

DONCASTER METROPOLITAN BOROUGH COUNCIL

PLANNING COMMITTEE - 20th July 2010

Schedule No.	1.
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Application Number:	10/00294/FULM	Application Expiry Date:	18th May 2010
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Application Type:	Planning FULL Major
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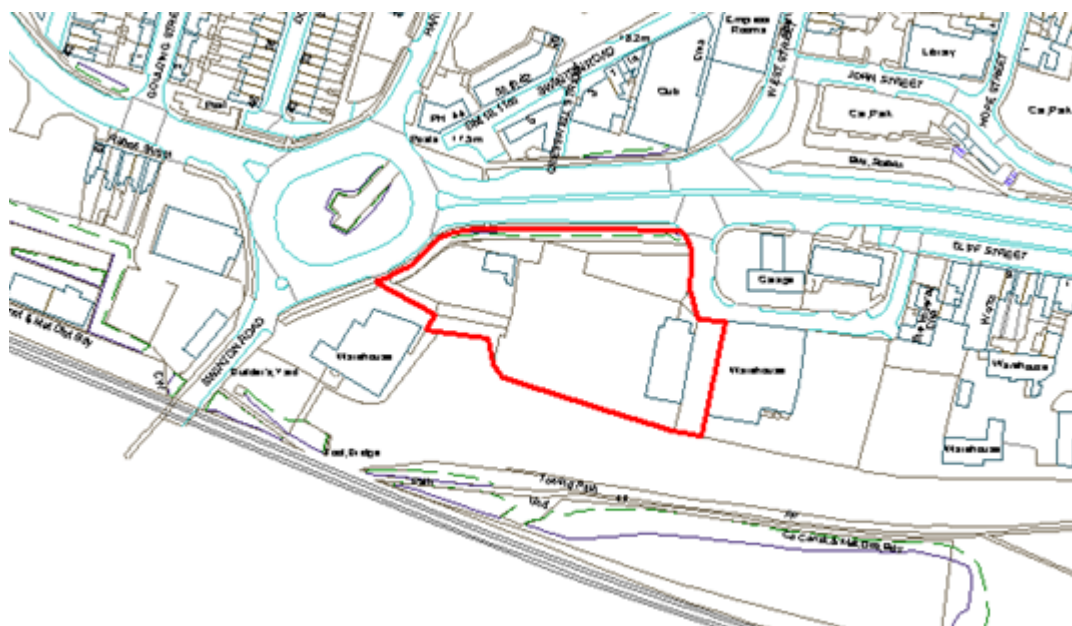
Proposal Description:	Erection of foodstore (59.4m x 28.4m), with associated landscaping, carparking and highway works (being resubmission of application number 09/02006/FULM withdrawn on 18/12/09)
At:	N H Greaves Cliff Street Mexborough South Yorkshire

For:	Lidl UK GMBH (Mr M Mitchell)
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Third Party Reps:	1	Parish:	
		Ward:	Mexborough

Author of Report	Elizabeth Maw
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MAIN RECOMMENDATION:	Planning Permission REFUSED
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1.0 Reason for Report

1.1 The application is being presented to committee due to a request from the Assistant Director of Development and because of the public interest shown in the application.

2.0 Proposal and Background

2.1 The submission of this application is for a Lidl foodstore and associated works on an existing employment site in Mexborough. The application is a resubmission as the previous application was withdrawn on the advice of the case officer.

2.2 The site is currently split into two parts and used for B2 and B8 uses. The site occupies industrial type buildings and open storage. The site is partially screened by shrubbery on the boundaries that are adjacent to the bypass and the roundabout.

2.3 The site is on the corner of an industrial estate and runs parallel with Mexborough bypass. The town centre is located to the north of the site and on the opposite side of the bypass. The Sheffield and South Yorkshire Canal is at the rear of the site. Housing is a good distance away and separated from the site by a roundabout and connecting roads.

3.0 Relevant Planning History

3.1 09/02006/FULM: Erection of foodstore (59.4m x 28.4m), with associated landscaping, car parking and highway works. Withdrawn 18.12.09.

4.0 Representations

4.1 There has been no letters of objection from local residents but one letter of objection has been received from a company that specialises in site acquisition. The letter objects to the development, as they believe that the proposal would undermine the vitality and viability of the town centre and the site is divorced from the town centre as it is on the opposite side of the dual carriageway. Therefore, the supermarket is unlikely to link well within the town centre and will attract shoppers who travel by car.

4.2 A petition has been received from local residents containing 43 signatures in support of the scheme as they feel that the proposed foodstore would be competition for the two supermarkets in Mexborough town centre (Tesco and Somerfield).

