

Our ref: MA/SMDL/001-4/L001m

Your ref: 2019/0366/FUL



Date: 12 April 2020

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Dear Helen

OBJECTION RE APPLICATION 2019/0366/FUL. PROPOSED ALDI STORE, WESTGATE SKELMERSDALE

We write on behalf of St Modwen Developments (Skelmersdale) Ltd to object to planning application reference 2019/0366/FUL, which seeks full planning permission for the erection of an Aldi store on land at Westgate/High Street in Skelmersdale.

The scheme seeks to provide a new store to replace the Aldi store that currently anchors the Concourse Centre in the heart of Skelmersdale town centre. The accompanying material includes a catchment plan which demonstrates that it will draw trade from a wide area including Skelmersdale town centre. The application material should therefore have proper consideration of NPPF policy pertaining to retail impact and the sequential approach to site selection as well as relevant Development Plan policy. The consequence of the application (if approved and implemented) is the closure of the in-centre Aldi store so therefore any prejudicial impact upon the realisation of the aims and objectives policy SP2 is entirely applicable.

The application also seeks to promote A class uses on land allocated for employment uses, so therefore the aims and objectives of Policy GN4 (as well as any related requirements in terms of justification) are also highly relevant to the application's consideration.

In summary, this is an application for retail development outside any defined centre that will result in the loss of employment land. Policy GN4 resists any such loss subject to very specific evidence-based criteria. The NPPF and the Development Plan places clear requirements upon developers to take all reasonable opportunities to utilise central sites and to ensure that residual harm to both town centre vitality and planned investment is limited in scale and quantum.

Current Town Centre Trading Levels

The Council's Retail Study advises that the existing Aldi store at the Concourse had a survey derived convenience turnover of £8.6m at 2017. The total survey derived turnover for the whole town centre (including Asda) was £81.2m. The town centre turnover is predominantly convenience-led at this time.

The Asda store does lie within the town centre boundary but it is distinct from the Concourse in reality. The Asda convenience turnover was £37.8m and its comparison turnover will inevitably form part of the overall comparison turnover of £22.8m. In very broad terms, the Asda store turnover is likely to be at least 50% of the entire town centre turnover.

This means that the residual town centre turnover is almost entirely aligned to the Concourse, of which the Aldi store is the anchor both in terms of its relative turnover generation and its function as the key attractant. When account is had of its comparison sales, the Aldi store will generate somewhere in the region of 20-25% of the overall turnover of the Concourse but will also have indirect beneficial effects upon trading levels of other stores in the vicinity (often referred to as positive multipliers accrued from linked trips).

The Purpose of Development

The submission material clarifies that the operator is seeking a larger and more modern store to better meet the needs of its customer base. It may also be capable of attracting additional trade from the resident population close to the subject site who currently fulfil their food shopping needs elsewhere.

The applicant proposes a design year of 2024 (albeit we think that it will reach mature trading by late 2022/early 2023). It predicts a design year convenience turnover for the Aldi unit of £11.87m which would be markedly greater than the existing store. This is an off-site replacement, meaning that it is intended that at the point the new store opens the existing town centre store would cease trading.

Characteristics of Trade Draw

The existing store is smaller than the Asda and does not have dedicated parking in front of the store entrance. The proposed new store is larger, but nevertheless remains considerably smaller than the Asda store which is in the defined town centre.

Using the applicant's assumptions in terms of turnover and their design year, the new store will generate £11.87m convenience turnover. The most obvious principal source of trade will be the established loyal Aldi customer base which generates a turnover of £9.46m. We would accept that upon closure of the town centre Aldi store that a proportion of that customer base might decide to change their shopping loyalties and instead use the Iceland or the Asda because they are more convenient. However, even with this being accepted we would logically assume that the substantial majority of the new store's trade would be drawn from the old Aldi store in the town centre.

It is therefore extraordinary to read that the applicant seeks to argue that upon closure of the town centre Aldi that less than half (£4.16m of the £9.46m turnover) of its pre-impact survey derived convenience trade would be diverted to the new store. The remaining trade appears to be largely diverted to other stores in Skelmersdale, principally the Asda. We do not agree that these trade draw assumptions are robust- it is much more likely that the majority of the new store's turnover will comprise of redirected existing Aldi trade.

However, even on the applicant's numbers the amount of pre-impact trade being directed to the Concourse will fall from circa £10m to circa £1.5m.

Successive Council retail studies have concluded that the vitality of the Concourse is of grave concern hence the need to ensure that the town centre redevelopment (envisioned by the St Modwen scheme) would not prejudice the Concourse. This is a central tenet of Policy SP2 and the Council will be well aware how this has been tested through the Courts and that the Council's prior decision as to the importance of the Concourse was endorsed as being necessary and the "condition 5" control on the St Modwen consent met the relevant tests.

Extent of Retail Impact

The pre-impact turnover of the Concourse at 2017 is somewhere in the region of £40m. The likely turnover in the design year is unlikely to have inflated in any material way unless there is investment in the fabric and shopping experience. At most it would represent turnover efficiencies and given the convenience-led offer Experian advice would suggest that this will be limited in nature. The design year pre-impact turnover is unlikely to be materially greater than the existing £40m figure.

Using the applicant's numbers, the net effect of the scheme as a solus development would be to reduce turnover by circa £8m. In broad terms, that represents a 20% reduction in its turnover and a loss of its anchor tenant.

