply and policy DM16 and DM18 are both relevant (and will remain in place and relevant once the GNLP is adopted). Of note here is the fact that the employment area is a policy designation and not a site allocation and such designation remains in place upon the adoption of the GNLP and until the DMPLP policies are reviewed.

Proposed retail use

Notwithstanding its current leisure use, the site remains designated as part of a defined 'employment area' promoted primarily for employment use. Under DMPLP policy DM16, within employment areas, proposals for new employment development (Use Class B1 (now Class E(g)), B2 and B8) will be prioritised along with other forms of economic development where this would not conflict with the requirements of

policy DM18 in relation to town centre uses [or with policy DM19 in relation to city centre office development], would not prejudice the function of the employment area and would not undermine committed proposals for its redevelopment or regeneration.

The site is an 'out of centre' location and the retail use proposed is a 'main town centre use' as defined by the DMPLP and NPPF. DMPLP Policy DM18 states that proposals for main town centre uses on employment areas will be assessed and determined in accordance with the criteria in policy DM16 (and, where applicable, DM17) prioritising these areas for employment and other economic development uses, and permitted exceptionally where:

- a) the sequential and impact assessment requirements have been satisfied and it is demonstrated that it is not practical to accommodate the development on a more sequentially preferable or accessible site; and
- b) the use is appropriate to the character and function of the employment area; or
- c) the use is ancillary to or associated with an existing use already on the employment area.

The sequential and impact assessments must demonstrate clearly that:

- the proposal could not be accommodated on any reasonable alternative and available site or sites within or adjacent to a defined centre at the appropriate level of the hierarchy; and
- the proposal would not result in a significantly harmful impact on the vitality and viability of the city centre or other existing and proposed centres, would not compromise committed proposals for their expansion and would not significantly undermine prospects for their regeneration, improvement or enhancement.

The applicable floorspace threshold for such sequential and impact assessments as set out in appendix 4 of the DMPLP is 1000 sqm gross internal area. As mentioned above the Reg 10A review concluded that this policy is still fit for purpose. The NPPF sets out that the default threshold of 2,500sqm should only be used where there is no local threshold. Given that a local threshold exists which is not considered out of date, an impact assessment will be required rather than a Health Check of Bowthorpe district centre as you initially suggested.

Therefore in summary, subject to being able to justify the loss of community use from the site (or its retention at a smaller scale) in accordance with policy DM22, retail use could be permitted as an exception where the requirements of parts (a) and (b) or (a) and (c) of policy DM18 as set out above are met and the use would not prejudice the function of the employment area and would not undermine committed proposals for its redevelopment or regeneration as required by policy DM16.

Sequential and Impact Assessments

The adopted retail strategy for the Greater Norwich area, requires major retail development to be located in accordance with the identified hierarchy. Norwich city centre is located at the top of hierarchy of centres set out in JCS Policy 19 and is identified as the main focus in the sub-region for future retail development (Policy 11). Other district and local centres are also identified for lower order retail uses in the adopted Development Management Policies Local Plan.

You suggest that the proposed development will serve a very specific catchment area correlating to a 5 minute drive time catchment, however no further justification or explanation has been provided as to why such a specific catchment is relevant. It is however recognised that the nature of this type of retail use means that it would not compete directly with the mainly comparison based retail offer of the city centre.

As the site is located on the very edge of Norwich City Council's administrative area your assessment will need to extend into the adjacent district of South Norfolk Council. You go on to suggest a 10 minute peak drive time as an appropriate catchment area for a sequential assessment for a foodstore of the size and type proposed. I am aware that recent applications at Longwater retail park within South Norfolk district have used a 10 minute drive time as their core catchment area and therefore for consistency of approach I would suggest that a 10 minute drive time (not peak) represents an appropriate area of search for sequential site assessment.

The district and local centres which should be subject to impact and sequential testing which lie within a 10-minute drivetime catchment area of the proposal are:

- Bowthorpe District Centre (Norwich CC) – includes comparable food /convenience store
- The Larkham District Centre (Norwich CC) – includes comparable food /convenience store
- Norwich Road, Costessey Local Centre (South Norfolk DC)
- Earlham West Local Centre (Norwich CC)
- University of East Anglia Local Centre (Norwich CC)
- Colman Road, The Parade Local Centre (Norwich CC)
- Colman Road, The Avenues Local Centre (Norwich CC)
- Easton / Costessey (South Norfolk DC - Mixed Use allocation under EAS1)

The large car park at Bowthorpe District Centre should also be explored as a potential option which may have some scope for a new food store. This should be investigated further to establish whether there is capacity for a new build foodstore here at the expense of some car parking.

