

# REPORT FOR DECISION

<b>DECISION OF:</b>	<b>PLANNING CONTROL COMMITTEE</b>
<b>DATE:</b>	<b>30<sup>th</sup> SEPTEMBER 2014</b>
<b>SUBJECT:</b>	<b>PLANNING APPEALS</b>
<b>REPORT FROM:</b>	<b>DEVELOPMENT MANAGER</b>
<b>CONTACT OFFICER:</b>	<b>JOHN CUMMINS</b>
<b>TYPE OF DECISION:</b>	<b>COUNCIL</b>
<b>FREEDOM OF INFORMATION/STATUS:</b>	This paper is within the public domain
<b>SUMMARY:</b>	<p>Planning Appeals:</p> <ul style="list-style-type: none"> <li>- Lodged</li> <li>- Decided</li> </ul> <p>No Enforcement Appeals to report</p>
<b>OPTIONS &amp; RECOMMENDED OPTION</b>	The Committee is recommended to the note the report and appendices.
<b>IMPLICATIONS:</b>	
<b>Corporate Aims/Policy Framework:</b>	Do the proposals accord with the Policy Framework? Yes
<b>Statement by the S151 Officer: Financial Implications and Risk Considerations:</b>	Executive Director of Resources to advise regarding risk management
<b>Statement by Executive Director of Resources:</b>	N/A
<b>Equality/Diversity implications:</b>	No
<b>Considered by Monitoring Officer:</b>	N/A

<b>Wards Affected:</b>	All listed
<b>Scrutiny Interest:</b>	N/A

**TRACKING/PROCESS**

**DIRECTOR:**

Chief Executive/ Strategic Leadership Team	Executive Member/Chair	Ward Members	Partners
Scrutiny Committee	Committee	Council	

**1.0 BACKGROUND**

This is a monthly report to the Committee of the Planning Appeals lodged against decisions of the authority and against Enforcement Notices served and those that have been subsequently determined by the Planning Inspectorate.

Attached to the report are the Inspectors Decisions and a verbal report will be presented to the Committee on the implications of the decisions on the Appeals that were upheld.

**2.0 CONCLUSION**

That the item be noted.

**List of Background Papers:- Copy Appeal Decisions attached**

**Contact Details:-**

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**Planning Appeals Lodged  
between 21/08/2014 and 21/09/2014**



**Application No.:** 57324/FUL

**Appeal lodged:** 15/09/2014

**Decision level:** DEL

**Appeal Type:** Written Representations

**Recommended Decision:** Refuse

**Applicant:** Properties Direct UK Ltd

**Location** Land at rear of Victoria Lane/Stone Pale, Whitefield, Manchester, M45 6JG

**Proposal** Retrospective application for siting of 4 no. storage containers

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**Application No.:** 57727/FUL

**Appeal lodged:** 15/09/2014

**Decision level:** DEL

**Appeal Type:** Written Representations

**Recommended Decision:** Refuse

**Applicant:** Mr Martin Edwards

**Location** 16 Cleveland Close, Ramsbottom, Bury, BL0 9FH

**Proposal** Two storey extension at side/front

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**Total Number of Appeals Lodged: 2**

**Planning Appeals Decided  
between 21/08/2014 and 21/09/2014**



**Application No.:** 56249/FUL

**Appeal Decision:** Allowed

**Decision level:** COM

**Date:** 08/09/2014

**Recommended Decision:** Refuse

**Appeal type:** Written Representations

**Applicant:** Lidl UK and CityPark Projects LTD

**Location:** Former Gasworks, Victoria Street, Bury, BL8 1LE

**Proposal:** Erection of 1598 m2 retail foodstore (Class A1), 325 m2 (Class B1/B8) unit and 325 m2 trade/bulky goods unit (Class A1) together with car parking and landscaping

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Copy of both the Appeal Decisions on the application and a costs claim are attached. (Note: Costs claim was rejected as valid planning based reasons were given for the refusal)

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## Appeal Decision

Site visit made on 15 July 2014

**by Mark Dakeyne DipTP MRTPI**

**an Inspector appointed by the Secretary of State for Communities and Local Government**

**Decision date: 8 September 2014**

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**Appeal Ref: APP/T4210/A/13/2208390**

