

## **Development Control Committee 4 September 2014**

**Item 5.01** 4/01317/14/MFA CONSTRUCTION OF A FOODSTORE (CLASS A1) WITH RESIDENTIAL DEVELOPMENT (30 UNITS) ABOVE TOGETHER WITH CAR-PARKING, LANDSCAPING, ACCESS, LANDSCAPING AND ASSOCIATED ENGINEERING WORKS ON LAND AT GOSSOMS END / BILLET LANE, BERKHAMSTED LIDL - LAND FORMERLY ROY CHAPMAN LTD AND DAVIS AND SAMSON, GOSSOMS END, BERKHAMSTED, HP4 3LP

### **APPENDIX**

#### **Spatial Planning Comments**

##### **Pre-application policy comments on this proposal**

Please refer to:

- Our comments of 23 October 2013 on the pre-application scheme (4/01779/13/PRE).
- Attachment 4 to my email to you dated 28 March 2014, which provided my comments on GVA's draft Planning and Retail Statement.
- My email to you of 17 April 2014, which responded to a request from Nick Hardy (GVA) for comments on some key policy issues.

The main points we made in relation to these bullet points are summarised below.

##### **Comments on 4/01779/13/PRE**

Our comments examined three key issues relating to loss of the existing employment land and the proposed retail development. We reached the following overall conclusions on these issues:

"There are strong grounds to retain the site for B class uses. Consequently, retail/housing development should not be permitted unless a very compelling case is put forward which provides clear justification for making an exception to Local Plan Policies 31 and 44 and Core Strategy Policies CS15 and CS16. At present we are far from convinced that such a case can be established, taking account of the limited quantitative and qualitative need for a discount food store in Berkhamsted, the poor location of the site in terms of the sequential test and the potential impact on Berkhamsted town centre (including whether it would seriously affect the prospects of delivering development on the Water Lane site). If a planning application is submitted, it should be accompanied by detailed evidence to address the concerns identified above."

One of the key issues examined in our comments was Issue 2: Is there a need for a discount food store in Berkhamsted? In considering this issue, we referred to the Dacorum Retail Study Update 2009 produced by DTZ for the Council. Paragraph 4.16 in this document stated that:

"In relation to the strong demand from "deep discount" food stores, it is evident that there is an absence of this type of retailer in Dacorum. In the current economic climate, it is likely that demand for discounted foods will increase. However, it should be noted that not all of the food retailers expressing interest would necessarily open new stores in Hemel

Hempstead, Berkhamsted or Tring, even if sites were made available with planning permission. It would depend upon the retailers assessments of the market potential at that time. It is highly probable that if one retailer succeeded in gaining permission for a new store, the interest of others would be reduced (particularly in the smaller towns of Berkhamsted and Tring), because the first retailer would by then have reduced the perceived market opportunity. It also does not necessarily mean that these retailers are seeking to open new stores in any of the towns – they may instead seek to purchase existing stores or one of the companies operating them, and rebrand such stores to their own formats. Overall however, we consider that the demand from food retailers should be sufficient to support one new food/non-food superstore in Hemel Hempstead, together with up to about 2 or 3 discount supermarkets. In each of Berkhamsted and Tring, we would not expect more than at most one new discount supermarket to be developed, if suitable sites became available.”

Paragraph 8.6 in the ‘principal conclusions and recommendations’ section of the DTZ report advised the Council that:

“In Berkhamsted, there will be a theoretical oversupply of convenience goods floorspace in 2011, which should be eliminated by the end of the forecasting period to 2031. This means that the foodstores and other convenience goods shops in Berkhamsted will be likely to trade at a little below the level based on estimated 2006 company averages for most of the forecasting period, and there will be no quantitative need for any further floorspace before 2031, if forecast trends occur. However as in Hemel Hempstead, there could be a qualitative need case for permitting a deep discount supermarket at an earlier date, because of the lack of such stores in the town at present.”

Based on DTZ’s advice, we concluded that there is no quantitative need for a discount food store in Berkhamsted. There could be a qualitative case for permitting such a store, but there is no need to allocate a site in the Local Planning Framework.

We also addressed a few more minor issues in our comments on 4/01779/13/PRE, as summarised below:

**(i) Housing:** if a food store was accepted in principle, then the inclusion of housing on the upper floors will be welcome. We also welcomed the proposals for affordable housing in accordance with the Council’s policies.

**(ii) Car parking:** the proposed car parking provision is acceptable.

**(iii) River Bulbourne:** the river should be enhanced.

**(iv) Design:** a high quality scheme should be sought in this visually prominent location.

**(v) Highways:** access is an important issue as the proposal may significantly increase turning traffic movements onto and off the busy A4251.

### **Comments on GVA’s draft Planning and Retail Statement**

We considered that the draft statement was very helpful. However, our comments suggested various changes that we felt should be made to the document before it was finalised as part of a planning application submission. In response to paragraph 7.65 in the draft statement, we commented that:

“...advice from a local commercial agent would help the Council greatly in deciding whether a policy exception should be made. This advice should assess the prospects of B-class

uses being attracted to the site if it was vacant and subject to a marketing exercise. The commercial advice should look at the attractiveness of the site to different types of B-class use (particularly offices and light industrial). It should also deal with both the potential for re-use of the existing buildings and for redevelopment of the site for B-class purposes.”

### **Comments on key policy issues raised by GVA**

On 16 April 2014, Nick Hardy (GVA) sent you an email seeking our comments on some key policy issues. Our response was set out in my 17 April to you and included the following points:

“1. We accept that the NPPF does not require ‘need’ to be demonstrated. However, the proposed development is contrary to the Council’s planning policies. Therefore, we need to decide whether an exception to policy should be made. This issue was addressed in our comments of 23 October 2013 on the pre-application scheme (4/01779/13/PRE).” (See page 1 above for what we said on this issue at the time)

“GVA’s draft ‘Planning and Retail Statement’ provides most of the information we need to decide whether to make an exception to policy. We will reach a final view on this matter once the Planning and Retail Statement has been revised to reflect our comments on it and the evidence from local commercial agents has been received (see our comments on paragraph 7.65 of the draft statement).

