

Report to: Planning Committee

Date: 16th October 2023

Application No:

1. 220849
2. 220850
3. 220852

Location: Site 7a, Pacific Drive, Eastbourne, BN23 6DW

Proposal: Erection of Class E foodstore alongside access, parking, landscaping, and associated works.

Applicant:

1. Aldi Store Ltd.
2. McCarthy and Stone Retirement Lifestyles Ltd.
3. LNT Care Developments Ltd.

Ward: Sovereign

Recommendation:

1. To note the update to Members on referral to The Department for Levelling Up Housing and Communities.
2. To seek authorisation to impose additional conditions.
3. To acknowledge late representation and to agree that no new material considerations have been raised,
4. Acknowledge assessment of vacant sites within Town and District Centres
5. Given 1-4 above Members to acknowledge that officers will continue with the recommendations made at the August Planning Committee to grant planning permission subject to legal agreement as S106 agreement,

Contact Officer: **Name: Leigh Palmer**
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Site Location Plan



1	Executive Summary
1.1	At the last meeting held on 21 August 2023, the committee resolved in respect of each application, to delegate authority to the Head of Planning to finalise issues relating to air quality, landscaping, affordable housing and ecological translocation issues and upon reaching agreement to these issues, the Head of Planning was authorised to grant planning permission subject to the conditions set out in the report, the officer addendum report, and subject to a S106 / S278 agreement for travel plan audit fees, other highway works including public transport initiatives, late-stage review to establish affordable housing position (unless otherwise agreed), local labour agreement and ecological translocation controls.
1.2	It was further resolved that if no meaningful engagement with the legal agreement was pursued within six months, that the Head of Planning be authorised to refuse planning permission due to the lack of infrastructure.
1.3	As often happens with larger applications, other issues, not specifically captured in the original committee resolution have arisen which are now reported to committee in this updating report
2.	Referral to the Department of Levelling up Housing and Communities
2.1	Officers have passed the necessary paperwork to the Government department.
2.2	They have confirmed that the scheme does not meet any of the thresholds required for Government assessment.
2.3	Given this the proposals have only a local impact (s) and the matter will therefore proceed to be determined by Eastbourne Borough Council.
2.4	Officers are aware of correspondence made directly to Ministers of Government by some interested parties requesting that the Government call the application in. This request is separate from the formal referral process.
2.5	As the applications are progressing through their S106 legal agreement due diligence, it is fair to say that a formal decision notice is some way off from being issued. This would allow for the independent request to Government to be received, evaluated, and determined,
3	To seek authorisation to impose additional conditions.
3.1	Officers have received a no objections response from the Lead Local Flood Authority (subject to conditions) for the Aldi development and the care home development. These recommended conditions are in addition to those discussed at the August meeting.
3.2	It is recommended that the following conditions be imposed upon application reference numbers 220849 Aldi and 220852 Residential Care Home.

3.3	<p>Soakaways</p> <p>Prior to any development commencing details of the soak away design shall be submitted to and approved in writing by the local planning authority. The detailed design of the proposed soakaway should be informed by findings of groundwater monitoring between autumn and spring. The design should leave at least 1m unsaturated zone between the base of the infiltration device and the highest recorded groundwater level. If this cannot be achieved, details of measures which will be taken to manage the impacts of high groundwater on the drainage system should be provided. This monitoring should be undertaken in the precise location of the proposed permeable paving, geocellular attenuation tank and soakaway and also provide details of the geology encountered. The details as approved shall be implemented at the site in accordance with the approved details and be retained as such thereafter.</p> <p>Reason: In the interest of mitigating localised flooding.</p>
3.4	<p>Infiltration Details</p> <p>Infiltration testing should be undertaken in the precision location of the proposed soakaway and be in accordance with BRE365 requirements. The testing should be at the depth, plus 1m, of the proposed infiltration device to ensure that there is adequate geology in the location to promote infiltration. The results of this testing shall be submitted to and approved in writing by the Local Planning Authority prior to any drainage infrastructure/work being installed at the site.</p> <p>Reason: In the interest of mitigating localised flooding.</p>
3.5	<p>Drainage Calculations</p> <p>Detailed drainage drawings and calculations shall be submitted to and approved by the local planning authority prior to the installation of any drainage infrastructure/work being installed at the site. The submitted details shall include evidence (in the form hydraulic calculations) that surface water discharge rates are limited to recorded infiltration rates for all rainfall events, including those with 1 in 100 (+40% for climate change) annual probability of occurrence. The hydraulic calculations shall take into account the connectivity of the different surface water drainage features.</p> <p>Reason: In the interest of mitigating localised flooding.</p>
3.6	<p>Drainage Management Plan</p> <p>A maintenance and management plan for the entire drainage system should be submitted to and approved by the planning authority before any construction commences on site to ensure the designed system takes into account design standards of those responsible for maintenance.</p>

