

**APPLICATION REPORT – OUT/346784/21
Planning Committee 16th February 2022**

Registration Date: 29.04.2021
Ward: Chadderton Central

Application Reference: OUT/346784/21
Type of Application: Hybrid Application

Proposal: Hybrid planning application for mixed-use development comprising:
(1) Detailed planning permission sought for the erection of a Use Class E foodstore with internal vehicular access road, car parking, servicing area, and hard and soft landscaping; and (2) Outline planning permission (with all matters reserved) sought for a flexible-use commercial unit capable of operating within Use Classes E(a) and / or E(b).

Location: Land at Broadway Green Business Park, Foxdenton Lane,
Chadderton

Case Officer: Stephen Gill
Applicant: Aldi Stores Ltd
Agent: Mr Dan Brown

INTRODUCTION

The application is being referred to Planning Committee as a Major application which would involve a departure from the provisions of the Development Plan.

RECOMMENDATION

It is recommended that the application should be approved subject to:

1. The conditions as set out in this report; and,
2. The completion of a Section 106 agreement in respect of a contribution of £12,800 towards off site highway works.

The Head of Planning shall be authorised to issue the decision upon satisfactory completion of the legal agreement.

THE SITE

The application site is broadly triangular in shape and extends to approximately 1.1ha in size. Vehicular access / egress will be taken from the newly constructed roundabout junction at the north-west corner. This roundabout junction forms part of Broadway Green Business Park's vehicular access road. The site is flat and level after being cleared as part of the initial works to prepare the site for redevelopment.

In terms of surroundings, the immediate north, east and west of the site is characterised by undeveloped land that has been levelled in preparation for redevelopment, as part of the approved Foxdenton strategic site proposals. To the immediate south is a residential development, currently under construction by Redrow Homes, which was approved in outline under PA/334355/13 and again under a s73 application PA/337091/15. The associated reserved matters were approved under PA/336917/15. The site is characterised by a mixture of semi-detached and detached properties and in terms of levels, sits lower than the application site.

THE PROPOSAL

This hybrid planning application seeks:

1. Full planning permission for the erection of a single storey Use Class E foodstore of 1,804m² GIA and 1,315m² net, with internal vehicular access road, car parking (120 spaces, 4 with electric vehicle charging points), 5 motorcycle parking spaces, a servicing area, and hard and soft landscaping;

and,

2. Outline planning permission (with all matters reserved) for a flexible-use commercial unit capable of operating within Use Class E(a), which covers the retail sale of goods and/or Use Class E(b), and the sale of food and drink for consumption (mostly) on the premises. The building would have a maximum height of 6m AOD and would occupy no more than 1,245m², with a maximum gross area of no more than 300m².

RELEVANT PLANNING HISTORY:

PA/334355/13 A hybrid planning application comprising A) Full planning permission for: 1) A new spine road connecting the A663 'Broadway' and B6189 'Foxdenton Lane' with associated ground re-modelling 2) The means of vehicular access into the site 3) The demolition of all existing buildings within the site B) Outline planning permission for an employment-led mixed use development with access to be considered and all other matters reserved for: 1) Office (Use B1a use); Light Industrial (B1c use); General Industrial (B2 use) and Storage and Distribution (B8 use) floorspace 2) Residential (C3 use) units 3) Area of public open space in the form of a new linear park – **Granted 23 October 2014**

PA/337091/15 Variation of conditions 29, 30, 31 (Part A), and 41, 42 and 43 (Part B) of permission PA/334355/13 Hybrid planning application comprising A) Full planning permission for: 1) A new spine road connecting the A663 'Broadway' and B6189 'Foxdenton Lane' with associated ground re-modelling 2) The means of vehicular access into the site 3) The demolition of all existing buildings within the site B) Outline planning permission for an employment-led mixed use development with access to be considered and all other matters reserved for: 1) Office (Use B1a use); Light Industrial (B1c use); General