2. We agree that there are no more centrally located sites/premises that would be suitable or available to accommodate the development that is proposed.

3. We agree that the impact levels identified would not represent a significant adverse impact on existing or planned floorspace, having regard to the health of Berkhamsted town centre.”

### **Site Allocations Development Plan Document**

The Pre-Submission version of the Site Allocations Development Plan Document (DPD) was approved for public consultation purposes by the full Council on 9 July and is due to be published in September for a 6 week period of consultation.

The draft Site Allocations written statement takes on board the ongoing discussions with Lidl in deciding what uses to allocate on the site. It includes the current application site in the Schedule of Mixed Use Proposals and Sites. The site is referred to as site MU/7: Gossoms End/Billet Lane, Berkhamsted. The proposal for MU/7 is “new foodstore and housing (30 homes)” and the planning requirements are as follows:

“Main access from Gossoms End and secondary access from Billet Lane. Proposal can deliver a mix of convenience retailing (foodstore) and housing, subject to retailing having a satisfactory impact on the town centre. High density houses or flats acceptable. Sensitive relationship of buildings to the River Bulbourne required. Flood risk assessment to be undertaken.”

In addition, chapter 5 of the draft written statement on ‘supporting retail and commerce’ includes:

- the application site and the adjoining Majestic Wine site as the Gossoms End/Billet Lane out of centre retail location in Table 1. The main use proposed is food retailing.
- the application site in the Schedule of Retail Proposals and Sites.

The Pre-Submission version of the DPD has some weight as a material consideration in determining planning applications now that it has been approved by full Council.

### **Current planning application**

4/01317/14/FUL is accompanied by a revised version of GVA's Planning and Retail Statement. Many of the changes made to this statement reflect the points in attachment 4 to my 28 March email and are welcome. However, there are still some aspects of the statement that we do not think are entirely correct. Nevertheless, these concerns do not affect our overall conclusions on this application (see below).

We are pleased that the Planning and Retail Statement now includes a commentary on the prospects for re-use or redevelopment of the site for B-class employment purposes (see paragraphs 7.56-7.65). This commentary is based on advice from local property consultants, Brasier Freeth. In the light of Brasier Freeth's advice, we consider that it is far from certain that suitable new B-class uses would be attracted to the site, if it was marketed for such purposes.

Paragraphs 7.66 and 7.67 in the Planning and Retail Statement provide information on employment numbers. In particular:

- Lidl will employ approximately 40 full time equivalent workers.
- The existing uses in the site (Roy Chapman (car showroom and workshop) and Davis and Sampson (demolition contractors)) both currently employ about 15 people on the site.
- Roy Chapman are looking to relocate the service centre part of the business in the area, which would maintain the majority of the existing staff. Davis and Sampson wish to relocate in the Borough.

In view of the above, we do not consider that there is any case to refuse the application on loss of employment grounds, particularly as no suitable alternative site has been identified for the Lidl store.

### **Conclusions**

We conclude that it would be appropriate to make an exception to policy and accept the principle of the proposed redevelopment. The main factors leading us to this conclusion are:

- Qualitative need: there is a qualitative case for permitting a discount supermarket in Berkhamsted.
- Sequential test: there are no more centrally located sites/premises that are suitable or available to accommodate the proposed Lidl store.
- Impact on Berkhamsted town centre: the impact levels identified would not represent a significant adverse impact on existing or planned floorspace, having regard to the health of the town centre.
- Prospects for attracting suitable new B-class uses: it is far from certain that suitable new B-class uses would be attracted to the site, if it was marketed for such purposes.
- Housing element: the inclusion of housing on the upper floors of the proposed development is welcome, as is the inclusion of affordable housing provision in accordance with the Council's policies.

- Site Allocations: the proposed development is in line with the draft Pre-Submission Site Allocations DPD.
- Jobs: there is no case to resist the application on loss of employment grounds, as the proposals are likely to result in a small net increase in jobs even if the existing firms do not relocate within the Borough, or a larger increase if they do relocate.

Please contact Strategic Planning and Regeneration if you have any questions.

**John Chapman**  
**Strategic Planning and Regeneration Officer**

## Hertfordshire Highway Authority Comment

### Response to Planning application from Hertfordshire County Council (T and CP GDP Order 1995)

**District ref:** 4/01317/14/MFA

**HCC ref:** DA/258/2014

**HCC received:** 18/06/2014

**Area manager:** Nick Gough

**Case officer:** David Varney

#### Location

Land Formerly Roy Chapman Ltd & Davis and Samson

Gossoms End

Berkhamsted

HP4 3LP

#### Application type

Full application

#### Proposal

Construction of a foodstore (class A1) with residential development (30 units) above together with car-parking, landscaping, access, landscaping and associated engineering works on land at Gossoms End / Billet Lane, Berkhamsted

#### Decision

Notice is given under article 16 of the Town and Country Planning (Development Management Procedure) (England) Order 2010 that the Hertfordshire County Council as Highway Authority does not wish to restrict the grant of permission subject to the following conditions:

Application: DA/258/2014 District Ref: 4/01317/14/MFA Site: Land Formerly Roy Chapman Ltd & Davis and Samson, Berkhamsted

1. Within 3 months of occupation of the development, a Green Travel Plan shall be submitted and approved by the local planning authority in consultation with the highway authority.

Reason; to encourage the use of non-car modes of transport

2 The development shall not be occupied until the access and car parking areas have been constructed. The car parking and turning areas so provided shall be maintained as a permanent ancillary to the development and shall be used for no other purpose at any time.

Reason: To ensure that adequate parking is provided at all times so that the development does not prejudice the free flow of traffic or the conditions of general safety along the adjacent highway, or the amenities and convenience of existing local residents and businesses.

3 Best practical means shall be taken at all times to ensure that all vehicles leaving the site during demolition and construction, are in a condition, such as not emit dust or deposit mud, slurry or other debris on the highway.

Reason: To minimise the impact of construction vehicles and to improve the amenity of the local area.

4 All areas for storage and delivery of materials associated with the construction of this development shall be provided within the site on land, which is not public highway, and the use of such areas must not interfere with the use of the public highway.