	<p>The management plan should cover the following:</p> <p>a) This plan should clearly state who will be responsible for managing all aspects of the surface water drainage system, including piped drains, and the appropriate authority should be satisfied with the submitted details.</p> <p>b) Evidence that these responsibility arrangements will remain in place throughout the lifetime of the development should be provided to the Local Planning Authority.</p> <p>Reason: In the interest of mitigating localised flooding.</p>
3.7	<p>Flooding mitigation during Construction</p> <p>At no time during the construction period shall the applicant/developer allow surface water to pass onto the adopted highway. The applicant/developer should detail measures to manage flood risk, both on and off the site, during the construction phase. This may take the form of a standalone document or incorporated into the Construction Management Plan for the development that is submitted to and approved in writing by the Local Planning Authority</p> <p>Reason: In the interest of mitigating localised flooding.</p>
3.8	<p>Evidence of implementation</p> <p>Prior to occupation of the development, evidence (including photographs) should be submitted showing that the drainage system has been constructed as per the final agreed detailed drainage designs.</p> <p>Reason: In the interest of mitigating localised flooding.</p>
3.9	<p>Other additional conditions:</p>
3.10	<p>Members will recall that one of the key drivers in the support of the new retail unit on part of site 7a was in the part of the site was job creation in relation to a discount food retailer and also the choice that a discount food retailer would deliver to its local catchment. Given this, officers consider that it would be appropriate to attach a condition limiting the use of the site to a Discount retailer.</p> <p>This is to be applied to application 220849 Aldi.</p>
3.11	<p>Discount retailer</p> <p>Without prior written approval from the Local Planning Authority the use hereby approved shall be limited to a limited assortment discount retailer and for no other purpose or use.</p> <p>Reason; To accord with the nature and content of the application to ensure that the retail impacts accord with the terms of the application.</p>
3.12	<p>The applicant is requesting that the golden brick limitation (restriction on Aldi opening until a milestone stage is reached with the adjacent</p>

	developments could be controlled via a condition rather than a legal agreement.
3.13	Officers view is that they this issue should stay as a S016 legal agreement issue as this affords the highest degree of protection/controls.
4	Late representations
4.1	<p>Members should note that a supplementary letter of objection has been received from the agents for Tesco's,' the content of which does not raise any new and substantive points in addition to those raised with the August reports. It is reported here for completeness.</p> <p>Notwithstanding this officer have reported the relevant paragraph of the NPPF in full below and also outlined the salient points for members information below.</p>
4.2	The letter of objection outlines that one of the key assessments of the application proposal is that it should be assessed against the wording of paragraph 122 of the NPPF. If this is done the objector concludes that as there is no need for retail development, then the scheme should fail.
4.3	<p>Below is Paragraph 122 of the NPPF reported in full: -</p> <p>122. Planning policies and decisions need to reflect changes in the demand for land. They should be informed by regular reviews of both the land allocated for development in plans, and of land availability. Where the local planning authority considers there to be no reasonable prospect of an application coming forward for the use allocated in a plan:</p> <p>a) it should, as part of plan updates, reallocate the land for a more deliverable use that can help to address identified needs (or, if appropriate, deallocate a site which is undeveloped); and</p> <p>b) in the interim, prior to updating the plan, applications for alternative uses on the land should be supported, where the proposed use would contribute to meeting an unmet need for development in the area.</p>
4.4	<p>Officers consider that the objector has misapplied the wording of this policy.</p> <p>As is evident in the full text of para 122 above that its motivation in drafting is the recognition of changing circumstance and that development should not be hamstrung by an inflexible approach to policy.</p> <p>The policy is in two parts:</p> <p>part a) recognises the need (in updating the local plan) that any re-allocation for a more deliverable use should address identified needs.</p>