4.3 It should also be noted that Lidl carried out surveys with local households and businesses and the details of these surveys were submitted to support the application. The surveys ask whether a planning application for a Lidl foodstore in Mexborough would be supported. The results of their survey show that a majority would support the proposals.

5.0 Relevant Consultations

5.1 National Grid: No response received.

5.2 South Yorkshire Fire & Rescue: No objections.

5.3 Pollution Control: No objections, subject to conditions.

5.4 Mexborough Neighbourhood Manager: No response received.

5.5 SYPTE: The site is in a good position for access to public transport. There is also a pelican crossing proposed to improve linkages with the town centre. Therefore, no objections are raised subject to recommended conditions.

5.6 DMBC Transport Section: No objections.

5.7 Transform South Yorkshire: The proposal does not assist in the proposals for the canal side so they would hope that alternative sites could be identified which would help to support the vitality of the town centre, as well as enabling the regeneration of the canal corridor to be focused on housing and leisure activities.

5.8 British Waterways: No objections.

5.9 Rotherham MBC: No response received.

5.10 Landscape Officer: No objections, subject to conditions.

5.11 Built Environment Team: No formal response has been received although this team has been involved in the consideration and recommendation of this application. The Built Environment Team has advised that the siting and design of the building is unsuitable and the proposal would have a detrimental impact to the vitality and viability of the town centre.

5.12 Environmental Health: No response received.

5.13 Environment Agency: No objections, subject to conditions.

5.14 Yorkshire Water: The submitted plans are unacceptable but the use of planning conditions can overcome the issues.

5.15 LDF Employment Section: No formal response received but this section has verbally advised that the scheme remains unacceptable, as the benefits of the scheme do not outweigh the loss of the employment land and the applicants have failed to reasonably demonstrate that there is no use for the site for an employment use.

5.16 South Yorkshire Police: No objections, subject to conditions.

5.17 Highways Development Control: No objections, subject to detailed designs being submitted and agreed plus a commuted sum is payable to the council by a S106 agreement for the maintenance of the new signalised pelican crossing.

5.18 DMBC Drainage Officer: No objections, subject to conditions.

6.0 Relevant Policy and Strategic Context

6.1 In accordance with the Unitary Development Plan 1998, the site is on land designated as an Employment Policy Area. The Environment Agency maps also designate parts of the site as being within Flood Zones 2 (medium risk) and 3 (high risk).

6.2 When taking into consideration the land designation and the material planning considerations, the following policies are applicable:

National Planning Policy

PPS1: Planning Policy Statement 1 (Delivering Sustainable Development)

PPS4: Planning Policy Statement 4 (Planning for Sustainable Economic Growth)

PPS25: Planning Policy Statement 25 (Development and Flood Risk)

Local Planning Policy

EMP6: Existing Employment Land and Property

ENV52: Design of New Buildings

T5: Highways

SH8: Major Shop Development

SH16: Requirements of Shopping Facilities

Interim Planning Policy Statement E2: Development of Employment Land for Other Uses.

7.0 Planning Issues and Discussion

7.1 The application seeks permission for a food store and associated works on a site that is outside Mexborough town centre and on a site currently used for employment (B2/B8). The site is also at risk from flooding.

7.2 When having regard to the material planning considerations and the responses from consultees, the main issues to consider are the impact the store would have to Mexborough town centre, the design and siting of the proposal and the effect of losing this site as an employment use (B1/B2/B8).

7.3 Other material planning considerations include highways and flooding.

Impact on Mexborough Town Centre

7.4 When considering proposals for retail development national policy PPS4, is of relevance. In brief, this policy advises that proposals for retail should preferably be located within town centres in order to ensure that town centres are vibrant places to live, work and invest. Any proposals for out of centre sites should undergo a sequential test and impact assessment. The sequential test is to firstly consider sites that are in the town centre, then edge of centre and finally out of centre. An impact assessment should also be carried out to check that the proposal does not impact on the vitality and viability of the

main shopping centre by way of consumer choice, trade of existing shops and private investment. Local planning policy relevant to the application is SH8. This policy is somewhat superseded by the recent adoption of PPS4, although the local policy does still advise that any proposals for retail on out of centre sites should not seriously affect the vitality and viability of the relevant town centre.

7.5 The site is outside the recognised shopping area in the Unitary Development Plan 1998 and is separated from the town centre by a bypass. Therefore the site is deemed to be 'out of centre'. Lidl deem this site to be edge of centre. Whilst the authority and Lidl disagree on whether the site is edge of centre or out of centre, the sequential test still needs to be applied anyway. Lidl did submit information regarding sites, which were more sequentially preferable, and the reasons for discounting these.