Reason: In the interest of highway safety and free and safe flow of traffic

Advisory Note:

AN1. The applicant should be advised that the roads within the site would remain private ownership. Arrangements for parking arrangements and the long term maintenance of them

should be made by the applicant/ developer. However the highway authority would encourage the applicant to design and build the internal road layout to adoptable standard. Guidance on the highway design standards required and procedures followed by the highway authority are set out in the highway authority's design guide Roads in Hertfordshire which can be read/ downloaded at <http://www.hertsdirect.org/services/transtreets/hertscountravsurv/infdev/roadsinherts/>.

#### Highway Requirement: Section 106 Agreement

Planning permission shall be granted subject to the completion of a Section 106 Agreement between the applicants, Dacorum Borough Council and Hertfordshire County Council to secure the following:

- A Section 278 Agreement (Highways Act 1980) for the construction of the required off site highway works: Creation of new vehicular access and widening of the footway to 3m along the frontage as part of the safer routes to school package of works
- A financial contribution of £56,000 towards the County Council's sustainable transport programmes.

#### HIGHWAY COMMENT

This application is for full planning permission to build a new Lidl food store and 30 residential units at first and second floor level at a site at the junction of the A4251 Gossom's End and Billet Lane, Berkhamsted. The eastern part of the site includes the offices and storage yard of Davis and Samson Ltd, a firm of demolition contractors. The western part of the site is occupied by Roy Chapman Ltd as a car showroom and workshop. The site is approximately 0.6 hectares in area, with the main frontage to the A4251 and a shorter frontage to Billet Lane. The A4251 is a main distributor, principal road, classified A, which provides vehicular links from Berkhamsted to Hemel Hempstead in the east and Tring to the west. The second vehicular access would be off Billet Lane and would only serve the residential element of the development.

The proposed food store would have a net sales area of 1,207 square metres. The foodstore would be served by 68 car parking spaces, 4 of which would be allocated as disabled spaces and 3 as parent and child spaces. The car park would be accessed from the A4251. The application also includes the construction of 30 residential units at first and second floor level, comprising 14 one-bedroom units and 16 two-bedroom units.

The scheme would provide a further 32 under-croft car parking spaces and 12 other dedicated spaces to serve the residential element adjacent to the rear residential entrance. Access to the residential parking would be from Billet Lane, and so separate from that to the foodstore.

Vehicle access: A4251 As stated above this new access would be the main access to the food store. The footway at the current two other existing accesses would be reinstated as they would no longer be required. Ongoing consultation with the applicant at both pre application and full application has gone on to get the new access to an acceptable standard. This has included an interim safety audit but further work normally associated with a legal section 278 agreement would still need to be undertaken as part of any new access onto the highway. Drawing number 140202/01/B showing the new access and changes to the highway layout would still need further design checking as part of the legal process and may be subject to change. Visibility along the highway from the proposed new access onto the A4251 is acceptable and consistent with other accesses along this local distributor road. It complies with "Sightlines at Junctions (Ref: Design Manual for Roads and Bridges Volume 6 (Road Geometry) Section 1 (Highway Link Design) Table 2.". It also accords with the highway authority's own guidance set out in table 4.1.1.1 of highway design guide 'Roads in Hertfordshire'. However, recent discount food stores opened in Hemel Hempstead have

created localised congestion at peak shopping times as motorists wanting to shop, wait for parking spaces to become available. The net result is motorists queuing on the highway until parking spaces become available. The applicant is proposing to include a ghost island layout with a 'keep clear' road marking across the nearside lane (southbound) which will enable cars turning into the store to make that manoeuvre. This should keep the northbound carriageway free and prevent traffic from backing up to the traffic signals. As part of the Section 278 off site works, which includes design checking and safety auditing, the right turn manoeuvre out of the store will be reviewed and any amendments made then. The proposed new access has already been subjected to an interim safety audit and slight enhancements have been made by the applicant to include layout changes that were required of that audit.

Vehicle access<sup>2</sup>: Billet Lane As mentioned above the exiting access onto Billet Lane would continue to be used and would serve the proposed residential units only. Service vehicles would use this access but it is expected that this would not generate significant levels of movement. This access currently serves the demolition business and has frequent heavy goods movements to and from it.

Existing traffic levels, junction and collision data The A4251 is a busy main distributor road. The most recent and nearest traffic count survey was carried out, week beginning 31st of January 2012 for one week. The survey shows that the 5 day average flows for each direction i.e. northwest bound and southeast bound is in excess of 6500 peaking at 7000 + vehicles. The 7 day average reduces this to just under than 6000 vehicles due to the inclement weather (snow) which affected the Saturday and Sunday counts. The week day am and pm peak averages out to be between 08:00 am and 17:00 pm northwest bound and 08:00 and 15:00pm southeast bound, with in excess of 500 vehicle per hour traveling past this site peaking at 773 in the pm heading northwest bound on Friday the 3rd February. The rolling five year injury collision records kept by Hertfordshire County Council show that there have been four recorded injury collisions two slight and two serious in that period. They are as follows: The first was at the junction of Durrants Lane and the A4251 on 3rd May 2009. The second was at the junction of Billet Lane on 1st February 2012. The two collisions resulting in slight injuries were also at the junction of A4251 heading into Billet Lane. It is clear that the current accesses off the A4251 have no recorded injury collision data at present nor are there any where the proposed access would be built. The highway authority have also had a recent traffic survey undertaken that shows the types of vehicles and direction of movement at the junction of Billet lane and the A4251. This is a signalised junction and the survey which was carried out in March 2013 shows the modal split of vehicles and direction of travel. This shows directional travel movement from Billet Lane onto the A4251 and vice versa. The above data helps the highway authority understand how the current highway network is operating which in turn helps form a base line to assess how the proposal may impact of the highway network. In response to early dialogue with the highway authority, the applicant has submitted a Transportation Assessment (TA) which looks at the likely effects of the discount foodstore and what measures may be needed to mitigate against increased traffic, congestion, sustainability of the site etc.