**Elton Gasworks, Victoria Street, Bolton Road, Bury BL8 1LE**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Lidl UK and City Park Projects Ltd against the decision of Bury Metropolitan Borough Council.
  - The application Ref 56249, dated 30 April 2013, was refused by notice dated 18 September 2013.
  - The development proposed is the erection of a 1598 sq m retail foodstore (Class A1), a 325 sq m (Class B1/B8) unit and a 325 sq m trade/bulky goods unit (Class A1) together with car parking and landscaping.
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### Decision

1. The appeal is allowed and planning permission is granted for the erection of a 1598 sq m retail foodstore (Class A1), a 325 sq m (Class B1/B8) unit and a 325 sq m trade/bulky goods unit (Class A1) together with car parking and landscaping at Elton Gasworks, Victoria Street, Bolton Road, Bury BL8 1LE in accordance with the terms of the application, Ref 56249, dated 30 April 2013 subject to the conditions set out in the attached schedule.

### Application for costs

2. An application for costs was made by Lidl UK and City Park Projects Ltd against Bury Metropolitan Borough Council. This application is the subject of a separate decision.

### Procedural Matter

3. I have used the description of development from the decision notice and appeal form as this more accurately reflects the proposal before me.

### Main Issues

4. The main issues are:
  - (1) whether the retail proposal would lead to an unacceptable loss of employment land having regard to the prospects of the site coming forward primarily for employment use;
  - (2) whether or not there are more suitable sites in or on the edge of the Bolton Road/Bury Bridge Local Centre for the proposed retail development in accordance with the sequential test set out in paragraph 24 of the National Planning Policy Framework (the Framework); and,
  - (3) whether the retail development would serve more than local needs and, if

so, whether its impact on Bury Town Centre and other shopping centres would be acceptable.

## **Reasons**

### *Employment Land*

5. The appeal site is allocated as employment land and within an Employment Generating Area (EGA) as defined by the Bury Unitary Development Plan (UDP). Policy EC1/1 of the UDP states that certain sites, including the appeal site, have been identified for business (B1), general industrial (B2) and warehousing uses (B8). Other business uses will only be permitted in exceptional circumstances. Policy EC2 of the UDP indicates that the Council will seek to retain existing industrial areas and premises in employment uses. Policy EC2/1 of the UDP states that only business (B1), general industrial (B2) and warehousing (B8) uses will be allowed within the Bury Bridge/Daisyfield EGA of which the appeal site forms part. The policy also specifies that other uses will only be permitted where they constitute limited development or do not substantially detract from an area's value as an EGA.
6. Although a small component of the appeal proposal would comprise B1/B8 uses, the majority of the development would fall outside the uses specified within Policies EC1/1 and EC2 of the UDP. However, in terms of Policy EC2/1 there is no indication of how "limited" should be defined. Nor is there a threshold in the UDP. The appeal site is almost 1 ha in size but only comprises 4% of the EGA as a whole. Moreover, the 1 ha is constrained by a culvert which bisects the site, rights of access and adjacent hazardous installations so all the site is not developable.
7. In my view, although in itself a scheme of some significance for the local area, it would represent a limited development in the context of this particular large EGA which straddles Bolton Road and covers a significant number of buildings and areas of land particularly in its southern sector along the River Irwell. Moreover, I observed that there are a range of employment uses of various type and scale operating in the EGA. There are also empty buildings and a large tract of vacant land on Wellington Street which would provide the potential for new employment uses and would be unlikely to be appropriate for other uses. As such the loss of the appeal site would not substantially detract from the area's value as an EGA.
8. The appeal site has had permission for employment use in the form of 14 business units. This form or other types of employment use have not been subject to an appraisal to demonstrate that they would not be viable. In addition the site was used by a haulage contractor for a short period around 2009. The information about the marketing of the site for employment use over a prolonged period is limited. The recent marketing has also been for non-employment uses. However, the fact that the site has remained vacant for most of the last 16 years or so, despite some marketing for employment use and a recent upturn in the economy, is an indication that a solely employment use is unlikely to be deliverable.
9. The Council's Supplementary Planning Document (SPD) 14: Employment Land and Premises does not generally relate to EGAs. However, it seems to me that it is reasonable to have regard to the tests within the SPD in relation to land within EGAs as such areas are afforded greater policy protection than other

employment land and uses. In this regard although there is no development appraisal and recent marketing has not focused solely on employment uses, I consider that the longevity of the non-use of the site together with other benefits arising from the development provides sufficient justification for releasing the majority of the site from employment use. As a mixed-use proposal the development follows the Council's preferred approach when the retention of the whole site in employment use is not financially viable.

