



Oadby and Wigston Borough Council

TO COUNCILLOR:

G S Atwal
L A Bentley (Chair)
G A Boulter
Mrs L M Broadley (Vice-Chair)
F S Broadley

D M Carter
B Dave
R E Fahey
D A Gamble
Mrs S Z Haq

J Kaufman
Dr T K Khong
Mrs H E Loydall
R E R Morris

Dear Councillor et al

I hereby summon you to attend a meeting of the **DEVELOPMENT CONTROL COMMITTEE** to be held at the **COUNCIL OFFICES, STATION ROAD, WIGSTON** on **THURSDAY, 13 APRIL 2017** at **7.00 PM** for the transaction of the business set out in the Agenda below.

Yours faithfully

Council Offices
Wigston
12 April 2017

Mark Hall
Chief Executive

ITEM NO.

AGENDA UPDATE

PAGE NO'S

8. Agenda Update

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Development Control Committee	Thursday, 13 April 2017	Matter for Information and Decision
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Title: **Agenda Update**

Author: **Richard Redford (Planning Control Team Leader)**
Tony Boswell (Senior Planning Control Officer)

1. Application No. 16/00395/FUL
Former Premier Drum Site, Blaby Road, Wigston, Leicestershire, LE18 4DF

Since the completion of the main report, a number of items of additional significance have arisen:

1.1. The Wigston Civic Society

"I am disappointed to note that the only comment attributed to the Civic Society is that it would be good to see a special feature reflecting the existing drum display tower.

However other points were made in my letter of 10 October 2016 are not specifically referred to against the Civic Society comments. These related to traffic issues and the actual use of the land (retail) being applied for in this application.

I acknowledge that these points are well dealt with elsewhere in the report but as you have included a heading for Civic Society comments it would have been appropriate to quote all our comments".

1.2. OWBC's Environmental Health Officers (Concerns About Air Quality Impacts)

"I have reviewed the Air Quality Assessment and have the following issues.

The Air Quality report has been written with modelled data, due to the discrepancies with modelled data and the impact due to the development stating the effect on the receptors will be negligible to moderate. It is advised that a monitoring station be installed to substantiate the assumptions made".

Although unable to recommend refusal of permission EHOs remain concerned about the air quality impacts of these proposals in the specific location concerned. If the Committee are minded to grant permission they ask that a sum of £25,000 be requested under a Section 106 obligation to cover the installed cost of an air quality monitoring station.

1.3. Retail Impacts

There has also been significant correspondence from consultants acting for Tesco as objectors to the proposed retail use of the site. Their concern is with your officer's assessment of the retail "impact test" as applied to the proposed Lidl and Wikes stores upon the site. As received on the 11th of April 2017 this reads:

"As you are aware, we act on behalf of Tesco Stores Ltd, and have been asked to set out the reasons why they object to the above proposal. We note

that the application is due to be considered by the Development Control Committee on Thursday 13th April 2017, and that officers are recommending approval. We are concerned, following our reading of the officer's report that members may not be appropriately briefed on the retail impact of this development, and could benefit from more information, specifically an independent assessment, to aid their decision making.

We are particularly concerned by the comment at the bottom of page 21 that "assessing retail impacts is something of a black art". If assessing retail impacts is not an expertise which officers hold then we would suggest a retail impact assessment, carried out by an independent retail planning consultant, should be undertaken. Indeed seeking advice from independent retail planning consultants has become industry convention in these situations. It is also convention that this cost is borne by the applicant. We therefore strongly urge the Council to withdraw this item from the agenda so that the above course of action can be taken.

Within the analysis, focus is given to the impact on the Wigston Aldi store, which, we agree, will suffer the greatest turnover loss. What it doesn't however explain is that the store plays an anchor role for Wigston Town centre, and hence the store's attraction is largely responsible for the wider town's (i.e. the other shops and services) viability – i.e. through spin-off trade / linked trips. The impact would therefore be much greater than the officer's report suggests.

We explained within our original letter why we consider that the proposal would have a significant adverse impact on planned investment in Wigston Town Centre, contrary to paragraph 26 of the NPPF. The officer's report does not however address these points, and simply deals with the matter in a very short paragraph at the top of page 22.

We would, at the very least, expect these masterplan sites to have been identified and an explanation given as to why officers believe these planned investments wouldn't be significantly impacted. Again, it is typical for an independent retail expert to advise the Council in this situation. For this reason also, we consider that the application should be withdrawn from the agenda to allow this advice to be provided, and hence allow members to be able to make an informed decision".