Transport Assessment: The Transportation Assessment (TA) submitted in support of this application appears to have been prepared in accordance with the requirements of the highway authority as set out in chapter 7 of section 1 of Roads in Hertfordshire.

Vehicle trip generation for food store element The applicant has provided an assessment of predicted trip rates using the industry-standard TRICs database. The highway authority can confirm the predicted trip rates are appropriate for the proposed development. The applicant has demonstrated that during the weekday evening peak hour (16:30-17:30) the proposed discount food store would be likely to generate 51 trips in and 56 trips out. The applicant then assumes that around 30% of the trips would be passing the site in any event as parts of existing non-food shopping journeys such as the journey home from school or work. Taking that into account the food store would be likely to generate 36 new trips in and 39 out in the evening peak hour. It should be noted that the applicant has not used the trips generated by



the existing uses to justify a reduction in the overall impact of the development. Therefore for the assessment for the highway capacity all the trips generated by the proposal are considered reasonable.

**Vehicle trip generation for residential element** The highway authority can confirm the predicted trip rates are appropriate for the development. The applicant has demonstrated that during the evening peak hour (16:30-17:30) the proposed apartments would generate 4 trips in and 2 trips out.

**Trip distribution** The trip distribution of traffic has been based on the catchment area the residential development. For example, during the evening peak hour out of the total of 39 trips leaving the site, 12 cars are predicted to travel northwest and 27 cars to the southeast along Gossom's End.

**Future Growth** The Transportation Assessment states that the background traffic growth has been calculated using TEMPRO V6.2 and NTM AF09 derived growth factors to 2013 and 2019. This approach and the resulting growth factors are considered acceptable.

**Junction Capacity** A review of the geometric input data for the new junctions concluded that the PICADY modelling carried out for weekday evening peak hour flows are reasonable. It is normal to assess traffic flows on Saturdays for proposed food stores or local shops. Saturday peak hour flows have been compared to those from weekdays in data held by HCC. They are similar enough for the weekday modelling alone to be acceptable to the highway authority.

**Parking** The level of off-street parking the site would need to offer should accord with the local planning authority's own parking standards which are based on maximum numbers. The LPA also have their Supplementary Planning Guidance notes (SPG) which look at a zonal approach to parking areas across the borough and allow for further reductions in the level of off street parking dependant on the zone. The site falls just outside of a zone but abuts zone 3 which runs along Billet Lane and then back towards the town centre along the A4251. If permitted this would further decrease the level of off street parking between 50% to 75% of the maximum demand based standard. As stated above the appropriate level of overall off-street parking will be determined by the local planning authority.

**Accessibility** The closest main bus routes are the 354, 500/501 and 502/532. The distance to catch these services is about 150 metres. Basic frequencies are as detailed in the Transportation Assessment. The stops are provided with timetables and flags. Footways are too narrow to allow shelter provision although it may be possible to introduce easy access kerbing and bus stop cage marking on the road. Ideally the stops would be relocated to the other side of the Billet Road junction subject to safety audit as the wider footways would allow shelters to be provided. Further enhancements could also include introduction of real time passenger information (RTPI) screens. For kerbing enhancements and shelter provision a cost of £16,000 per stop should be allowed. For two additional RTPI screens a cost of around £30,000 should be allowed.

Berkhamsted railway station is approximately 1.5 kilometres (1mile) from the site. Frequent trains services into London Euston are available with up to 5 departures/arrivals in the morning and afternoon peaks. Journey times range between 36 and 38 minutes. Trains northwards to Milton Keynes, Rugby and Birmingham (incl. airport) also stop at the station. Buses services also stop outside the station. Plusbus ticketing is available from the station and allows use of most operators' services in the area. Cycle commuting is encouraged with cycle parking available at the station.

In order to improve pedestrian and cycling facilities locally the applicant's transport consultant has agreed to the widening of the footway along the Gossom's End frontage of

the site. This will give the highway authority the ability to provide a shared use cycle route when the adjoining lengths are widened.

#### Planning obligations

It is the policy of the County and Borough Councils to seek planning obligations to mitigate the effects of development. HCC's requirements in respect of highways and transport are set out in section 11 of the document 'Planning Obligations Guidance - Toolkit for Hertfordshire (Hertfordshire County Council's requirements)'. This can be read and downloaded from <http://www.hertsdirect.org/your-council/hcc/resandperf/hertsprop/planningobs/>.

In accordance with the Toolkit I recommend a 'first strand' contribution of £32,000 towards improvements to the nearest pair of bus stops to meet accessibility requirements and relocate to allow for shelters provision to be provided.

HCC recommend a pooled 'second strand' contribution calculated in accordance with Table 1 and Section 11.13, Non Residential Development of the Toolkit. This equates to £56,000 index-linked from July 2006. This is based on the figure given in Section (10) of the application form which states that there will be 112 off street parking spaces provided. This element can be reduced by the amount of any Travel Smart contribution sought by the local planning authority. Planning obligations so derived would be used as a contribution towards the provision of real time passenger information screens at the 2 nearest bus stops and/ or other measures identified in the Tring, Northchurch and Berkhamsted Urban Transport Plan. This Plan can be read/ downloaded at <http://www.hertsdirect.org/services/transtreets/tranpan/tcatp/17766145/>.

#### Conclusion

Hertfordshire County Council as highway authority has considered that the proposal would not have an unreasonable impact on the safety and operation of the adjoining highways. This proposal is unlikely to have a significant impact on the safety and operation of the adjacent highway, consequently the Highway Authority does not consider it could substantiate a highway objection to this application. The Highway Authority has no objection subject to the above conditions to the grant of permission.

**David Varney**  
**Date 20/08/2014**

## **Berkhamsted Town Council Comments**

4/01317/14/MFA Construction of a Foodstore (Class A1) with residential development (30 units) above together with car parking, landscaping, access, landscaping and associated engineering works on land at Gossoms End / Billet Lane, Berkhamsted Lidl – land formerly Roy Chapman Ltd and David & Samson, Gossoms End. (AP)

It was **RESOLVED** to suspend Standing Orders to allow Miss Corry of Gossoms Ryde to speak against this application.