Industrial (B2 use) and Storage and Distribution (B8 use) floorspace 2) Residential (C3 use) units 3) Area of public open space in the form of a new linear park, to allow phased development and occupation of floorspace and dwellings specified within the 'trip generation threshold' (as defined within Curtins note ref. TPMA1328/STRAT001) prior to the completion of the highway link road ('Interim Trip Generation Threshold') and offsite junction works at A663/Foxdenton Lane/Eaves Lane and M60 Junction 21 ('Trip Generation Threshold') - **Granted 28 September 2021.**

RELEVANT PLANNING POLICIES

The 'Development Plan' is the Joint Development Plan Document (Local Plan) which forms part of the Local Development Framework for Oldham. The site is designated in the Local Plan as being in a Business Employment Area.

The following policies are relevant to the determination of this application.

Policy 1 - Climate Change and Sustainable Development
Policy 2 – Communities
Policy 4 - Promoting Sustainable Regeneration and Prosperity
Policy 5 - Promoting Accessibility and Sustainable Transport
Policy 9 - Local Environment
Policy 14 - Supporting Oldham's Economy
Policy 15 – Centres
Policy 16 – Local Services and Facilities
Policy 18 - Energy
Policy 19 - Water and Flooding
Policy 20 - Design
Policy 21 - Protecting Natural Environmental Assets
Policy 25 - Developer Contributions

CONSULTATIONS

Highways Engineer	No objection subject to condition
The Coal Authority	No objection to the application.
TfGM	TfGM have requested a contribution of £12,800 to implement SCOOT at traffic signals from Lydia Becket Way to help mitigate the impact of the development on the highway network.
Environmental Health	No objection subject to conditions
United Utilities	No objection subject to conditions.
LLFA	No comments received.
G. M. Ecology Unit	No objection subject to conditions.
Trees Officer	No objections
Highways England	No objection to the application

REPRESENTATIONS

The application was publicised by neighbour notification, site notices and press notice. In response, 127no. letters in support and 55no. letters objecting to the proposal have been received raising the following (summarised) comments:

Support

- The application will bring much needed employment to the area
- There are no convenience stores within a reasonable walking distance of South Chadderton other than Lidl, and an Aldi would be a welcome.
- The store would be great for those on a low budget
- The store in Middleton is too busy and this store would provide a welcome relief
- The proposal is useful proposition for the land.
- The supermarket will create jobs.
- Local residents will not need to travel as far to shop.
- There is a need for an of development in the area.
- A supermarket is far more neighbourly than a large warehouse proposal.
- The proposal provides an opportunity for local people to shop at discount stores who do not own a car.
- A new Aldi store in Chadderton, will be much more accessible to the elderly and residents in the surrounding area.
- The new Aldi store will allow people on a budget, access to high quality and low-priced groceries.
- It will bring a much-needed addition to the new properties in the area.
- it would reduce the carbon footprint by reducing the miles we travel to shop
- Given the amount of development being approved across Oldham, it is clear that the community also need shopping facilities, schools and GP services.
- There are no convenience stores within a reasonable walking distance of South Chadderton other than Lidl, so an Aldi would be a welcome addition.
- There is a Lidl, Morrisons and an Asda in the area, so an Aldi would be very welcome. Good food excellent prices.

Concerns

- The development is too close to properties in the neighbouring phase of development.
- The development will result in a loss of privacy to residents, given the difference in levels between the site subject of the application and the adjacent land containing residential properties.
- A proposal for a fast-food shop would not be supported and would result in adverse smells and litter.
- Noise from deliveries and traffic will cause unacceptable noise implications.
- The development will cause anti-social behaviour.
- The development is not needed, as other supermarkets are in close proximity to the site.
- Proposed lighting will impact the amenity of residents close to the scheme.
- The car park provision needs to be reduced and the building reconfigured.
- The security and wellbeing of residents on the adjacent will be greatly reduced.
- An increase in air pollution.
- The surrounding site already suffers from drainage issues and the development is likely to increase the problem.