I am also aware that Lidl's closest store in the Drayton Road District Centre is just outside of a 10-minute drive time catchment and is expected to close soon. I would expect options for redevelopment of this site to be considered/addressed as part of the retail assessment.

In general, other relevant policies that require consideration in this case would be those concerning access and highway safety, protecting biodiversity and the natural environment and flood risk.

Fallback position: Class E conversion

Extensive changes to The Town and Country Planning (Use Classes) (Amendment) (England) Regulations 2020 created a new 'commercial, business and service' Class E, which incorporates a wide range of uses which previously fell within different use classes. With relevance to these proposals indoor sport and recreation, leisure uses (previously Class D2) now fall within the same use class as retail uses (previously Class A1).

As the planning history for the site does not suggest that the use was restricted by planning condition or that permitted development rights have been removed then it

would be reasonable to conclude that the use of the existing building on the site could be changed from its existing use as a bowling centre to the proposed retail use as a permitted change without the need for planning permission. Both uses now fall within the wider array of alternate proposals now possible within the same Class E Use class.

The changes to the Use Classes Order would only permit a change of use and not physical building works associated with the proposed change of use. You explain that the existing building (3,258sqm) is larger in floor area than that required of the proposed use and suggest that this represents a robust 'fall-back' position which should be afforded significant weight.

I agree that fall-back is a material consideration in the decision making process, of which the permitted development rights given by the Use Classes Order comprise an element. Case law suggests that regard must be had to an applicant's ability to implement a fall-back permission and whether the prospect of the fall-back taking place is realistic and not just theoretical. The weight to be attached to the fall-back position should be determined by the decision-maker accordingly.

You have already highlighted that the existing building is greater in size than Lidl's specific operational needs, necessitating an application to demolish and rebuild. In addition, the redevelopment only requires part of the site. It would therefore appear that neither the building nor the site meet the specific requirements of the proposed development as specified by Lidl in several ways. The change of use of the existing building is not likely to occur as it is not of a suitable size for the proposed operator, it is in excess of their requirements and would result in vacant floor space which could be occupied by another operator and as I understand it this would not be attractive to Lidl. I would therefore question whether these specific proposals represent a robust or realistic fall-back position and therefore consider it should only attract very limited weight as a material planning consideration. Also, as only part of the overall site is required by the potential retail operator this represents inefficient use of the site within your client's ownership as a whole leaving over a third of the site vacant and subject to uncertainty.

Further to our meeting you have provided additional information as to your thoughts on the matter of the fallback position at this site. It is important here to differentiate between your client's wider options for the site rather than the specific proposals initially presented to the Council around the use of the site by a specific retail operator (Lidl) and their specific store/site requirements. Your case has changed emphasis in your submission of 5th May to widen the scope of the fall back to your client seeking to find the most viable and feasible use of the site moving forward, not specific to one particular operator's requirements. This arguably becomes more of a theoretical approach to redevelopment. This differs from the position put to the Council in the initial stages of the pre-application enquiry which was focused on one specific operator's operational requirements, in this case Lidl. As you no doubt appreciate the matter of the weight to be attributed to fall-back may differ depending on the proposals.

A true fall back would allow a change of use to take place and occupation of a building for the new use without the need for any consent from the local planning authority.

It is however clear through initiating these discussions that your client intends to revisit the possibilities surrounding redevelopment of the site/putting it to an alternative use some 16 years since it was last considered by the council and tested at appeal. There have been some significant changes in the intervening period including the adoption of the current development plan in 2014; progress being made on a replacement Greater Norwich Local Plan; identified changes to the Use Classes Order surrounding commercial, business and service uses and the immediate and then more limited longer term impacts of the covid pandemic. However, the bowling centre use operating at the site has diversified and to date continues to operate from the site which suggests that at the current time at least it continues to be a viable operation.

Rather than concentrating on fallback I feel that it would be more beneficial to discuss (subject to meeting the policy requirements as set out above) the possibilities surrounding a mixed retail and leisure proposal for the whole of the site within your client's ownership.

Access and highways matters

As advised, I understand that you are progressing advice direct with Norfolk County Council as highway authority on specific matters relating to agreeing the scope of a Transport Assessment. It is assumed that you will also be discussing with them specific measures required to improve pedestrian and cycle access to the site.

Parking

Norwich City Council parking standards are found at [Appendix 3](#) of the DMPLP.