Miss Corry expressed concern regarding:

- The proposed mixed use of foodstore and accommodation at this site.
- The lack of outside space for the proposed flats above the store.
- The proposed roof height, which would over-shadow the flat above the adjacent wine warehouse, and the forward building line.
- The lack of staff parking provision.
- The inadequate traffic access proposed for the site and the likely congestion it would cause, including shopper traffic using the already congested cul-de-sacs of Riverside Gardens and Gossoms Ryde for turning and parking.

The meeting was reconvened.

### **Object.**

The Local Planning Policies relevant to this application are Saved Local Plan Policies 31 and 44 and Core Strategy Policies 15 and 16.

Taking these planning policies into account and considering the arguments put forward in support of this application, we object to this application on the following grounds:

In accordance with Saved Local Plan Policy 31. The site under discussion – Billet Lane – is designated for B class uses – business, industry, storage and distribution an acceptance of this proposal for retail and housing would, therefore, be contrary to existing land use policies

The Site is outside the defined shopping centre in Berkhamsted and were this proposal to be approved the location would constitute an Out of Centre Retail Site. Currently local planning policy only provides for such sites in Hemel Hempstead and Tring: there is no provision for an out of town convenience retail store in the Core Strategy as it applies to Berkhamsted. The Core Strategy was adopted last September (2013) so is hardly out of date.

Core Strategy Policy CS16 favours a 'town centres first' approach. If an Out of Centre retail development such as this is proposed as the least favoured option, it has to be assessed in terms of the sequential approach outlined in paragraphs 13.10 and 13.11 and be accompanied by an impact assessment as described in paragraph 13.12 of CS 16. It is incumbent of Lidl therefore to justify permission against planning policy.

Policy CS 16 states that:

*“New retail floor space will only be permitted outside of defined centres if the proposal complies with the sequential approach and demonstrates a positive overall outcome in terms of the impact assessment”.*

Contrary to the views expressed in the *Planning and Retail Statement* prepared by Lidl’s consultants GVA, we consider that this proposal fails to meet that test for the reasons summarised below and elaborated on in the subsequent text.

## **In Summary**

- This proposal would lead to a gross over capacity of convenience store provision in Berkhamsted as provided for in the Core Strategy 2006 – 2031, given the recent opening of the M&S Simply Food store in the High Street.
- References to the Aldi stores in Hemel Hempstead are misleading as Hemel Hempstead has unused capacity in respect of convenience stores while Berkhamsted has an over capacity
- The evidence base to support the qualitative assessment of this proposal is outdated and misleading as it precedes the opening of the M&S Simply Food store. It is also highly impressionistic and lacking any statistical rigour.
- The out of town location would detract from the compactness and vibrancy of the town centre contrary to the objectives within the *Berkhamsted Place Strategy* within the Dacorum Core Strategy
- It would divert trade from Berkhamsted town centre including the twice weekly markets, and impact adversely on neighbourhood convenience stores such as those in Gossoms End and Northchurch. All the evidence from retail analysts would suggest that the Consultants have downplayed the likely impact on the town centre and existing stores to comply with planning policy requirements.
- While another viable site to accommodate Lidl might not be available in the town centre, this consideration is overridden by the excess convenience retail capacity that the proposed development would represent in Berkhamsted.
- Whatever the current mix of usages on the Billet Lane site, it has been classified as for class B usage for a reason. It is not incumbent on a class A1 business to buy out class B businesses and then persuade the Planning Authority to reclassify the site, especially as there is no evidence to suggest that other class B users may have been willing to occupy the site had it become more generally available for such usage.
- While the site may indeed generate employment that is not the type of employment for which the site was designed so should not be a material consideration. Berkhamsted will lose class B employment opportunities to which we object. Again, given previous usages of the sites, comparisons with Aldi at Two Waters are invalid.
- The proposal, in terms of local objectives in respect of business development, employment and land usage as well as the overall vision for Berkhamsted is wholly contrary to *The Place Strategy for Berkhamsted* as stated in the Core Strategy 2006 -2031.
- We have serious concerns regarding the accessibility of the site, traffic generation and highway impact given the location of the site. We question the validity of the data and the conclusions reached in *The Transportation Assessment*. We question also the

practicality of the measures proposed to overcome the issues which need to be addressed in this regard. Additionally we have serious concerns as to whether road safety issues have been adequately addressed.

- We consider that there is insufficient evidence to support a change of use to accommodate this proposed development. Furthermore, we would object strongly to any proposed change of planning policy as would be necessary to accommodate this or any other similar proposal on this site.
- If it is considered that B class use is no longer appropriate by the officers, then this should be subsequent to the appropriate consultation and this consultation should not be pre-empted by granting planning permission for this application.
- Finally, we object to various aspects of architecture and design and make suggestions as to how these might be improved, were this scheme to be approved.

### **Analysis of Policy Issues**

#### Retail Policy/Strategy and Evidence Base

*Evidence Base:* the studies referred to in this section in support of this application for a discount retailer in Berkhamsted (The Dacorum and Retail Leisure Study 2006 updated 2009 and the GL Hearn study of retail capacity of 2011) concluded that there was no *quantitative* need for a discount convenience store retail capacity in Berkhamsted. However, in the absence of such a store in Berkhamsted, it was suggested that there might be a *qualitative* case for such a store. The upshot of these studies was that Dacorum felt no need to allocate a site in Berkhamsted for such purposes in the Core Strategy.

These studies and any conclusions which might be drawn from them are now outdated and have been superseded by subsequent events which are paid scant attention in the documentation to support this application.

The Dacorum Core Strategy 2006 -2031 provides for a capacity of 6000 sq m of comparison floor space and 1000sqm of convenience floor space in Berkhamsted between 2006 and 2031 In May 2014, Marks and Spencer opened a Simply Food convenience store in the High Street which provided for 864 sq.m thus taking up most of the allocated convenience retail capacity for Berkhamsted to 2031.