- No discussion has been undertaken with residents on the adjacent site regarding the proposal.
- An improved landscaping scheme should be proposed.
- Concern is raised in respect of who would manage the landscaping post development
- The proposal will devalue properties in close proximity.
- Potential infestation of rodents as a result of the proposal.
- Erosion of ecology in and around the site as a result of the development.
- The proposal is not in keeping with the immediate area. .
- Lydia Becket Way, Broadgate, Foxdenton Lane and Grimshaw Lane will be unable to cope with the additional traffic demand.
- No hours of operation have been stipulated on the application.
- Concerns that the development is too high.
- A proposed supermarket is out of character with the area.
- Concerns raised, given that retail is proposed for the site as oppose to commercial as originally intended.

PLANNING CONSIDERATIONS

Principle of development

Procedural Matter

Martin Robeson Planning Practice (“MRRP”) has submitted an objection to the application on behalf of Tesco Stores. The representation refers to recent caselaw, specifically the Hillside Parks vs National Park Authority [2020] EWCA Civ 1440 case. It is argued by MRRP that this judgement means that the introduction of an Aldi foodstore and secondary commercial unit via a so-called ‘drop in’ application on land already benefiting from an outline permission under PA/337091/15 would render any development of the original planning permission unlawful.

The Hillside Parks case itself involves a 50+ year old planning permission for housing, with an unclear and complex planning history. The scheme was built out slowly and under various amendments. By 2011, at least 14 subsequent planning permissions had been granted for departures from the original masterplan. In 2017, the local planning authority in that case indicated that, because the developments carried out in accordance with the later planning permissions rendered it impossible to implement the original master plan, further development could no longer continue under the 1967 permission. In considering the case’s relevance to OUT/346784/21, the following points should be considered:

- The application at Foxdenton is entirely different. In contrast it involves a fairly recent planning permission, and the planning history is not complex. Although the original planning permission has been the subject of a s.73 application to vary conditions relating to highway infrastructure, it did not seek to alter the delivery of the approved Master Plan. The approval of the s73 application did not render it impossible for the remainder of the site to be implemented in accordance with the Master Plan and Phasing Plan. Parcels of the site have already been developed, including Phases R1 & R2 (Residential schemes by Countryside Properties and Redrow respectively, and Phase C1 (otherwise known as Plot 1000) is also commencing; and,

- Despite the Court of Appeals' conclusions on 'drop in' applications in the Hillside Parks vs National Park Authority [2020] EWCA Civ 1440 case, at this stage, it appears it was considered on its own merits. A debate on the widespread implications of taking a blanket approach to 'drop in' applications has not been debated. Until further clarity is provided by the courts about how 'drop in' applications should be treated, it is entirely reasonable to treat each case on its own merits.

In conclusion, this application does not prevent the remainder of the site from being redeveloped in accordance with the original hybrid planning permission (PA/334355/13), and the phasing plan agreed as part of Discharge of Condition application (CD/336583/15). The link road has been delivered and is operational in accordance with the full application element of the hybrid planning permission. In relation to the outline element, this current application will not prevent the delivery of 500 dwellings on the site on Phases R1, R2, R3, R4, R5 & R6. Furthermore, Condition 5 of the outline planning permission also granted 66,460sqm of commercial floor space. Whilst this site will take 2,104sqm of that floor space, the remaining 64,356sqm can be delivered on parcels C1A and C2 as agreed in the approved phasing plan.

This appears to be completely different to the Hillside Parks case, in which it is argued that because there has been so many departures to the original masterplan (14) the original masterplan cannot be implemented. In this case, it is one departure, on one parcel of the site, and the remainder of the original masterplan for residential and commercial development can still be implemented as intended for the site.