7.6 The Local Planning Authority considers that the information put forward by Lidl would pass the sequential test. The LPA is not aware of any other sites that would be more sequentially suitable either.

7.7 Mexborough town centre is currently in a vulnerable state, suffering from a declining environment and low usage. The shops in the town centre are underperforming and a significant amount of shopping from local residents is being carried out in other town centres and out of centre stores. There may be potential that the new food store could claw back customers who are spending outside the area, which could enhance the retail sector of Mexborough. An assessment into the impact on nearby shops and stores has been carried out and this generated a number of issues to consider. The main issues are discussed below.

7.8 Lidl have advised that they feel that the products they sell in the area are different to those being offered in the town centre so the existing shopping patterns in Mexborough will not be affected but instead the choice will increase. They also believe that this proposed store would claw back expenditure from people shopping outside the centre.

7.9 In the opinion of the Local Planning Authority, whilst some expenditure will be brought back to Mexborough this would be clawed back from one out of centre store to another so it would have no benefit to the town centre. The study by the applicant's consultants (NLP) concludes that there would be approximately 5.3% from the two supermarkets in the town centre. The trade diversion is estimated as 2.5% from Tesco and 2.8% from Somerfield. The LPA are happy to accept that these figures are a good estimate and don't have any evidence to challenge the figures. If Mexborough town centre was healthy and bustling, a percentage trade loss of approximately 5.3% would be of little concern. However, given the fragile state of Mexborough and because stores are already underperforming against their company averages, this loss of business could potentially lead to closures of stores in the town centre.

7.10 The town is in a fragile state and will not be helped by an out of centre food store as the local community are likely to drive to the food store or refocus pedestrian movements to the south west of the town centre. There is very little housing to the south of the site so there is already low pedestrian activity between the site and the town centre.

7.11 The layout of the proposal also appears to have been designed with the car users in mind. There are a generous number of car parking spaces proposed and the car park is at the front of the store, which makes it easily identifiable to visitors travelling by car.

Siting, Layout and Design

7.12 Local policy ENV52 relates to the design of new buildings. This policy states, “New buildings should respect their townscape and landscape setting with layout, siting, form, scale, detailing and materials being appropriate to the character of the surrounding area”. Policy ENV 70 requires that special attention is paid to the design of new development where it impacts on main transport corridors, in this case, the A6023 Conisbrough to Wath-on-Deerne road.

7.13 PPS1 (Delivering Sustainable Development) is also relevant when considering the design of the proposed building. Whilst this policy focuses on the wider aims of planning, paragraph 34 is of particular interest and states “Design which is inappropriate in its context, or which fails to take the opportunities available for improving the character and quality of an area and the way it functions, should not be accepted”.

7.14 The proposed siting of the building is set back from the bypass and has car parking to the front. Although design can be a subjective issue, in the opinion of the Local Planning Authority, the proposed siting and design of the building does not have a positive impact on the character and appearance of the local area. The siting of the store does not take into consideration the prominence of the site. The site is considered to be a key gateway site into Mexborough, seen from the bypass and canal, so any building on this site should be a ‘keynote’ building which would mark the gateway point into Mexborough and have an active frontage (ie, one with plenty of windows) directly onto the street to strengthen and set a precedent for future built-form along the southern side of the bypass. The proposed design has a somewhat ‘industrial’ feel, with large areas of metal cladding and rendered panels on the main bypass elevation. The applicants have tried to take these comments on board by emphasising the entrance to the building with a tower-like structure although this is not deemed to be sufficient to define the site or address the bypass. The Local Planning Authority feels that unless the siting is altered so the building runs alongside the frontage and the design is reconsidered, the scheme fails to take an opportunity for improving the area and therefore should not be supported.

7.15 It should be noted that the site is used for open storage and accommodates industrial type buildings. Although any new development is likely to improve the aesthetics of the site, this is in an employment policy area so sites with this appearance are not uncommon and the site does have screening on the boundaries next to the road. Therefore, this matter has little weight on the merits of the application.

7.16 There is also a long term ambition of significant enhancements to both the gateway routes into the authority’s area and the Sheffield & South Yorkshire Navigation Canal. The application site sits on a sharp bend in the canal, which has been identified as occupying a key position in the master planning work and therefore a high quality design is crucial to the long term aspirations of this project. The site layout and store format prevents a suitable access and built and landscaped frontage to the canal which could mean that

regeneration of the wider canal-side area in the future may not be possible. There are no adopted proposals in place for the canal side but even so, the LPA would have been keen to see these aspirations play a part in the design of the application. For instance, it would have been preferable for the building to have two principal elevations/entrances with one facing the road and one facing the canalside.