10. The proposal would not lead to the loss of existing employment uses, buildings or jobs rather it is the loss of an opportunity site. In that context the foodstore and smaller unit would lead to the creation of some 30 jobs which is a factor in favour. In addition there would be likely to be spin-off benefits for Bolton Road/Bury Bridge Local Centre and the businesses currently operating from this linear parade of shops and other quasi-retail uses.
11. In conclusion the loss of employment land would, on balance, be acceptable having regard to the prospects of the site coming forward primarily for employment use and taking into account the economic benefits of the proposal. In terms of Policy EC2 of the UDP, the retention of the industrial area would not be appropriate. There would be no conflict with Policy EC2/1 of the UDP as the proposal would constitute limited development and would not substantially detract from an area's value as an EGA. With regard to Policy EC1/1, the test of exceptional circumstances is more exacting than that contained in paragraph 22 of the Framework and, therefore, the policy should be afforded less weight. In the context of the Framework the proposal would represent economic development on a site where there is no reasonable prospect of the site being used for employment use.
12. The site has been taken into account as part of the employment land supply in the emerging Core Strategy (CS) based on the Employment Land Review and scored relatively highly as a potential employment site. However, the CS can only carry limited weight as it has not been examined and there are objections to its employment policies. In any event Policy EC2 of the CS includes similar criteria to Policy EC2/1 of the UDP against which I have found a reasonable degree of compliance.

#### *Sequential Test*

13. A sequential test should be applied to main town centre uses that are not in an existing centre in accordance with paragraph 24 of the Framework. The site is on the edge of the Bolton Road/Bury Bridge Local Centre. There are no other sequentially preferable sites in or on the edge of the local centre which have been drawn to my attention. Although there is a need to cross the multi-lane A56 between the appeal site and the local centre, the improved pedestrian crossing facilities directly linking the site frontage and store car park with the parade on the southern side of Bolton Road and other highway modifications would improve the accessibility between the two sides of the road and encourage linked trips.
14. The recently developed Aldi Foodstore at Crostons Retail Park is further away from the local centre and is not as well connected with it as the appeal proposal. Despite being within 300m as measured as a straight line distance I would describe it as out-of-centre due to the convoluted pedestrian routes involved. Whilst the existing discount foodstore could be said to meet the quantitative and qualitative convenience shopping needs of the local area it does

not enhance the local centre in the same way that the appeal proposal would because of its more tenuous relationship with it. The existence of the Aldi foodstore should not preclude a sequentially preferable foodstore and bulky goods unit being developed which would integrate better with the local centre.

15. It is noted that the appeal site is within a 5 minute drive time of Bury Town Centre and some of the trade would come from other areas of the town. However, I do not consider that the sequential test should extend to include an assessment of sites in or on the edge of Bury Town Centre or other centres as the proposal relates to a specific local centre and is on the edge of it.
16. I conclude that there are no other more suitable sites in or on the edge of the Bolton Road/Bury Bridge Local Centre for the proposed development in accordance with the sequential test set out in paragraph 24 of the Framework. The site is well-connected to the local centre and Bury Town Centre. Therefore, the proposal satisfies the sequential test.

#### *Vitality and Viability*

17. Policy S1/4 of the UDP encourages a range of shopping facilities in local shopping centres required to serve purely local needs. The foodstore and bulky goods unit would be of significant scale in comparison to the floorspace within the local centre and would generate trips other than by foot and cycle. However, although some of the trade for the store would come from beyond the local catchment, the majority would be from residents relatively local to the centre. Most of its customer base is likely to come from the extensive residential areas of Elton and adjoining areas to the west of Bury Town Centre. In terms of the existing local centre there is no convenience shopping that would be affected by the proposal. Indeed it would be in direct competition with the new Aldi store nearby. Taking trade from an out-of-centre store would not lead to harm to the vitality and viability of an existing centre.
18. It is noted that local councillors and the MP point out that there is no equivalent convenience provision in the Church Ward. Whilst the Aldi store serves a similar purpose, the appeal proposal would also meet local convenience shopping needs of a deprived area and reduce the propensity for longer journeys for convenience shopping. The store would be accessible by foot, on bicycle and through use of the frequent bus services along Bolton Road.
19. In view of the level of integration of the store with the local centre the proposal would benefit the local centre. There is no evidence that the proposal would have a significant adverse impact on Bury Town Centre or any other centres. The store is below the 2500 sq m threshold for impact assessment in paragraph 26 of the Framework. Although the Policy EC5 of the CS proposes a lower threshold, the emerging plan has not reached a stage where much weight can be attributed to its policies, particularly as there are objections to Policy EC5.
20. Accordingly, although the retail development would serve more than local needs, its impact on Bury Town Centre and other shopping centres would be acceptable. In particular the foodstore would not have a significant adverse impact on the vitality and viability of Bury Town Centre or any other shopping centres. Moreover, the proposal would enhance the local shopping centre; adjoin an existing centre; sustain the vitality and viability of the local centre;