In assessing the principle of both planning applications, it is necessary to consider the relevant aspects of each application and weight is attached to each aspect using the following indicators: substantial, significant, moderate and low.

Loss of employment land (Local Plan Policy 14)

In relation to the principle of development, both the full application for an Aldi foodstore and the outline application for a commercial unit will be considered together in this section of the report.

The site forms part of a Business Employment Area (BEA) and Policy 14 is relevant, which states that acceptable uses in the Foxdenton Business Employment Area ('BEA') are B1, B2 & B8 uses, with up to 25% residential. It does not specify any exceptions for other uses as is the case for other BEA's. Given that both parts of the application are a departure from Policy 14 and the acceptable uses, this needs to be considered carefully.

In relation to Employment Land Supply, Policy 4 states that the council will allocate approximately 82 hectares of employment land in the Site Allocations DPD, for the period 2008 to 2026. Approximately half of this land will be provided at Foxdenton, which is a Business Employment Area. Referring to the Committee Report undertaken as part of the original hybrid planning permission PA/344355/13, it states that the Foxdenton site is approximately 47 hectares in size, with an additional 2 hectares that sits outside the Business Employment Area, which was proposed for housing, giving a total of 49 hectares. Policy 14

recognises that residential development is an essential component to delivering employment uses at Foxdenton and therefore up to 25% of the site was considered acceptable for residential under Policy 14. 10.88 hectares of land was approved for residential development, which equated to 23% of the 47-hectare Business Employment Area. As stated, earlier Condition 5 of the outline planning permission also gave permission for 66,460 sq.m of employment floor space at the site. The remainder of the site has been or is to be used for site infrastructure such as the link road and Linear Park.

The proposal for a foodstore and commercial unit has a collective floor space creation of 2,104 sqm, and this represents a take of 3.1% of the approved 66,460 sq.m of employment floor space granted for the site. The latest Annual Monitoring Report 2021/2022 ("AMR") summarises the current position at Foxdenton and states that 30 acres (12.1ha) of employment land has been sold, which will deliver approximately 500,000 sq.ft (46,451sqm) of employment floor space. This demonstrates that Foxdenton is moving forward as the Local Plan intended and will still deliver high quality employment floor space. It is not considered that a 3.1% take from the approved employment floor space figure will have a severe adverse impact on the delivery of employment at the site as a whole.

The site size required to accommodate the proposals floorspace is approximately 1.1 hectares, and this represents a 1.3% take of the overall 82 hectares of employment land allocated under Policy 4 for the Borough. The latest AMR states that the total amount of employment land available for industrial and commercial use (Use Classes Order B1, B2 and B8) as of 31st March 2021 was 67ha. The total consists of 36.45 ha of saved UDP Business and Industry allocations and 30.55 ha of sites that are not allocations, but which have planning permission for employment uses and are either unimplemented or under construction. What this demonstrates is that there is employment land availability across the Borough. Furthermore, whilst the development does result in the loss of employment floor space for the purpose of Policy 14, it is considered to be minimal in this case.

Policy 14 does list some exceptions, in which proposals may depart from the policy, including: (a.) through a marketing exercise which proves that there is no demand, (b.) through submission of a viability appraisal to show that the acceptable uses listed in the policy are unviable, or (c.) by demonstrating that an alternative use would benefit the regeneration areas in need of investment, as identified by the Council and the community.

The applicant has considered the requirements of Policy 14 and asserts in the Retail and Planning Statement that both applications meet exception c of policy 14, on the basis (in summary) that the Foxdenton BEA could be regarded as an area in need of investment and should be considered as a major local regeneration project of borough wide significance.

The explanatory text for policy 14 at paragraph 6.64 states that applicants may wish to demonstrate that the development of the site for alternative uses would benefit the regeneration areas identified by the council as being in need of investment or would benefit the community of an area. In order to do this, it will need to be agreed by the council in advance that the site is within an area in need of investment and that the proposal will benefit the community. Regeneration and community schemes and benefits will include, among others, Oldham Rochdale Housing Market Renewal, Private Finance Initiative, local masterplans and action plans.