The applicant's agents were asked to comment upon this letter – particularly in light of its request for a deferral of the application and replied as follows:

"We write in connection with the above and the letter dated 11th April 2017 from the Martin Robeson Planning Practice (MRPP) on behalf of Tesco Stores Limited seeking to delay determination of the planning application. For reasons set out below we see no justification for any delay in determination of the application.

MRPP suggest that members may not be appropriately briefed on the question of retail impact and that independent retail advice be sought on the merits of the application. We disagree and consider that the information before Members, including your officer's report and the supporting information is sufficient upon which to reach a decision.

In dealing with 'impact on planned investment' MRPP suggests that impact on such investment in Wigston town centre is only dealt with by a very short paragraph at the top of page 22.

That is not correct. On page 21 and in dealing with the question of retail impact the officer's report asks the question "Furthermore, would any current projects or proposal be prejudiced by their presence?" [i.e. the presence of the proposed retail units].

The report goes on to highlight that "there has been considerable documentation and correspondence on these issues between the applicants and consultants acting for Tesco as objectors. What follows is thus a simplification or summary of those issues by Planning Officers....".

What follows in the report is a summary of those issues including the statement that "There are no current proposals or redevelopment proposals within Wigston or South Wigston that would appear to be prejudiced by these proposals."

This summarises the position following consideration by officers of the submitted Planning & Retail Statement (PRS, August 2016), correspondence by MRPP dated 5th January 2017 and our response to matters raised by MRPP in our letter dated 17th January 2017.

The submitted PRS addresses impact on investment in some detail in Section 7.0 of the Report. This specifically refers to the various sites identified in Action Area Plan (AAP) for Wigston town centre including the 'Burgess Junction' area, the 'Chapel Mill' area and the area known as 'Long Lanes'.

In relation to the Burgess Junction area the PRS concludes that AAP Policy 15 clearly envisages a substantial town centre retail development scheme amounting to approximately 9,400 sqm gross with new commercial space of 8,725 sqm gross, multi-storey car park and public realm improvements. The PRS highlights that the area is clearly earmarked for a more traditional high street retail scheme to provide a larger modern retail mall type development to attract high street names. It further highlights that the nature of any such scheme, with associated commercial floorspace and the need for a multi-storey car park to provide replacement parking, is significantly different to the proposed development and seeks to serve a different purpose and type of shopping activity. Consequently it was concluded the proposal would not call into question redevelopment of the Burgess Junction area in the AAP.

The PRS also addressed the Chapel Mill area (AAP Policy 17) in that it was envisaged to accommodate around 1,765 sqm retail and 1,750 sqm office uses, along with a new public town square. Again, the PRS concluded that the nature of the development envisaged for this part of the town centre, with a new public square and a parade of units is fundamentally different to the proposed development. The awkward shape of the site, wrapping around the rear of Sainsbury's and incorporating a block of existing retailers and other occupiers would not lend itself to the proposed development.

Finally, the PRS addressed the Long Lanes area covered in the AAP and earmarked for predominantly residential uses (150 units) and associated car parking and smaller scale retail / leisure uses. Given the nature of development envisaged at Long Lanes, the site would not be suitable for the proposed larger DIY and food offer incorporated in the application scheme.

In light of the above it was concluded that the proposed development would not result in significant adverse impact on planned or committed investment in Wigston town centre.

MRPP's letter of 5th January 2017 objected to the application proposals

including comments on the submitted PRS and the assessment of impact. This included comments on conclusions drawn by the PRS. We responded to those objections in our letter of 17th January 2017 responding to points made in the context of asserted 'impact on investment'. Our conclusions remained the same, that the proposed development would not give rise to significant adverse impact on committed or planned public or private investment in existing centres, including Wigston town centre.

The officer's report has summarised the position reached by officers in consideration of this matter, namely, that the proposed development would not give rise to significant adverse impact on investment. That conclusion was clearly reached based on the submitted supporting information having taken account of objections made by MRPP for Tesco and our response to those objections.

*In relation to **impact on vitality and viability** no issue is taken by officers with the conclusions reached by the submitted PRS on this matter. Whilst your officer's report comments that 'assessing retail impacts is something of a black art', clearly you as case officer, your policy team and town centre manager have all considered the submitted PRS and concluded at worst 'minor impacts' arising from the proposed development.*

Clearly the above comment does not undermine the full and proper consideration of impact issues undertaken by officers based on the evidence submitted and the conclusions therefore reached. Indeed your report indicates that officers concluded that the level of monetary diversion would probably lie at some point between the assessment by ourselves and MRPP on behalf of the objector. On that basis a conclusion of no material planning harm was reached.

