

Draft Statement of Common Ground for  
Lidl Great Britain Ltd

**APPEAL AGAINST REFUSAL OF PLANNING  
PERMISSION FOR A NEW DISCOUNT  
FOODSTORE (FULL) AND NEW AND  
RETAINED EMPLOYMENT PROVISION  
(OUTLINE) AT  
WOLF BUSINESS PARK  
ROSS-ON-WYE  
HR9 5NB**

**January 2020**

**Our Ref: DW/17-03089**



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QUALITY ASSURANCE

This report has been prepared within the quality system operated at Rapleys LLP according to British Standard ISO 9001:2008.

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## 1 INTRODUCTION

- 1.1 This Statement of Common Ground has been prepared on behalf of Lidl Great Britain Limited ('Lidl') to support an appeal against refusal of Planning Application Ref. P190114/O for:
- Full planning permission for the demolition of two existing buildings and erection of a new Lidl foodstore (Use Class A1) with associated car park and landscaping and a new access to new employment units to the south at Wolf Business Park; and
  - Outline planning permission for the erection of new employment floorspace (under Use Classes B1/B2/B8) and associated works
- 1.2 The planning application to which the appeal relates was submitted to Herefordshire Council on 11 January 2019 and validated on the same date, with a target determination date of 12 April 2019. The determination deadline was subsequently extended to 30 June 2019. The delegated refusal notice was issued by the Council on 5 July 2019.
- 1.3 This Statement addresses the following areas of common ground between Lidl (the appellant) and Herefordshire Council:
- Description of the site and surrounding area;
  - Site planning history;
  - Adopted and emerging Local Plans;
  - Matters agreed.
- 1.4 In addition, the Statement sets out details of matters which are the subject of specific disagreement.
- 1.5 The Statement should be read alongside the Appeal Statement and submitted documentation.

## 2 DESCRIPTION OF THE SITE AND SURROUNDINGS

- 2.1 The appeal site comprises the existing Wolf Business Park and extends to approximately 0.9ha in size. The site is broadly a semi-circular in shape. Currently, there are three buildings on site accommodating a number of employment units within Use Classes B1, B2 and B8.
- 2.2 The appeal site is located approximately 0.9km from the centre of Ross-on-Wye.
- 2.3 The application site is located to the south of Gloucester Road and the A40, off Alton Road. Directly to the north of the site is the B4260 and the A40, to the west adjacent to Alton Road is a residential area, to the east the site is bounded by mature and semi-mature vegetation followed by two dwellings, with one of them being a lodge.
- 2.4 The site is surrounded by a variety of uses including Haigh Industrial Estate immediately to the south comprising of several retail units including a Pet Shop, Sportswear and Equipment shop, IT Sales and a Safety Equipment Supplier. To the north of the site is the Great Western Court Retail Park, accommodating a Plumber's Merchant, and Electronic Sales and Repair Shop, a Furniture Shop and Ross Garden Store.
- 2.5 There are large residential areas to the east and west, alongside various community uses such as Ross-on-Wye Fire Station and a healthcare centre.
- 2.6 The site benefits from good accessibility by non-car modes (including benefitting from a regular bus service) and by private motorcar.

### DESIGNATIONS

- 2.7 The site is allocated employment land within the adopted Development Plan.
- 2.8 The site is also located on the edge of, but within, the Wye Valley Area of Outstanding Natural Beauty (AONB) which covers most Ross-on-Wye and the surrounding area.
- 2.9 The site is not located within or close to a conservation area and is also not in close proximity to any listed buildings or locally listed buildings.
- 2.10 As of 8 June 2018, the site is subject to Tree Preservation Order (TPO) comprising a number of individual trees to the north-west, north and south of the site, and a group of trees to the east of the site.

### SUMMARY

- 2.11 Both parties agree that this represents an accurate description of the site and the surrounding area.

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### 3 PLANNING HISTORY

- 3.1 A review of the Herefordshire Council's planning history records has been undertaken.
- 3.2 The planning history records for the site date back to 2001, when an application was permitted for the erection of two light industrial factory units including offices, toilets and associated external works (Ref: DS012193/F). This permission was for the erection of Building 3 and the 2 units which make up the building. The units will remain in situ and will be retained as part of the wider development proposal.
- 3.3 In relation to the existing B1, B2 and B8 use of the site, there are various planning applications for the erection of, and alterations to, the current buildings on site. The latest planning permission from 2001, relates to planning application (Ref: DS012193/F) for the erection of two light industrial factory units including offices, toilets and associated external works. This permission was for the erection of Building 3 and the 2 units which make up the building. These units are proposed to be retained as part of the appeal proposal.
- 3.4 In October 1994, planning application SH941251PO was submitted at the appeal site for a large Class A1 'main' foodstore, a petrol filling station/car wash facility, and for 250 car parking spaces and associated facilities. The proposal was subsequently refused in March 1995, due to potential significant adverse impacts on Ross-on-Wye town centre, loss of employment land, and highways grounds. It should be noted that this proposal proposed the entire redevelopment of the Wolf Business Park including a total loss of employment floorspace.
- 3.5 In October 2018, the Appellant submitted hybrid planning application P182387/O to erect a new Lidl foodstore with associated car parking, landscaping and a new access to the employment site (full) and new employment premises (outline). This was subsequently withdrawn on 2 October 2018, principally to undertake a telephone household survey to underpin the revised retail assessment as part of the re-submitted application P190114/O.