It is not disputed that Foxdenton is a key strategic site and has a crucial role in delivering both commercial and residential development in Oldham. However, for the purposes of meeting policy 14 exception c and the case for proposing alternative uses, other than those accepted in principle in the policy, it is not considered that either application meets the criteria for exception c in Policy 14.

The explanatory text in policy 14 is clear that to meet exception c it would need to be agreed with the Council in advance that the site is within an area in need of investment and that the proposal will benefit the community. The applicant has not agreed one or either of these points in advance with the Council. In addition, no marketing exercise or viability assessment has been submitted with the application. Therefore, in the context of meeting the exceptions set out in Policy 14, it is considered that the development does not comply with the policy and in fact both applications represent departures from Policy 14 and significant weight must be given to this.

In assessing the departure from Policy 14, the type of departure needs careful consideration. In this case, it does not involve, for example, a proposal for a residential development on employment land which would represent a loss of employment land to a completely unrelated use. In this case, whilst retail development and a commercial unit are not considered to be employment generating uses for the purposes of Policy 14, they do by their very nature provide employment opportunities. It is envisaged that the Aldi scheme alone will generate 40 – 50 new full and part time jobs. The Homes & Communities Agency Employment Density Guide (3rd edition, (2015)) provides a matrix for anticipated employment opportunities for different use classes based on floor space provided. Examples relevant to the site and this application include:

- B1 (now part of Class E) uses generate 1 FTE for every 8 – 13m² of floor space created;
- B2 (Industrial and Manufacturing) generates 1 FTE for every 36m² of floor space created;
- B8 (Regional Distribution Centre) generates 1 FTE for every 77m² of floor space created; and,
- A1 (a foodstore for the purposes of the guide, and now part of Class E) generates 1 FTE for every 15-20m² of floor space created.

This demonstrates that each business type has different employment needs and that foodstores have the potential to generate a greater level of employment than B2 and B8 uses per sqm and is not dissimilar to B1 uses. Therefore, whilst the proposed uses are not employment generating uses for the purposes of Policy 14, they do nevertheless generate comparable employment opportunities and this a material planning consideration.

In addition, it is necessary to assess the principle of both parts of the application holistically, taking into account any potential benefits of both schemes. These factors include:

1. The Aldi foodstore will create 40-50 full and part-time jobs and the commercial unit will also create further jobs (numbers still to be confirmed). Without prejudice to the

outcome of the application, Aldi have already approached the Council about working together to secure employment opportunities for local people.

2. The extant outline planning permission for a development for B1(a), B1(c), B2 & B8 uses (with a building of up to 16m in height) presents a fallback position and is therefore a material planning consideration. The B2 & B8 uses that could be provided could include heavy industrial 24-hour operations. In contrast, this current hybrid application proposes a single storey building restricted by condition limiting hours of operation and servicing, and a similar commercial type building subject to the same restrictions. Furthermore, the proposed foodstore building would be half the height of the already approved commercial building. It is therefore considered that the new proposal would likely have a lesser impact on nearby residents when compared with a B2 and/or B8 industrial type use.
3. The introduction of an Aldi foodstore and commercial unit in either use classes E(a) or E(b) will play a role in enhancing consumer choices in Chadderton, specifically on the Foxdenton site. The wider site has planning permission for 500 dwellings and a substantial amount of employment floor space, and the nearest foodstores are Lidl on Jardine Way and Asda in Chadderton, both approximately 1 mile away. The proposed foodstore will not only provide for weekly food shops but also convenience shopping throughout the week. The commercial unit could also provide for convenience food and drink uses for both residents and employees in the immediate area. This provides increased local facilities for those members of the local community who find it difficult to travel (some of the representations received in support make reference to this benefit).
4. The Retail Impact Assessment submitted with the application demonstrates that the Aldi foodstore will 'clawback' some £3.45m of convenience expenditure to the area from other Aldi's in Oldham, situated outside the Primary Catchment Area of this site.
5. Both the foodstore and commercial unit will deliver economic development into Chadderton. The proposed foodstore specifically will signal strong investment potential in the area and could help boost the local economy.