	<p>part b) recognises that ahead of any local plan change then applications for alternative uses on the land should be supported where the proposed use would contribute to meeting an unmet need for development in the area... emphasis added.</p> <p>There is clearly a need for development in the Borough as identified with the 2022 Growth Strategy where it comments.</p> <p>“Whilst development can be controversial, it does provide the homes, jobs and other services and facilities that will be needed for future generations. This growth is required to help Eastbourne evolve in response to changing circumstances and remain a good place to live, work and visit in the future” [emphasis added].</p> <p>As Members know Eastbourne has a number of constraints to development, National Park, the Sea, adjacent authorities and areas of biodiversity and functional flood plain it is clear that these physical and environmental constraints limit the amount of land that is available to develop. As such the Borough does not have sufficient land to meet development need in full.</p> <p>This means that the Government will require us to consider all sites with potential for development and to ensure that all opportunities are maximised so as many new homes and employment spaces are accommodated in a sustainable way.</p> <p>As mentioned in the August report to committee officers outlined that when 7a was assessed as a whole the current development opportunity exceeded the new homes target of the growth strategy but also delivered employment opportunities.</p> <p>This is considered to be maximising the development he potential of the site and therefore officers remain of the opinion shared by Members by way of their resolution to grant permission at the August committee that paragraph 122 of the NPPF is met.</p>
<p>5.</p>	<p>Assessment of vacant sites within Town and District Centres</p>
<p>5.1</p>	<p>Member will acknowledge that the two stores operated by Wilkos have closed in and around the time of the August committee. The applicants have been invited to investigate the appropriateness of Aldi occupying either of these existing buildings. One is located with Eastbourne Town Centre and the other is within Sovereign District Centre.</p>
<p>5.2</p>	<p>The developers have assessed both of these locations, and both have been discounted.</p>
<p>5.3</p>	<p>The application proposals are for a standalone retail unit, with dedicated parking and serving areas directly adjacent to the store, designed for limited assortment discount convenience retailer. Any significant compromise that would not achieve that objective would mean an alternative site fails on the grounds of suitability.</p>
	<p>The Sovereign Harbour site is too small.</p>

	<p>Eastbourne Town Centre site is large enough in sqm terms however it promotes an irregular shaped footprint with narrow frontage, without dedicated servicing and carparking.</p> <p>For these reasons both of the sites are considered not to be appropriate and suitable for the operational needs of this applicant can therefore be discounted.</p>
6	Recommendation
6.1	<ol style="list-style-type: none"> 1. To note the update to Members on referral to The Department for Levelling Up Housing and Communities. 2. To seek authorisation to impose additional conditions. 3. To acknowledge late representation and to agree that no new material considerations have been raised. 4. Acknowledge assessment of vacant sites within Town and District Centres. 5. Given 1-4 above Members to acknowledge that officers will continue with the recommendations made at the August Planning Committee to grant planning permission subject to legal agreement as S106 agreement.
7	Other matters
7.1	Matters relating to air quality, landscaping and affordable housing contributions are still being discussed between officers and the applicants.
8	Background Papers
8.1	None.