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## 4 ADOPTED AND EMERGING LOCAL PLANS

### ADOPTED DEVELOPMENT PLAN

- 4.1 The adopted Local Plan for Herefordshire comprises;
- The Herefordshire Unitary Development Plan (March 2007);
  - The Herefordshire Core Strategy (October 2015)
- 4.2 The Herefordshire Unitary Development Plan (UDP) was adopted on 23 March 2007 and guided development within the county until the policies (except for those relating to Minerals and Waste) were superseded by the adoption of the Core Strategy in October 2015.
- 4.3 Therefore it is agreed that there are no saved policies of the Herefordshire UDP of direct relevance to this development proposal.
- 4.4 The Herefordshire Local Plan Core Strategy was adopted by Herefordshire Council on 16<sup>th</sup> October 2015. It provides the strategic planning framework for future development needs up to 2031.

### EMERGING LOCAL PLAN

- 4.5 Ross-on-Wye Town Council is in the process of preparing the Ross-on-Wye Neighbourhood Plan. The Ross-on-Wye Neighbourhood Plan was submitted for examination on 15<sup>th</sup> October 2019.
- 4.6 In accordance with paragraph 48 of the NPPF, weight may be given to relevant policies in emerging plans according to the stage of preparation, the extent to which there are unresolved objections, and the degree of consistency with the NPPF. The emerging Ross-on-Wye Neighbourhood Plan can therefore only be accorded limited weight.

### SUMMARY

- 4.7 The parties agree that the above represents an accurate description of the adopted and emerging planning policy position with respect to the application site.

## 5 MATTERS AGREED

5.1 Agreed matters fall under the following headings:

- Retail Matters
- Air Quality
- Contaminated Land
- Drainage and Flood Risk
- Ecology
- Heritage and Conservation

### RETAIL MATTERS

5.2 The following assumptions and matters in relation to the retail assessment are agreed:

- The use of 10 minute drive-time catchment area in relation to the sequential and impact assessment.
- That Ross-on-Wye is the only defined town centre within the catchment for the purpose of both the sequential and impact assessments.
- That the appeal site is out-of-centre with reference to the defined Ross-on-Wye town centre boundary.
- The sites to be considered through the sequential assessment comprising:
  - Site 1: Kyrle Street/ Brookend Street;
  - Site 2: Trenchard Street/ Homes Road; and
  - Site 3: Land to West of Ashburton Industrial Estate
- The use of Mintel sales density figures in relation to the benchmark turnover of the proposed discount foodstore.
- The use of Experian MMG Population and Expenditure Data to calculate available expenditure within the catchment.
- The use of Experian Retail Planner Briefing Note 16 for growth rate, price base conversion and sales floorspace efficiency data.

### HIGHWAYS

5.3 It is agreed that public transport improvements can be discussed at a later date, though this is subject to any measures being conditioned and demonstrably deliverable.

### AIR QUALITY

5.4 An Air Quality Assessment (AQA) was undertaken to support the planning application in June 2019. The AQA concluded that it is not likely that air quality would be significantly impacted.

5.5 The Council's Environmental Health Officer concluded in their consultation response that they had no adverse comments to make in respect of Air Quality should planning permission be granted.

5.6 This position is agreed by the appellant and the Council.

### CONTAMINATED LAND



5.7 The Council's formal consultation response with respect to land contamination was issued on 28<sup>th</sup> February 2019. This raised no objection to the proposal subject to conditions requiring further investigation and remediation of the site

5.8 This position is agreed by the appellant and the Council.

#### **DRAINAGE AND FLOOD RISK**

5.9 It is agreed that the site is located within Flood Zone 1.

5.10 The run-off rate will be restricted to 5l/s for each outfall (10l/s in total) which provides a 43% betterment over the 1 in 2 year Brownfield runoff rate.

5.11 The Council's Drainage Engineer did not raise an objection to the proposed development subject to conditions requiring infiltration testing to be undertaken and a subsequent revised drainage strategy, and evidence that the applicant has sought and agreed permissions to discharge foul water.

5.12 Welsh Water has stated that the likely foul flows from the proposed foodstore would be significantly less than the existing building use and therefore Welsh Water do not object to the proposals.

5.13 This position is agreed by the appellant and the Council.

#### **ECOLOGY**

5.14 Natural England provided their comments on 8<sup>th</sup> March 2019. In their response Natural England stated that it is considered that the proposed development will not have significant adverse impacts on designated sites and therefore does not object to the application.

5.15 Natural England, having considered the Appropriate Assessment, and the measures proposed to mitigate any identified adverse effects that could potentially arise, Natural England agree with the Assessment conclusions.