One of the main objectives of protecting employment land is to ensure that land is available to create employment opportunities for people. As stated above, the application represents a loss of a small amount of employment land, which does not favour the application in principle. However, on balance, the foodstore alone will create between 40-50 part and full-time jobs which is a significant positive. The, as yet undefined, commercial unit will add further jobs to this. In addition, the loss of this one site from will not substantially harm the Council's overall position in terms of the ability to deliver the quantum of employment land in the borough as set out in Policy 4 of the Joint DPD.

It is considered that a departure from policy in the right circumstances for the right use does not always result in adverse impacts to an area, providing the merits of the departure have been considered on balance and the benefits of any departure are considered to outweigh the harm. Whilst the loss of a small amount of employment land is noted, the type of departure is a key consideration, in that as part of this proposal, employment opportunities and commercial

investment in the area will still be created, and this, in conjunction with the benefits, means substantial weight is afforded to this.

Retail

In the case of both applications, retail matters are also crucial to assessing whether the principle of development is acceptable in this case. The applicant has voluntarily submitted both a retail sequential and impact assessment and this has been considered by Nexus Planning ('Nexus') on behalf of Oldham Council. Both parts of the application are discussed separately and together where appropriate.

Sequential Test

NPPF Paragraph 87 is clear that local planning authorities should apply a sequential test to planning applications for Main Town Centre Uses that are neither in an existing centre nor in accordance with an up-to-date plan. NPPF paragraph 88 states that such uses should be located in town centres, then in edge of centre locations; and only if suitable sites are not available (or expected to become available within a reasonable period) should out of centre sites be considered.

Policy 15 of the Joint DPD relates to retail and other main town centre uses and is broadly consistent with the requirements of the NPPF. The policy sets out a hierarchy for retail development (with Oldham town centre at the top, followed by the centres of Chadderton, Failsworth, Hill Stores, Lees, Royton, Shaw and Uppermill).

In relation to the Sequential Test, the submitted Planning and Retail Statement indicates that this should be approached on the basis that any alternative site should be able to accommodate both the full and outline elements of the proposed development together and that there is no requirement to consider disaggregation of the proposal in this instance, as there is no requirement to do so in the NPPF.

For the reasons set out in the response from Nexus, they do not believe that the applicant has demonstrated that the two separate parts of the proposal need to be (and would be) delivered in conjunction with one another, and therefore disaggregation of the proposal is justified in this instance. With that considered, Nexus approach the assessment of the sequential test on the basis that consideration should be given as to whether the sites are available to separately accommodate the foodstore and smaller commercial unit.

Full Application

The proposed foodstore is situated approximately 1 mile from Chadderton District Centre (which lies to the north-east). As such, the foodstore is clearly 'out of centre' for the application of retail and main town centre planning policy. The applicant suggests in the Retail and Planning Statement that this store will primarily serve residents living within a five-minute drivetime of the application site and provides an area of search at Appendix II of the document, and this represents Aldi's Primary Catchment Area.

Nexus accept the above and concur that the foodstore would principally serve needs that arise within a relatively localised catchment. Any sites located beyond the five-minute drivetime

would not serve the same residents' grocery needs in practice. Therefore, Chadderton town centre should be the focal point of the sequential exercise in relation to the foodstore and this is agreed by all parties.

With the above agreed, the sequential assessment focused on whether there were any available and suitable alternative sites for the foodstore (within the agreed catchment), which met the following characteristics:

- is at least 0.5 hectares in size, such that it offers potential to accommodate the foodstore element of the proposal; and,
- is within or well connected to Chadderton district centre in order to have access to a similar catchment area.