The proposed store would provide 1200sqm of retail capacity. Thus following on from M & S, this proposal, were it to be approved, would mean a convenience retail capacity in excess of over 1000sqm, or 100%, of the targeted convenience store capacity mid way through the planning period. While the demonstration of quantitative need is not a requirement of the NPPF, one can hardly ignore the fact that, were this application to be approved it would represent, notwithstanding any qualitative case, a gross over provision in the convenience store segment in Berkhamsted as set out in the Dacorum Core Strategy.

In this context, reference to Hemel Hempstead and the recent opening of one Aldi store soon to be followed by a second is erroneous as one is not comparing like for like. First, it is acknowledged by Dacorum that even with the additional Aldi stores, Hemel Hempstead has an under- utilised convenience store capacity while Berkhamsted clearly does not. Second the relative scale and significance of the proposed store in relation to existing convenience retail capacity is far greater in Berkhamsted than that of the Aldi stores to existing convenience store capacity in Hemel Hempstead. As such we would expect the likely impact on the town centre to be greater as well. Although the NPPF does not make it a requirement

for a retailer to provide an impact statement for space below 2500sqm recognition of that fact presumably explains, in part, why it was considered prudent to do so in this instance.

Whatever subjective qualitative arguments used previously to justify a discount retailer in Berkhamsted, as outlined in this section of the report, we contend that such justification is now outweighed and superseded by the over-capacity in convenience retailing which it would now represent subsequent to the opening of the new M & S store. We also contend that, for reasons outlined above the circumstances regarding Aldi Stores in Hemel Hempstead are totally dissimilar to those regarding a proposed Lidl or for that matter, any other *additional* retail convenience store in Berkhamsted.

#### Qualitative Assessment

*Potential Impact;* While one might accept the proposition that the market niche that Lidl occupies might offer customers more choice, we cannot accept the proposition that it is so distinct from other retailers as to provide a lack of competition. (Para 4.1) to such stores as Waitrose and Tesco and has no adverse impact on, or actually benefits, other supermarkets /convenience stores.

Almost daily we have well documented reports from retail analysts which provide data to substantiate the fact that the discount retailers such as Lidl are growing rapidly and have made substantial inroads into the market share of supermarkets such as Sainsbury's and Tesco and more latterly even Waitrose whose market position was once regarded as offering some immunity to the discounters. The explanation for this erosion of market share is quite simply that, contrary to the claims of Lidl and Aldi, they, and Lidl in particular, are increasingly offering very similar products if admittedly over a more limited range of lines. Both Tesco and Waitrose and now M & S have stores in Berkhamsted town centre. Tesco also has a store in Northchurch and there are numerous smaller convenience stores in the immediate area and local neighbourhoods likely to be impacted by the proposal if approved.

*Five minute drive time* It is stated in Para 4.8 that it has been accepted that the majority of Lidl's trade is generally drawn from within a five minute drive time catchment and thus it is unlikely that people living beyond this five minute drive time boundary will travel to Berkhamsted to visit the proposed Lidl food store. We seriously question this assertion given the seeming popularity of Lidl and the considerable PR surrounding it at present.

Indeed, for approximately 8000 dwellings in Berkhamsted, 1200 dwellings in Northchurch and 11000 dwellings in the whole of HP4 (the circulation number for *Berkhamsted Living*) Lidl circulated 19,000 leaflets as part of a "Local Public Consultation". Clearly this consultation (in effect a marketing campaign) extended way beyond Berkhamsted and this five minute catchment area to include neighbouring towns and villages and we feel sure that residents in these areas where there is no Aldi or Lidl at present, will be attracted to this store as they were by the free samples on offer at the all day public exhibition.

*Berkhamsted Town Centre:* Staying with the qualitative assessment we consider that very little weight can be attached to the impressionistic observations made by the Consultants GVA based on their visit to Berkhamsted town centre on one week day in February 2014. First, the visit predated the opening of the M&S store later in May. Second many of the observations are just what they say they are – impressions, and as such they have little statistical foundation.

Berkhamsted is fortunate in having a very compact, centralised town centre with Waitrose and Tesco in focal positions. There are also two thriving markets, on Wednesdays and Saturdays, as befits Berkhamsted's market town status. Our concern is that, if approved, an out of town convenience discount retail outlet will not only extend the High Street to

Gossoms End but in doing so will detract from Berkhamsted's existing centralised core which includes the market which currently offers many competing items. Part of the plan to regenerate Hemel Hempstead Town centre relied originally on a new Morrison store in the heart of the town. It did not rely on out of town retail outlets which would presumably have the opposite effect.

Attention is drawn to the vibrancy of Berkhamsted's High Street with vacancy rates below the national average. While Berkhamsted may indeed give the impression of a vibrant centre one should delve behind the statistics to get a more complete and perhaps more concerning picture. First, there is quite a high turnover of occupancy. Second, many of the vacant leases in the centre are taken up by charity shops, of which there are now 8, estate agents (12), and an ever increasing number of Coffee shops (12). With very few exceptions the rather more traditional shops that one might find typically in a market town such as greengrocers, butchers, hardware stores, gents outfitters etc have all closed in recent years.

Likewise, we feel that little significance should be attached to the assertion, based again on one visit on one day of the week, that Tesco and Waitrose were observed to be "over trading" Notwithstanding the rather nebulous concept of "overtrading" and the rather subjective and unquantifiable application of it here, we can confirm that one could visit these stores at any time of the week and arrive at a different conclusion. Again these observations pre-date the opening of the M&S Simply Food store, recent visits to which also raise questions about its trading levels.