Your officer's report acknowledges that some trade would be diverted from existing retailers but the level of trade diversion would not lead to significant adverse impact. In this context it should be noted that Aldi and B&Q are not located in the defined primary shopping area of Wigston and are not therefore 'in centre' for retail purposes. Locations outside the primary shopping area that are well connected to and up to 300 metres of the primary shopping area are edge of centre under the NPPF.

Having taken account of all the evidence provided, including the objection made by MRPP, officers have concluded the proposed development would not give rise to significant adverse impact on Wigston town centre, the NPPF policy test.

That judgement is reached based on all the evidence provided. This includes the assertion made by MRPP regarding linked trips. The latter point was raised in their letter of 5th January 2017 (page 3) and responded to in our letter of 17th January 2017 (page 5). The latter correspondence included reference to our own observations whilst visiting Wigston of the trading nature of both the Aldi and B&Q stores and linked trips.

Having reviewed the officer's report to Committee in the context of comments made by MRPP we can see no justification to delay determination of the application. All relevant matters have been assessed, including the impact tests highlighted in paragraph 26 of the NPPF and your officer's report concludes no material planning harm.

As such we can find no reason why a decision on the application should be delayed and the item withdrawn from the Agenda.

We trust the above comments will be made known to Members, including the full text of this letter. We note MRPP have copied their letter direct to Chair of the Development Control Committee and consequently we have done the same”.

1.4. Commentary by Officers Regarding Retail Impacts

At the time of submitting the application one of the submitted documents was a 53 page “Planning and Retail Statement”. This document has not been significantly or convincingly challenged. It has been reviewed by all of the relevant parties – including OWBC’s Local Plans Team and the consultants acting for Tesco (see above). There is no evident need or justification for a deferral of this application, or indeed the instruction of an “independent” consultant to further advise the Council.

That retail statement document convincingly demonstrates compliance with the relevant “sequential test” – the absence of any alternative sites for the scale and character of development now proposed. It also demonstrates an absence of any significant adverse retail impact upon any of the nearby town centres. The noteworthy disparities of view are:

- a) The commercial impact upon the Aldi store adjacent to Wigston town centre. That store has exceptionally high turnover for its size and so the loss of some trade to the proposed Lidl might be expected. However, in planning policy terms the impact would only be significant if it led to a loss of linked trips with the adjacent Wigston town centre. Only a very small proportion of Aldi customers appear to cross Paddock Street to visit other town centre facilities and; insofar as the Aldi store lies outside the defined town centre, any such loss of trade to Aldi is simply the effect of commercial competition. That competition is not of concern to the Local Planning Authority.
- b) Any adverse effect upon Area Action Plan (AAP) proposals for “Burgess Junction”, “Chapel Mill” and “Long Lanes”. There is believed to be more than adequate retail demand to support those proposals and all involve a very different size and character of retail development to the type and size of development now proposed for Lidl and Wikes. Hence the first bulleted point on page 21 of the main report – *“There are no current proposals or redevelopment proposals within Wigston or South Wigston that would appear to be prejudiced by these proposals”*. The report later goes on – *“Furthermore and based on the evidence provided it is considered the proposed development would not give rise to significant adverse impact on any existing, committed and planned public or private investment in any centres in the catchment area of the proposal”*.

The use of the terms *“although assessing retail impacts is something of a black art”* appears to cause objection from the retail consultants acting for Tesco. That expression reflects a degree of subjective judgement involved in the process. This includes – *“consider a range of **plausible scenarios** in assessing the impact of the proposal on existing centres and facilities”* and *“any conclusions should be **proportionate**: for example, it **may be sufficient** to give a **broad indication** of the proportion of the proposal’s trade draw...”* (DCLG Planning Policy Guidance on Use of the Retail Impact Test).

In conclusion. Officers are satisfied that for this Committee’s decision making purpose the reasoning and explanation under the sub heading “Retail Impact” on pages 21 and 22 of the main report are sufficient to enable an informed judgement about the retail impacts of the proposal.

Background Documents:-

Report of the Planning Control Team Leader

Development Control Committee - Thursday, 13th April, 2017

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Implications	
Financial (RR)	Not applicable.
Legal (RR)	None - subject to the completion of an Agreement pursuant to the Town and Country Planning Act 1990, section 106 ("a section 106 Agreement").
Risk (RR)	Not applicable.
Equalities (RR)	Not applicable.
	Equality Assessment:- <input type="checkbox"/> Initial Screening <input type="checkbox"/> Full Assessment <input checked="" type="checkbox"/> Not Applicable