Turning to a cumulative approach and having regard to the St Modwen scheme and its now proposed LIDL store, that would also draw some trade from other retained Concourse stores so the cumulative impact upon the Concourse would be greater than 20%.

Given the very clear fragility of the Concourse, this would represent a fundamental conflict with the requirements of Policy SP2. We are aware from the previous St Modwen approval that even the possibility of Aldi leaving the Concourse to locate to a position on its doorstep was of such concern that condition 5 was imposed upon the consent. The Council will of course be aware that the set tests for planning conditions means that it decided that even the fleeting prospect of the closure of the Aldi would have meant that the St Modwen scheme should have been refused, despite the very significant regenerative benefits arising and the overall increase in town centre turnover for Skelmersdale and opportunities for an evening economy offer. The restrictive condition to prevent the store's closure was deemed necessary in planning terms.

None of those benefits arise here, and the extent of solus and cumulative impact upon the Concourse will be substantially higher and very clearly be shown to pass the threshold of significant adverse.

Sequential Approach to Site Selection

The catchment clearly includes Skelmersdale town centre and the St Modwen site. This is accepted by the applicant in those terms. However, the applicant seeks to argue that the St Modwen site is not sequentially preferable by reference to availability. It argues that given that LIDL is committed to occupying the store, that this means that it would not be available for Aldi. The Council is well aware that the originally planned tenant

for the St Modwen scheme was Aldi, and this only "fell" by consequence of the imposition of condition 5 on the St Modwen consent.

The sequential approach to retail development is fascia-blind, so on that premise the fact that LIDL have expressed an intent to occupy the St Modwen store does not mean that the sequential approach is bypassed. In reality, it demonstrates that the St Modwen site is the very best site to meet the need for a centrally located modern-format discounter foodstore.

We also note the representation from the Skelmersdale Partnership which highlights that it has made numerous efforts to keep Aldi including highlighting opportunities to provide a larger unit that could better meet its trading requirements.

The only credible conclusion which can be drawn in this respect is that the St Modwen site is sequentially preferable, and therefore the Aldi application should be moved for refusal.

Loss of Employment Land

We note that the subject site for the application is allocated employment land. Policy GN4 seeks to resist the loss of employment land subject to a clearly structured approach which requires any such proposals involving loss of employment land to be justified including evidence of proper marketing. We note that the submission material does not provide even that base justification material to support this loss of employment land. This is demonstrably a conflict with policy GN4 which should tend towards a presumption for refusal, which aligns with representations made by others (for Lidl and on behalf of the Skelmersdale Partnership).

Impact on Town Centre Investment

St Modwen has worked with the Council since 2008 to deliver a town centre extension that is aligned to Policy SP2 and recognised through numerous investment strategies and evidence base reports as being the single-most important scheme across the borough in terms of economic performance and to support the quality of services and opportunity for local residents. All of this is at risk for an out-of-centre foodstore resulting in the loss of employment land and potentially fatal impact to the Concourse.

We note the comments within the representation made on behalf of LIDL which cites serious concerns in respect of the effect of this proposal upon their decision to invest in the St Modwen scheme for the town centre extension. The potential effect of that statement should not be underplayed.

The submission material seeks to portray the St Modwen development as a major mixed-use development, but this is a longer-term aspiration. Changes to the commercial marketplace means that this will be a phased development and that the non-retail uses will come later once the new foodstore and other retail units have opened and begun to change the commercial performance of Skelmersdale and investor perceptions. In the event that LIDL decided not to trade from the St Modwen scheme, this places a very serious risk to the delivery of any part of the St Modwen scheme which is Plan-led investment. This should lead to a presumption for refusal.

Need for Consistency

The Council has steadfastly sought to support the Concourse and the protection of employment land through previous development management decisions over recent years. To take a contrary approach to the SP2 and GN4 policy framework would be inconsistent. If a contrary approach is to be adopted by the Council, the High Court has confirmed on multiple occasions (including *JJ Gallagher Ltd v Secretary of State [2002] EWHC 1812*) that clear reasoning must be given for the inconsistency or otherwise any consent would be unsafe.

Summary

The application is demonstrably seeking to meet the agreed need for improved retail provision for Skelmersdale in the wrong location. The proposed development simply removes the anchor store from the Concourse which will result in substantial trade diversion from an in-centre location which is very vulnerable in terms of vitality and viability. It will inevitably result in a magnitude of retail impact that considerably exceeds the threshold of significant adverse.

It has also been demonstrated that there are fundamental flaws in regard to the policy framework for employment land and the sequential approach. The onus is on the applicant to demonstrate that those requirements have been met and this has not been achieved. These should in isolation result in a presumption for refusal.

We have also highlighted (as have numerous other key stakeholders) that the proposal runs a very great risk of a cataclysmic impact upon the opportunity for Plan-led investment.

The application is beset by numerous important conflicts with the requirements of the Development Plan and any approval would represent a completely inconsistent and erroneous decision. This application must be refused given the conflicts with the Development Plan.

Can we ask to be kept abreast of any response from the applicant to our representation? We would also confirm our intent to speak against the application should this be considered by Committee, so we would therefore request that you notify us of its consideration by Committee so that we can register to speak. If you do have any questions in the meantime, please do not hesitate to contact me.

Yours sincerely