While it is incumbent upon the applicants to establish that a discount convenience store on this out of town site will not impact adversely on the vibrancy of Berkhamsted's town centre we have to take serious issue on the basis of the unquantifiable evidence supplied with the assertion in paragraph 4.17 of *The Planning and Retail Statement* which reads

*"We conclude based on a thorough understanding of (1) Lidl's business model (2) the likely primary catchment area of the store from which a majority of its trade will be drawn and (3) the composition and health of Berkhamsted's centre that the proposed Lidl foodstore is highly unlikely to have an adverse impact on the centre and its function"*

In the absence of concrete evidence to the contrary we would seriously question also the following slightly less ingenious statement in paragraph 4.18

*"The proposed Lidl will, our emphasis, draw some turnover from elements of Waitrose's and M & S's offer but will not compete with the majority of their offer because of the limited overlap in product ranges and business models. On this basis, the Lidl store will not have an adverse impact on existing provision. Instead it will provide qualitative improvements to an already healthy centre by providing additional customer choice and a convenience offer that is complementary to the existing and committed provision".*

The statement is less ingenuous because, it at least admits that Lidl will take some trade away from other supermarkets. If this is not to be the case why come to Berkhamsted? It is also evident of late that Lidl is moving upmarket in areas like wines to compete directly with the offers of Waitrose and M&S. However, most notably, no mention is made of the likely impact of a Lidl store on Tesco in the Town Centre, its store in the centre of Northchurch and other neighbourhood convenience stores. Certainly the conclusions reached do not square with the evidence provided by retail analysts of the comparative performance of convenience retailers and the impact of discount retailers on them.

Nevertheless, it is a strange business proposition when, in order to seem to comply with planning policy a retailer such as Lidl, is forced to justify market entry by propositioning that it will have scant impact on other retailers when all the generally available market data

(and common sense) simply does not support such assertions. Indeed, quite understandably most of the support for this application will be from people who want the option of staple lines at cheaper prices than those provided by existing retailers. This is a valid economic argument and to attempt to justify this application on non competing grounds is quite ingenuous when all the evidence and attraction of the discount retailer points in the opposite direction.

There can be no doubt, as admitted by GVA, that the proposed store will impact on existing convenience stores in Berkhamsted – the remaining unknown is by how much. It is unfortunate that such evidence as presented by the consultants GVA has been selected to fit the planning policies rather than more concrete evidence which reflects the reality of the market place.

*Quantitative Impact Assessment:* While Para's 5.1 – 5.17 are an heroic attempt to quantify the cumulative impact of the proposed Lidl store and new retail developments elsewhere, such as the Aldi store at Two Waters and vice versa the assumptions on which these calculations are based are just that and should be regarded as highly tentative and probably a gross underestimate of net effects on Berkhamsted. Some of the conclusions as stated in paragraph 5.17 are interesting nevertheless and some would appear to contradict previous assertions.

*“The majority of the Lidl store turnover (£2.77m) is likely to be derived from Berkhamsted town centre. This level of diversion equates to a solus impact of 6% on the town centre and 9% on Aldi at Whiteleaf Road. The cumulative impact of both Aldi and Lidl on Berkhamsted will be 6.3%. Given we have concluded already in this report that Berkhamsted town centre is very healthy and performing well we believe that it will be able to absorb this low level of impact without adverse harm to its vitality and viability.”*

While it is certainly questionable whether this level of erosion of Berkhamsted Town Centre activity is sustainable any greater erosion could prove catastrophic. Is this really a risk that one is prepared to take on the basis of such dubious observations and tenuous economic modelling?

Furthermore, in focusing on Berkhamsted, no assessment has been made of the likely impact of the proposed store on smaller convenience stores in the neighbourhood such as The Gossoms End Store, Westfield Store and Tesco Express in Northchurch centre.

The Sequential Test:

*Centre site availability.* While it is unlikely that the Water Lane site will become available in the near future this is a site that has been earmarked in the Local Plan for mixed retail/housing development. Paragraph 21.9 of the Core Strategy referring to Berkhamsted states that

*“The key district shopping and service role of the town centre will be maintained. The proposed redevelopment of the High Street/Water Lane site will deliver high quality buildings, a new supermarket and small shop units, and improved public car parking”.*

While it is recognised that the site would not accommodate Lidl's business model, it is likely that were this proposal to be approved it would further diminish the likelihood of that site becoming available and certainly there would be no further need for retail development there.



The fact is that, in reality and as it is appreciated in paragraph 4.12, the Lidl business model really only suits out of town sites. This places the onus on the planning authorities to consider making such a site available and even consider a change of use even if it means persuading existing occupiers to move elsewhere or cease trading altogether.

Employment Policy Issue:/Existing Uses;

*Existing Uses:* The applicant makes the case that although designated for Class B uses the site accommodates other uses and as such is best described as “mixed use”. This is supported further by referring to the surrounding residential areas rather than the specific site.

The applicant then argues that “a policy which supports B class uses should not be read as one that prevents other uses”.

We fundamentally disagree with this argument.

Whatever anomalies might be present the site is designated for class B purposes for a specific reason and protected as such. Surely there should be a need to prove that a site which is designated for class B uses could not attract, and be used for, similar uses in the future should a plot become vacant. This is wholly different to permitting a potential user to purchase active on-site class B businesses with a view to replacing them with some other usage such as out of town retail convenience stores because this would then accommodate a layout to meet the requirements of a very inflexible business model.

In this respect the planning issues appertaining to this site are, contrary to the applicant's assertion, different to those relating to the Aldi site at Two Waters. There a site designated as B class usage was wholly occupied by an anomalous A class car showroom. This is not the case at Billet Lane where the majority of the site is still occupied by B class users irrespective of whether it could accommodate alternative B class users.

Chapter 21 of the Core Strategy addresses *The Place Strategy* for Berkhamsted.

Of the many local objectives for Berkhamsted stated in paragraph 21.1 we read

*“Maintain the current level of employment provision”*

This is followed in Paragraph 21.10 which reads

*“A baseline of around 7,700 jobs in the B- class uses will be maintained to ensure an adequate supply of employment land that contributes towards the town's local economy and maintains a reasonable balance between local homes and jobs”.*

While GVA claim that the proposed store will generate some 41 jobs these are not B class jobs so do not count as employment in this sense. Nor would a change of use maintain an adequate supply of employment land again in the B category meaning of the term, unless other suitable employment and B class use were taken from other uses. In this instance we can assume that Berkhamsted would be a net loser of B class land and employment.

As part of the Vision for Berkhamsted we read in paragraph 21.1

*“The town centre is an attractive commercial, cultural and social focal point of the settlement with a strong district shopping and service centre role. It has been maintained and enhanced together with the neighbourhood of Northchurch local centre. Businesses are attracted and supported. Employment areas around Billet Lane provide local job opportunities and offer an attractive location for small to medium sized firms.”*

Clearly, then this proposal is wholly contrary to the stated Place Strategy for Berkhamsted as set out in the Core Strategy in terms of its overall vision for the town as well as local objectives in respect of business development, employment and land usage

#### *Accessibility, Traffic Generation, Highway Impact*

This proposal is likely to raise some serious highways issues concerning the significant increase in traffic, the store access, and vehicles turning on to and off the already busy A4251.