Loss of Employment Land

7.17 The proposed food store would be located on an employment site which is established and currently occupied. The employment area is accessible by both road and public transport and well positioned away from housing. There are few employment areas in Mexborough although employment areas are located near by at Swinton and Manvers. The site provides an important contribution to the supply of employment land in Mexborough. Other land has been allocated most notably at Pastures Road and on the former power station, however these locations have their limitations and are subject to housing proposals and other development.

7.18 The site is allocated as a Employment Policy Area (EMP6) where B1,B2 and B8 uses are normally permitted. Other uses are to be considered against other relevant UDP policies in particular EMP10 to 14. The proposed use, retail, does not accord with these policies. Interim Planning Policy Statement E2 is also relevant and advises that proposals on employment sites for alternative purposes should not be supported unless there is no future or current demand for the site. The applicants have therefore submitted a marketing report and employment land statement to justify the release of this site for retail.

7.19 The IPPS was approved to permit employment sites where low demand exists and there is no need to retain those sites where there are better development alternatives. This required a marketing period, (in this case agreed as 6 months). This has been undertaken and has not resulted in a significant investors/developer coming forward. The IPPS sets out that proposals should demonstrate:

- a) There are not likely to be conflicts with resulting neighbouring uses;
- b) A lack of current demand following a marketing exercise, and considering other information.

7.20 The IPPS has marketed the site for a period of 6 months but has continued covering a period of approximately 18 months. The exercise has not been comprehensive as the advertising has been limited to local papers (and the Yorkshire Post) on 3 occasions but the site details have been included on Doncaster's Commercial Property Register. Some general interest has been shown but this was not a serious interest except for retail development. There is also concern that the land value sought for were on the high side (175k for a 0.3ac site and 600k for a 1.24ac). This may have deterred possible interest. It is also likely that the market interest is low resulting from the economic downturn.

7.21 The employment land statement has been prepared examining available land in the area both in Doncaster and the Dearne area. Within the Dearne area, the land statement found 122 ha of currently available allocated employment land and a further 11ha within

employment land reviews. Much of this land is made up of sites at Manvers (32.5ha) or sites within Mexborough (54ha). However, virtually all of this land is being developed for other purposes (mainly residential) or is a location unattractive to the market although there is one new site (11ha) that has been put forward for inclusion in the LDF. Within Rotherham, 7.15ha requires reclamation and infrastructure. Taking account of development schemes or sites in adjacent borough reduces the amount of available land considerably to approx 65ha across the Dearne. However, there is significantly very little available employment land in Mexborough itself. Whilst 65ha may seem a high figure compared to previous take-up rates, it does not adequately address the current position;

_ The lack of adequate sites in the Mexborough area will have suppressed take-up rates. Where suitable sites have been available e.g Denaby Industrial Estate, sites have been developed.

_ Mexborough is identified as a principal town in the Doncaster Emerging Core Strategy, which will be a centre for services, employment and a hub for transport. It is expected that new development should be focussed on main towns and principal towns. The lack of suitable alternative employment sites makes it important to retain the current use of the site for employment.

_ Government guidance still requires a flexible supply with choice. The employment land along Cliff Street provides an important part of that supply.

_ Mexborough exhibits high levels of deprivation and the UDP identifies it as a regeneration area hence there is a need to ensure a supply of deliverable employment land to assist the regeneration needs of the borough.

7.22 The site is located in an area where longer term redevelopment opportunities exist linked to the canalside and location opposite the town centre. Some of this area is undergoing a transformation to other uses including some sites to residential use. Such areas are located where commercial redevelopment is unlikely and residential uses are preferable. The erosion of some of the commercial area for alternative uses and the lack of new sites coming forward through the LDF actually increases the need to protect existing sites.

7.23 The use of the site for non-employment uses is not currently supported as it is in current business use and contributes to the limited supply of employment land in Mexborough. Whilst a marketing exercise has been undertaken, it is not conclusive that there is insufficient demand to warrant its release for an alternative use. This may be because of the high values sought. However, a long term view should be taken which may show that regeneration benefits may outweigh loss of employment land but currently it is not thought that they are sufficiently demonstrated.

Highway Considerations

7.24 The development should be assessed against Policy T5 of the Doncaster Unitary Development Plan 1998. Policy T5 controls new development in order to maintain highway safety; environmental quality and the free flow of traffic.

7.25 The proposal shows an access off the roundabout for customers but deliveries to be serviced from Cliff Street. A new pelican crossing is also proposed across the round about to help link the development with the town centre. These details have been checked by the Council's Highways Department and they confirm that they are satisfactory although if permission were to be granted a commuted sum would need to payable for the maintenance of the crossing.