and would be accessible by public transport. The proposal would go beyond the requirement of Policy S1/4 to serve purely local needs but is more policy compliant than the Aldi Store and generally accords with Policies S1/4 and 2/1 in other respects. As the site is immediately adjoining an existing centre I regard the above retail policies as the most relevant rather than those which relate to out-of-centre development (S4, S4/1 and S4/2).

#### *Other Issues*

21. The proposal would lead to a significant improvement in the appearance of this prominent gateway site. The proposed hard and soft landscaping would enhance the environment of the important transport corridor.
22. The Council has referred to obligations that it considers are required relating to financial contributions for employment and public art. No unilateral undertaking or legal agreement under Section 106 of the Planning Act is before me. In relation to the former, SPD14 does not require such payments for mixed use development and I can see no development plan policy basis for the payment. So far as the public art contribution is concerned Policy EN1/6 of the UDP encourages the incorporation of public art in new developments but does not go beyond that. The obligations requested by the Council would not meet the tests within the Community Infrastructure Regulations and the Framework and, as a result, they are not necessary to make the development acceptable in planning terms.

#### *Conditions*

23. I have considered the conditions suggested by the Council. It is necessary to specify the approved plans in the interests of proper planning and for the avoidance of doubt. Details of external materials and landscaping are needed in the interests of the appearance of the development. The landscaping scheme would need to be amended to safeguard access to the adjacent canal retaining wall. Although a 5m easement for the retaining wall would not be necessary as there would be room on the site for maintenance of the structure without such a corridor, a working method statement should be drawn up.
24. Further details of the highway works, including pedestrian crossing, are required in the interests of the safety of all road users and to ensure that links across Bolton Road are enhanced. Visibility splays at the site entrance will need to be maintained. Parking, bicycle stands and servicing need to be secured in accordance with the submitted plans. In view of the limitations of the service yard for the smaller unit, a delivery management plan is needed to ensure that the appropriate size of vehicle is used. A car parking management scheme would be necessary to enable customers to undertake linked trips with the local centre.
25. Given the previous use of the site as a gas works and the recommendations of the Preliminary Risk Assessment, site investigation and remediation are necessary. Drainage details are required to ensure a sustainable solution is sought. Safeguards are required during construction and these would be best secured by a construction management plan.
26. The smaller building which includes the B1/B8 unit is an important component of the mixed-use development and a condition should be imposed to secure its provision alongside the foodstore.

27. There are no dwellings close to the proposed foodstore and it is adjacent to a busy road. Restrictions on the opening hours of the retail unit are not warranted.

### **Conclusions**

28. The proposal would be acceptable when judged against the three main issues. The development would also achieve economic, social and environmental gains so providing sustainable development. In particular the proposal would provide jobs, enhance the shopping function of the local centre and improve the built environment. There are some tensions with development plan policies, particularly those relating to the protection of employment land. However, in light of the Framework's objective of avoiding the long term protection of sites allocated for employment use where there is no reasonable prospect of a site being used for that purpose, relevant Policy EC1/1 in particular is out-of-date. The adverse impacts of granting planning permission would not significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework as a whole.
29. For the above reasons the appeal should be allowed and planning permission granted, subject to the conditions discussed above.