*Travel Patterns:* GVA claim that the Travel Assessment supports the conclusion that the proposed site performs well in regard to accessibility for motorised vehicles, passenger transport, cyclists and pedestrians as well as traffic generation and highway impact. We consider this assessment to be seriously flawed in respect of both its conclusions and the analyses upon which those conclusions are based.

The authors of *The Transportation Assessment -Turner Low Associates-* go to some considerable lengths to play down the amount of travel to the store likely by car.

*In paragraph 3.10 we read that*

*“The location of the development is clearly well suited to encourage trips both by shoppers and occupiers of the residential units, to be made by alternative modes of travel in the private car.*

This statement is supported by some interesting data

For example we read that

*” shopping trips on foot in Berkhamsted are significantly greater than the County and national averages”.*

The statistics quoted for each are 36.45%, 33.39% and 34.87%: hardly a statistically significant difference but one nevertheless which would be heavily influenced by the highly concentrated nature of the Berkhamsted existing shopping centre as opposed to the proposed out of town location at Billet Lane. Against this, the fact that currently 58% of shopping trips and 78% of employment trips, are made either as a driver or passenger of a car- higher than the national average - is glossed over.

Not surprisingly given the topography of the town shopping trips by cycle are less than the GB average at 1.11%. Optimistically we are told that development will encourage cycles use through its proposed cycle facilities.

The proportion of shopping trips by bus in Berkhamsted currently is well below the national average at 3.80%. Nevertheless we read in paragraph 3.9 that

*The close proximity of bus stops to the site will **hopefully**, our emphasis, result in a greater number of trips (by public transport) being generated by the development than the town’s average.*

*Pedestrian Accessibility:* We are told in paragraph 4.12 that

*“The site is clearly accessible on foot and the location in relation to the surrounding areas is likely to encourage trips to the development to be made on foot and a potential reduction in car use”*

Given the topography of Berkhamsted, characterised by steep hills either side of the main thoroughfare, and the older age profile of its residents, we feel that despite their best endeavours to convince us to the contrary with all their modelling the applicant’s consultants have grossly underestimated the impact of this development on car usage as well all the highways and access issues associated with the proposed development on this site.

It is highly unlikely that the majority of potential “local” customers living on the hillside locations of Ashlyns and Chiltern Park - which are designated as within the 5minutes drive time specified as the likely Berkhamsted catchment areas - will walk, cycle or use public transport to access the store and carry what may amount to their weekly shopping up the steep hills. One seriously wonders if the consultants have ever tried to see how far they can move in car in Berkhamsted in five minutes at various times of the day. Nor, given the likely popularity of the store, would we be surprised if a large proportion of its customers base was drawn from outside the town as is the case of the existing Aldi in Hemel Hempstead

*Impact on neighbouring roads:* motorists living to the East of the town will probably try to avoid the congested High Street by using either Shootersway or Charles Street and then Durrants Lane to access the store from the West. This will add to the problem of congestion on what are currently heavily used “rat runs” and be exacerbated further by the eventual development of the Egerton Rothesay site and Farm Place all of which will put added pressure on the already congested junction at Durrants Lane and the high street west of the proposed store.

*Accessibility:* The site is in close proximity to the already busy junction of Billet Lane and the High Street. This is a notable congestion hotspot especially at school start and finish times and commuter times in the morning and evening. The junction serves Bridgewater School, an industrial estate and household waste site

We envision serious traffic and congestion issues - in part confirmed by the consultants own analyses as presented in Table 6.4 - arising from the proposed single access and exit arrangements for store customers. We have serious concerns as to whether the width of the main road after the traffic lights going west towards Northchurch is sufficient to accommodate the proposed site access arrangements and in particular the right hand spur as proposed without causing massive tailbacks on the main carriageway. It would also mean vehicles on the opposite side of the road giving way to allow site access. We are especially concerned that these proposed arrangements would not overcome the difficulty of exiting the site in a right hand, westerly, and direction towards Northchurch which would mean driving across the main road.

*Road Safety* is an issue of very specific concern. The site is on route for children attending three local schools – Bridgewater at the top of Billet Lane, Westfield at the bottom of Durrants Lane and St Mary’s in Northchurch.

The High Street entrance to the proposed store is on the "Walking to School" route developed by the County Council with Westfield School to encourage pupils to walk from Chiltern Park/Bridgewater Road etc to the school in Durrants Lane. The existing pavement widths are important therefore and we should be concerned that if walking on the North side, children would have to cross the proposed store entrance, being frequented by increased traffic levels from both directions. In particular, traffic from Berkhamsted centre would be making a right turn across the oncoming traffic - the most dangerous road manoeuvre and the apparent cause of a recent serious accident in this very vicinity.

The site is also in close proximity to the Sports Centre, Lagley Meadow which houses the BASH after school club and Youth Centre, a clinic in Gossoms Ryde and a nursery, all with pedestrian access to the already busy road junction

Given the enhancement of traffic, the road configuration and issues around congestion and access one can hardly envision a worse location for a store of this type in respect of road safety.

*Sustainable Travel Plan:* None of the evidence produced in the Transportation Plan would convince us that the proposed *Sustainable Travel Plan* is likely to ameliorate our concerns in respect of car usage, traffic congestion and road safety.

#### Site Design /Architecture

We object to the following features of the proposed architecture which, were this development to proceed, we would wish to be improved upon substantially.

- the blank white render finish which presents a non active frontage to the car park
- The blank curtain walling; we consider glazing to be more appropriate.
- The unexciting /bland western corner which is highly visible from the main road (image 02)
- The bland eastern corner (image 01)
- Some tree planting would be beneficial to the frontage to the main road

Contrary to Dacorum Core Strategy Policies CS10, CS11, CS12 and CS13