Flooding

7.26 The aims of Planning Policy Statement 25 (Development and Flood Risk) are to ensure that flood risk is taken into account at all stages in the planning process to avoid inappropriate development in areas at risk of flooding, and to direct development away from areas of highest risk. Where new development is, exceptionally, necessary in such areas, policy aims to make it safe, without increasing flood risk elsewhere, and, where possible, reducing flood risk overall.

7.27 PPS25 requires applicants/developers to provide sufficient information for the Local Planning Authority to apply the Sequential Test as set out in Annex D of PPS25. A Sequential Test is intended to identify if other reasonably available sites exist, which are at a lower risk of flooding (i.e. are within Zones 1 or 2). The Sequential Test should be applied to all forms of development, other than those identified within PPS25 (Footnote 7 - minor development) and is central to the policy statement and should be applied at all levels of the planning process

7.28 With regards to sequential testing, the Local Planning Authority considers that the sequential test has been passed for this proposal. In accordance with flooding guidance, a sequential test only needs to consider sites within Mexborough and those which are in the town centre or edge of centre. Other sites have been considered that are at a lower risk of flooding and these have been discounted as unsuitable. The Local Planning Authority would concur with these findings.

7.29 An exception test is not required as the proposal would be regarded as 'less vulnerable' but the applicant needs to demonstrate that the proposal has significant improvements in resilience to flooding and the site layout maximises the use of lower risk areas within the site.

7.30 The EA have been consulted on the scheme and they have also reviewed the flood risk assessment. The EA do not raise any objections to the proposal subject to conditions.

7.31 The site is designated within all three flood zones with the south part of the site being within flood zone 3 and the land adjacent the bypass being within flood zone 1. This is mainly due to the natural fall of the land from north to south. It would have been preferable for the building to be sited to the north of the site to help minimise the risk of flooding but there is an exit on the north side of the building so in the event of flooding, customers would exit the site uphill away from the flood waters.

Summary and Conclusion

8.1 In the opinion of the Local Planning Authority, it is considered that the proposal is unacceptable in principal, as it would divert a level of trade that that would potentially cause significant harm to the vitality and viability of Mexborough town centre. It appears that there is support from some local people for the scheme in order to improve choice and competition in the area, but the proposed scheme could actually reduce choice as it could potentially lead to the closure of vulnerable shops in the town centre due to a diversion of trade.

8.2 The proposal itself has a siting that fails to manipulate the key features of this site being on the frontage of a principal road and a key gateway site into Mexborough and therefore fails to take the opportunity of improving the area.

8.3 The site is also an existing and established employment site and is a good site to be retained for employment uses. There are not enough sufficient benefits to the scheme to outweigh the justification for losing this as an employment site.

8.4 For these reasons, it has been concluded that the scheme should not be supported.

RECOMMENDATION

Planning Permission REFUSED subject to the following conditions.

01. U23474 In the opinion of the Local Planning Authority, the proposed food store on this out of centre site would divert a level of trade away from Mexborough town centre that would potentially cause significant harm to the vitality and viability of Mexborough town centre. The proposal would therefore be contrary to Planning Policy Statement 4 (Sustainable Economic Growth) and saved policy SH8 of the Doncaster Unitary Development Plan 1998
02. U23475 In the opinion of the Local Planning Authority, the proposed siting and design of the building is inappropriate; as it does not have full regard for its setting and does not take the opportunities available for improving the area. The proposal is therefore contrary to Planning Policy Statement 1 (Delivering Sustainable Development) and saved policies ENV52 and ENV70 of the Doncaster Unitary Development Plan 1998.
03. U23476 In the opinion of the Local Planning Authority, the applicant has failed to demonstrate that the site has no current or likely future demand for an employment use. Furthermore, the proposal does not have sufficient regeneration benefits to warrant releasing the employment land for an alternative use. As such, the proposal is deemed contrary to Policy EMP6 of the Doncaster Unitary Development Plan 1998 and Interim Planning Policy Statement E2 adopted 2008

The above objections, considerations and resulting recommendation have had regard to Article 8 and Article 1 of the First Protocol of the European Convention for Human Rights Act 1998. The recommendation will not interfere with the applicant's and/or objector's right to respect for his private and family life, his home and his correspondence.

Appendix 1: Proposed Site Plan



Appendix 2: Proposed Elevations



Appendix 3: Photo Montage



Appendix 4: Site Photographs

Photo 1: View from the Bypass:



Photo 2: Street Scene



Photo 3: View of the site from the roundabout



Photo 4: View from the site looking north to the town centre