#### **HERITAGE AND CONSERVATION**

5.16 The Council's formal consultation response with respect to heritage and conservation confirms that the proposed development would not impact on those aspects of the setting of the conservation area which contribute to its significance.

5.17 The Council's Conservation Officer has no objection to the principle of the development on the site on heritage grounds.

5.18 This position is agreed by the appellant and the Council.

## **6 MATTERS SUBJECT TO SPECIFIC DISAGREEMENT**

- 6.1 Matters which are subject to specific disagreement refer to the reasons for refusal (RfR) given in the Council's Decision Notice dated 5<sup>th</sup> July 2019.

### **RFR ONE: SEQUENTIAL ASSESSMENT AND IMPACT ASSESSMENT**

- 6.2 Reason for Refusal One relates to the Council's concerns that the proposal would have a significant adverse impact on the town centre as the applicant has not provided a robust sequential assessment.

- 6.3 Key matters which are not agreed are:

- Rapleys calculation of the survey derived turnovers from the updated 2018 household survey undertaken by the Appellant;
- Rapleys use of the 15% clawback from other destinations to the application proposal
- That the impact of the proposed development on Ross-on-Wye is not significant adverse;
- View of the relative health of Ross-on-Wye town centre

### **RFR TWO: THE IMPACT OF THE PROPOSAL ON DESIGNATED HERITAGE ASSETS WITHIN THE TOWN CENTRE OF ROSS-ON-WYE**

- 6.4 Reason for Refusal Two relates to the Council's concerns that the proposal has implications for the viability of heritage assets in the town centre which could become vacated which in turn could have a detrimental impact on the character, appearance and amenity of the conservation area.

- 6.5 Key matters which are not agreed are:

- That the impact of the application proposal will not be significantly adverse and consequently no heritage assets in Ross-on-Wye town centre will be impacted.

### **RFR THREE: LOSS OF TREES**

- 6.6 Reason for Refusal Three relates to the loss of protected trees contributing to the character and appearance of the locality. However the Appellant has now amended the car park layout in line with the landscape officer comments and this may be now an area where common ground can be achieved between the parties.

### **RFR FOUR: DESIGN MATTERS, INCLUDING CHARACTER AND APPEARANCE**

- 6.7 Reason for Refusal Four relates to the form and layout of the proposed development and the impact on the character and appearance of the locality on a site the Council considers forms a gateway site.

- 6.1 Key matters which are not agreed are:

- That the Council considers that the design of the proposed development does not reflect the context of the locality; and
- That the proposal does not maintain or enhance the character of the area, which is on the edge of the Wye Valley AONB.

### **RFR: HIGHWAYS**

6.2 Reason for Refusal Five relates to the Council's concerns that it has not been adequately demonstrated that the impact of the development on the highway network is safe or can accommodate alternative modes of transport to and from the site.

6.3 The Council disagrees with the Appellant on the following matters:

- The proposed cycle and pedestrian improvements are minimal and do not cater for ensuring accessibility for all movements and modes of transport.
- visibility splays around Alton Road Gloucester Road are cause for concern, HC need to be satisfied that the visibility splays are actually achievable, as it stands this has not been achieved.
- Concerns regarding the impact that the retail and employment development will have on the highways network. Whilst the Appellant has offered to fund improvements, the scope of these are yet to be set out by the applicant to mitigate the impact of the development. Therefore these concerns remain.
- No support has been provided on how this option could be conditioned to allow for the improvements to the highways to be secured.

#### RFR SIX: LOSS OF EMPLOYMENT LAND

6.4 Reason for Refusal Six states that the proposal involves and results in an unjustified loss of employment land. This is inextricably linked with RfR 1 in that the Council has two prerequisites for the justification of the loss of employment land:

1. That the retail sequential and impact tests are passed; and
2. That the new employment provision is secured prior to Lidl store beginning to trade.

6.5 As it is not agreed by the Council that that the proposal will not lead to a significant adverse impact on Ross-on-Wye town centre, the first pre-requisite is similarly not agreed. However the second pre-requisite could potentially be agreed as common ground (see RfR 7).

#### RFR SEVEN: UNILATERAL UNDERTAKING

6.6 Reason for Refusal Seven states that the draft Unilateral Undertaking is unacceptable as the proposed obligations do not make the development acceptable, do not achieve the Council's requirements for delivery of the employment units or fulfil the terms of the Economic Statement submitted in support of the planning application.

6.7 The submitted Unilateral Undertaking does not achieve the delivery of the new employment provision prior to the occupation of the proposed foodstore. Whilst currently a matter of disagreement, the Appellant has set out that they are willing to enter into a planning obligation which does secure the provision of Units 1-4 of the employment provision prior to the occupation of the discount foodstore. Therefore potentially this element could become common ground

**SIGNATURES**

Signed on behalf of the Appellant:

Name:

Position:

Date:

Signed on behalf of Herefordshire Council:

Name:

Position:

Date:

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