Car parking (retail) Max 1 space per 20sqm gfa (1900sqm = 95 spaces), 5% of total disabled (4-5), 5% of total parent and child (4-5), 5% of level of car parking should be secure motor cycle parking. One electric vehicle charging space.

Cycle parking – Staff – 1 space (covered and secure) per 100sqm (19 spaces), customers 1 space per 50sqm adjacent to principle entrances (38 spaces).

In general terms the site is accessed from Barnard Road but also has a frontage (without direct access) to Dereham Road which is a corridor of movement. Not only is this an out-of-centre location in policy terms, the area and this site in particular, is not sustainably located or sufficiently accessible to adopt a retail role as travel would predominantly be by private car, contrary to the objectives of JCS Policies 1 and 6 to minimise the need to travel, encourage walking, cycling and the use of public transport and to concentrate development close to essential services.

Accessibility

The site is poorly related to adjoining residential areas, with limited accessibility to public transport routes for both staff and customers and extremely limited opportunity for linked trips other than from a workplace within the employment area. Housing in Costessey to the north is located beyond the A1074 Dereham Road which has very limited crossing facilities. Housing in Chapel Break, Clover Hill and Three Score (part of Bowthorpe) is located to the south. This area has some footpath/cycle path provision from the employment area but is separated by Chapel Break Road which although this has footway provision it is not actively overlooked and only allows opportunity to cross in specific locations. Public transport to and from the city centre is available on Dereham Road and Chapel Break Road, however access to bus stops will require further investigation and likely improvements. The proposed use is

clearly intended for private car users and its location does little to reduce dependency on the private car, as it is not currently well related to the surrounding residential areas, or located in a centre where linked trips could be reasonably made. The location of the proposed development is thus contrary to the aims of policy DM1 and DM28 unless sufficient improvements can be made to rectify the issues identified and promote access to and through the site by sustainable travel modes other than the private car.

Layout observations

I understand that the choice of location of the proposed food store is on the northern part of the site so as to provide greatest visibility from Dereham Road. Large scale totem signage is proposed to the Dereham Road frontage, which would be a form of advertisement which is not particularly characteristic of the area. There is only one other such totem sign in the area at the Coop petrol filling station on Dereham Road. The Dereham Road edge of the Bowthorpe Employment Area is quite verdant and mainly heavily vegetated, with the exception of this part of the frontage which has less mature trees and smaller scale advertisements. There is residential development on the opposite side of the Dereham Road. Large scale signage is unlikely to be acceptable in this location. A more subtle form of signage would likely be required in this location, subject to input from the highway authority on highway safety considerations.

As set out in the highways matters section above the provision of approx. 120-122 car parking spaces represents an over provision of car parking for the amount of retail floor space proposed. There is no relief across the car parking area through the provision of landscaping. No details of cycle parking or pedestrian linkages through the site are shown.

A smaller parcel of land adjacent to the Barnard Road frontage is shown to be for 'future development opportunity'. In adopting this approach however there is a potential that the food store could become hidden in future behind an unspecified other use towards the back of the site. Also, in the short term the frontage of the site would have the potential to become unsightly/unkempt which is not something that the council would want to see happen.

It is agreed that the site is not currently used in a very efficient way. A large, perhaps underutilised building is situated behind a large extent of underutilised car parking area. A more acceptable approach to explore as stated above could be to redevelop the entire site for a mixed use development which makes some reprovision of the bowling facility that exists on the site and accommodates the proposed operators food store.

Additional general advice

Any new development should look to seek a net increase in biodiversity (Biodiversity Net Gain) and connection with the adjacent habitats. Please note that NPPF para 174 states that the planning system should contribute to and enhance the natural and local environment by providing net gains in biodiversity. A mandatory 10% Biodiversity Net Gain (BNG) will be introduced under the Environment Act later in 2023. The Greater Norwich Local Plan (GNLP) requires 10% BNG, which has been subject to examination. As such a 10% requirement is likely to be required locally from when the plan is adopted. Developments of this scale would need to

demonstrate compliance, potentially utilising the Natural England metric ([The Biodiversity Metric 3.0 - JP039](#)).

Conclusion

Further consideration of each of the issues detailed above will be required in order to address matters relating to the loss of the existing use and the principle of the new development proposed as presented within the pre-application submission.

I hope you find this advice of assistance. However, please remember that the advice given in this letter is based on the information submitted, a full planning history may not have been researched and is the opinion of the case officer and cannot in any way prejudice the decision made on a formal planning application by Norwich City Council.

Should you require any further assistance please do not hesitate to contact me.

Yours sincerely

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