*Mark Dakeyne*

INSPECTOR

Attached – Schedule of Conditions

## **SCHEDULE OF CONDITIONS**

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans except in respect of the tree planting shown on Drawing Nos.: 1127/01/Rev H and R/1446/1:  
Proposed Site Layout Drawing No 1127/01/Rev H  
Proposed Elevations Drawing No 1127/02 Rev B  
Proposed Floor Plan Drawing No 1127/03 Rev A  
Proposed Unit 2 Floor Plan and Elevations Drawing No 1127/05 Rev B  
Landscape Masterplan Drawing No R/1446/1  
Landscape Details Drawing No R/1446/2  
Lighting Proposals Spill Light Levels/Car Park LED Drawing 19/06/2013 Rev A  
Lighting Proposals General Lighting Levels/Car Park LED Drawing 19/06/2013 Rev A
- 3) No development shall take place until samples of the materials to be used in the construction of the external surfaces of the buildings hereby permitted have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
- 4) Notwithstanding the details indicated on Drawing Nos.: 1127/01/Rev H and R/1446/1, further details of landscaping shall be submitted to and approved in writing, incorporating tree planting in an alternative location to that shown on the above plans.
- 5) All hard and soft landscape works shall be carried out in accordance with the details approved under condition no 4. The works shall be carried out prior to the occupation of any part of the development or in accordance with the programme agreed with the local planning authority.
- 6) No development shall take place until a Method Statement demonstrating how the retaining structure to the western boundary of the site is to be maintained shall be submitted to and approved in writing by the local planning authority. Provision to enable the measures within the Method Statement to be carried out shall be made on the site thereafter.
- 7) No development shall commence until full details of the following works have been submitted to and approved in writing by the local planning authority:
  - (a) signalisation of the Bolton Road/Victoria Street junction, including the pedestrian crossing facilities;
  - (b) formation of the site access;
  - (c) proposals to remove existing on-street limited waiting bays on the easterly side of Victoria Street;
  - (d) independent Stage One and Stage Two Safety Audits carried out in accordance with current standards; and,
  - (e) a programme for the implementation of the highway works.The works shall be implemented in accordance with the approved details and programme.

- 8) The visibility splays indicated on Drawing No Appendix 3.3 of the Transport Statement shall be provided before the development is brought into use and thereafter maintained free of obstruction above a height of 0.6m measured from the nearside carriageway edge.
- 9) The car parking, servicing and turning areas and cycle stands shall be completed and be available for use in accordance with Drawing No 1127/01/Rev H prior to the occupation of any part of the development hereby permitted and thereafter retained for parking, servicing and turning.
- 10) No development shall commence until a Delivery Management Plan has been submitted to and approved in writing by the local planning authority, incorporating details of the size of future delivery vehicles. The Delivery Management Plan shall be adhered to whenever the development is in use.
- 11) No development shall commence until a Car Parking Management Strategy has been submitted to and approved in writing by the local planning authority, incorporating measures to ensure that the parking will be available for a minimum of 90 minutes for customers of nearby businesses. The Car Parking Management Strategy shall be adhered to whenever the development is in use
- 12) Prior to the commencement of the development an investigation and risk assessment report of any contamination on the site shall be completed in accordance with a scheme that shall have been submitted to and approved in writing by the local planning authority. If the report indicates that remediation is necessary, details of a remediation scheme shall be submitted to and approved in writing by the local planning authority. The remediation scheme shall include all works to be undertaken, remediation objectives and remediation criteria, a timetable of works and site management procedures and shall be carried out in accordance with the approved details and timetable of works. Written notification of the commencement of the remediation scheme shall be given to the local planning authority at least 2 weeks before the start of the remediation works and a validation report that demonstrates the effectiveness of the remediation carried out shall be submitted to and approved in writing by the local planning authority prior to the first occupation of any of the development hereby permitted. If during the course of the development contamination not previously identified is found to be present at the site, no further development shall be carried out until an amendment to the remediation scheme giving details of how to deal with this contamination has been submitted to and approved in writing by the local planning authority. The remediation measures shall thereafter be carried out in accordance with the approved amended details.
- 13) Development shall not begin until foul and surface water drainage details have been submitted to and approved in writing by the local planning authority. The drainage works shall be implemented prior to the occupation of any of the development hereby permitted in accordance with the approved details.
- 14) No development shall take place until a Construction Method Statement has been submitted to, and approved in writing by, the local planning

authority. The approved Statement shall be adhered to throughout the construction period. The Statement shall provide for:

- i) the parking of vehicles of site operatives and visitors;
  - ii) loading and unloading of plant and materials;
  - iii) storage of plant and materials used in constructing the development;
  - iv) the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;
  - v) wheel washing facilities;
  - vi) measures to control the emission of dust and dirt during construction; and,
  - vii) a scheme for recycling/disposing of waste resulting from demolition and construction works.
- 15) The retail unit hereby permitted shall not be occupied until the building providing the 325 sq m (Class B1/B8) unit and the 325 sq m trade/bulky goods unit (Class A1) has been completed and is available for use.

