

Our Ref: 2995/Sheerness/LT20201112

12th November 2020

Mr James Freeman
Head of Development Services
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MRPP
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Via Email: jamesfreeman@swale.gov.uk

Dear Mr Freeman,

**PROPOSED OUT OF CENTRE ALDI SUPERMARKET
LAND TO THE EAST OF QUEENBOROUGH ROAD, QUEENBOROUGH
PLANNING APPLICATION REF: 19/502969/FULL**

It may be viewed as unusual that our client, Tesco Stores Ltd, should object here (our letter of 17th September 2020) given Aldi's departure would leave Tesco as the primary supermarket in Sheerness. But the matter is far more complex and has disorientated even the Council's retail consultant. The officer report fails to grapple with this and so the following representations is, sadly, unavoidable and necessary, to ensure Members are clear about what they are being asked to approve.

1. So often it is the case that Councils are asked to determine planning applications involving the entry of new retailer to a town or near-town location. However, this application comprises not only the loss of an existing retailer, but its relocation to an out-of-centre site, some considerable distance from the town; at a time when town centres have never been more vulnerable. This distinction is camouflaged by the officer report;
2. We struggle to see how any aspect of the application achieves sustainable development or how the three dimensions at Paragraph 8 of the NPPF are met and delivered. Permission could be refused on this basis alone;
3. The Council has ignored its own **locally set retail impact threshold**. As a result, the application remains, even now, absent of any appropriately detailed assessment of town centre impact. A note is appended which reviews the seriousness of the implications of this matter;
4. What limited work the Council's retail consultant has done is flawed. They assess only the impact of an additional 300sqm of floorspace, rather than the loss of an existing retailer. That might be acceptable where a retailer remains in close proximity to the town centre; but here it is not – Aldi is moving and enlarging its store, some 4km to the south of Sheerness and where no prospect of beneficial linkage exists;

5. By Aldi's own admission, the existing Sheerness store trades at twice the company's usual level. Thus twice the amount of trade (and all its beneficial aspects) will be lost from the town;
6. The Council's Retail Study (2018) confirms that the town's comparison goods offer is limited, retaining just 25% of expenditure on Sheppey. Thus the health of the town is dependent on the performance of its supermarkets (ie, in terms of bringing customers to the town). The Council's retail consultants' appraisal of that relationship is at worst, wholly unreliable; and at best, rudimentary;
7. Consistent with (6), officers downplay the importance of Tesco, branding it 'edge of centre'. However, our client's store lies within the town centre and benefits from the full force of protective planning policies. The Council's Retail Study (2018) identified high levels of footfall between Tesco and the High Street. Any impact on Tesco (arising from the loss of trade to an enlarged out of centre Aldi) equates to harm to that relationship;
8. The appraisal of the town's health relied upon by Aldi and officers (which suggested it was relatively robust) occurred before to the onset of Covid-19 and subsequent national lockdowns. It is plainly wrong to rely on this when fundamental changes to retailing and the economy have occurred. Under any circumstance, a planning application involving the loss of a major retailer from a town centre should be viewed with caution; but in the the present circumstances, a decision which facilitates its departure could be extremely harmful; and
9. There is a general failure within the officer report to have regard to the retail geography of the island. The relocated and enlarged Aldi sits adjacent to the junction of the A249 and A2500 Lower Road, enabling it to syphon trade from east Sheppey and from the south (ie, deterring trips to the town centre). This lack of detailed assessment is a product of the absence of a sufficiently robust retail impact assessment.

These are not insignificant problems and each requires attention before a decision can safely be made here. But in particular, the Council appears exposed in respect of the locally set retail impact threshold. The advice of its retail consultant does not negate this and we urge you not to allow the application to be determined until the matter is resolved.

Yours sincerely,



Miles Young
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SWALE BOROUGH COUNCIL

Locally Set Threshold for Retail Impact Assessments

The application by Aldi is being determined in the absence of a Retail Impact Assessment despite Cabinet having resolved on 20th March 2019 to accept the recommendation of the Local Plan Panel of 14th March 2019 to “*adopt a local impact threshold of 500sqm for retail/leisure floorspace proposals outside designated centres*”. The proposed development is outside a designated centre and involves a supermarket well in excess of the 500sqm threshold. Accordingly, by the terms of the Council’s resolution, the application must be accompanied by an appropriate Retail Impact Assessment.

Officers have disposed of the point by suggesting this threshold has not been adopted as a matter of policy (see Paragraph 8.20 of the officer report). But that is not what the National Planning Policy Framework (NPPF) requires. Paragraph 89 of the NPPF states that Councils should require an assessment of impact if proposals exceed a “*locally set floorspace threshold*” (our emphasis). Indeed, Paragraph 89 concerns itself explicitly with “*assessing applications*”. If it had meant to be a matter of policy, it would have said so by referring to ‘planning policies’, as is the case elsewhere in the NPPF where it directs local planning authorities towards objectives as a matter of policy.

The Council evidently agrees. The purpose of bringing the impact threshold to the Local Plan Panel was to “*Recommend to Cabinet to adopt, as a material consideration, a local threshold of 500sqm for retail/leisure floorspace proposals outside of designated centres to require an impact assessment of the proposal as set out in paragraph 89 of the NPPF*”. Officers noted that whilst the threshold could in due course “*be incorporated into policy in the local plan review*”, in the meantime “*Members could recommend that this local threshold is adopted by Council at the earliest opportunity as a material consideration for development management purposes*” (again, our emphasis). And that is precisely what they did, following advice from officers that the impact threshold “*...would provide the Council with sufficient flexibility to assess the merits and potential impact implications of edge and out-of-centre retail and leisure applications.*” Indeed, what else was the purpose of the resolution if not to provide the Council with a basis to thoroughly assess the impact of potentially harmful retail development outside of the Borough’s designated centres?

Swale Borough Council has, following a resolution of the Cabinet, a locally set threshold for retail impact of 500sqm. This has been ignored by the applicant (Aldi) and misunderstood by officers, leaving the Council exposed to criticism of any decision taken contrary to it. Relying on external retail advice does not overcome the error, and in any event, that advice is flawed.

Miles Young
Martin Robeson Planning Practice
12th November 2020