**END OF SCHEDULE OF CONDITIONS**

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## Costs Decision

Site visit made on 15 July 2014

**by Mark Dakeyne DipTP MRTPI**

**an Inspector appointed by the Secretary of State for Communities and Local Government**

**Decision date: 8 September 2014**

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### **Costs application in relation to Appeal Ref: APP/T4210/A/13/2208390 Elton Gasworks, Victoria Street, Bolton Road, Bury BL8 1LE**

- The application is made under the Town and Country Planning Act 1990, sections 78, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
  - The application is made by Lidl UK and City Park Projects Ltd for a full award of costs against Bury Metropolitan Borough Council.
  - The appeal was against the refusal of planning permission for the erection of a 1598 sq m retail foodstore (Class A1), a 325 sq m (Class B1/B8) unit and a 325 sq m trade/bulky goods unit (Class A1) together with car parking and landscaping.
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### **Decision**

1. The application for an award of costs is refused.

### **Reasons**

2. The Government's Planning Practice Guidance advises that, where a party has behaved unreasonably, and this has directly caused another party to incur unnecessary or wasted expense in the appeal process, they may be subject to an award of costs.
3. In relation to the reason for refusal about loss of employment land it was reasonable for the Council to come to a planning judgement that the proposal would not constitute limited development and would substantially detract from the value of the Employment Generating Area (EGA) on the basis of the size of the site and the significant element of non-employment development. Therefore, conflict with Policy EC2/1 of the Bury Unitary Development Plan (UDP) was substantiated.
4. Notwithstanding that the site lies within an EGA, I came to the view in the appeal decision that it was reasonable to have regard to Supplementary Planning Document (SPD) 14. It was not necessary to demonstrate that the proposal constituted an exceptional circumstance. Moreover, the requirements of SPD 14 for an appraisal and robust marketing were means that the Council could rely on to demonstrate that there was no reasonable prospect of a site being used for solely for employment use in accordance with paragraph 22 of the National Planning Policy Framework (the Framework) in any event.
5. The appellants did not produce an appraisal and the recent marketing was not solely for employment uses. In addition, based on recent proposals and use of the site, there was evidence that an employment use might come forward. Having regard to these factors it was reasonable for the Council to come to a judgement that the case had not been made.

6. With regard to the retail based reasons for refusal, the relevant development plan policy for local centres (Policy S1/4 of the UDP) refers to shopping facilities to serve purely local needs. The development was of scale that went beyond meeting purely local needs. Therefore, notwithstanding the lack of a separate test in the Framework on scale and the development being below the 2500 sq m threshold for an impact assessment, it was reasonable for the Council to consider the proposal in the context of the shopping needs of the local centre. The Council rightly acknowledged that the proposal would not have a significant adverse impact on the vitality and viability of existing centres but this did not mean that it was unnecessary to consider local needs in view of the policy context.
7. Due to the recent opening of the Aldi Store, the position that the convenience shopping needs of the local area and centre had been met was a respectable stance to take. Moreover, it was then reasonable to suggest that the proposed foodstore, together with the Aldi store, would have a customer base well beyond the local area and that a wider application of the sequential test was warranted. I have come to a different view on the relationship of the respective stores to the local centre and the application of the sequential test but that does not mean that the Council's stance was without substance. Moreover, it is understandable that the Council accepted the Aldi proposals in view of the unfettered permission applicable to that unit and the relatively modest extension proposed even if the store was less sequentially preferable.
8. The Aldi objection and their proposal for a store nearby came to light late in the application process but the Council needed to take it into account. The Council gave the appellants the opportunity to comment on the scope of their sequential assessment in view of the objection from Aldi. I am satisfied that representations in support of the proposal were taken into account by the Council but the Aldi submission was of particular relevance in considering the retail issues. The reason for refusal relating to the sequential test emerged from the Council's consideration of the representations and the application of national policy and was substantiated. There is nothing before me to indicate that the process demonstrated unreasonable behaviour by the Council.
9. The incorrect Committee report was sent with the questionnaire. When this was realised this was rectified. The appellants were therefore provided with the correct report and were clearly aware of the Council's case. Indeed the appellants' appeal statement includes the correct documentation. The appellants were not put to any significant unnecessary expense by this administrative error.
10. In conclusion the development was not one that clearly should have been permitted having regard to relevant development plan and national policies and other material planning considerations. Unreasonable behaviour resulting in unnecessary or wasted expense has not been demonstrated.

*Mark Dakayne*

INSPECTOR