The applicant put forward five alternative sites within the agreed catchment for review and these are as follows:

Site 1: Units 14 and 16, Chadderton Mall:

Units 14 and 16 are now being occupied by Secret Burger and Card Factory respectively. As such, it is not considered that either unit is currently available and, in any case, both units are far too small to accommodate a foodstore use, even allowing for flexibility.

Site 2: Former Chadderton Sports Centre, Middleton Road:

The site extends to approximately 0.3 hectares and is therefore too small. In addition, the 'Palm Suite' facility opened in July 2021 on the site following a change of use from the sports hall and swimming pool. Therefore, the site can be discounted as a potential alternative.

Site 3: 1-5 Victoria Street:

1-5 Victoria Street is a Grade II Listed Building located immediately to the west of the former Chadderton Sports Centre. The building and site itself are of a limited scale and is considered too small to accommodate the application proposal. In addition, given the buildings' Listed status, it is considered likely to present a challenge to its redevelopment for the proposed use. Therefore, it is not considered that the proposals could be accommodated at the site.

Site 4: 513-515 Middleton Road:

The above site is a terraced retail unit that was identified in the Planning and Retail Statement as being available, but not suitable due to its limited floorspace. The site is now occupied by Bon Fleur florist, and, therefore, the premises are no longer available. In any case, the site is far too small to accommodate the proposed foodstore use.

Site 5: Peel Street Public Car Park, Peel Street:

The above site is a rectangular area of land extending to approximately 0.1 hectares. The site is not being actively marketed and has not been made available for redevelopment. In

addition, due to the site's limited size, it is not considered that it represents a suitable alternative to accommodate a foodstore.

Additional Sites

Nexus also highlighted two further vacant sites (as of August 2021), which included Unit 7-9 and Unit 10 in Chadderton Shopping Precinct. Unit 7-9 represents the largest of the units with a floorspace of 305m² and this is considerably smaller than what is required and therefore does not represent a viable alternative.

Outline Application

Considering the smaller commercial unit, this is presented in the Planning and Retail Planning Statement on the basis that it would meet day to day sustenance needs. Nexus agree that a sandwich shop, coffee shop or restaurant type facility in this locality would generally meet the local needs of adjacent employment uses, residential properties and those passing through the area.

Nexus do not believe that those same needs could be met in the same way in Chadderton District Centre (or at any site well connected to it) and this is because food and drink operators in the district centre largely serve a different market. In addition, no sites within or well connected to The Downs and Grimshaw Lane local centres are open or available that could serve the same day to day sustenance needs. Therefore, Nexus conclude that the smaller commercial unit meets the requirements of the sequential test and there is no reasonable basis to disagree with the applicant's findings.

On the basis of the above, it is considered that the requirements of the sequential test have been met for both the foodstore and commercial unit, as set out by paragraphs 87 and 88 of the NPPF and there is no reasonable basis to disagree with the assessment or the findings.

Impact Test

In terms of the impact test, both the applicant and Nexus have assessed retail impact on a cumulative basis, i.e. they assess the impact of delivering both the full and outline application together on the basis that they both propose a retail use. They combine the gross floorspace of both the retail foodstore (1,804m²) and commercial unit (300m²) to assess the potential impact of creating 2,104m² of retail floor space in an out of centre location. For that reason, the impacts of both the full and outline applications will be assessed together in this section.

Policy 15 of the Joint DPD states that the council will be guided by the thresholds in national guidance in assessing the impact of a retail proposal. Proposals of 2,500m² gross floorspace or above must be accompanied by an impact assessment to determine its likely effects on the borough's centres. Retail proposals of between 500m² and 2,499m² in gross floorspace may have to be accompanied by an impact assessment. The council will determine and agree the extent of this assessment on a case-by-case basis with the developer having regard to the nature, scale and location of the proposal. In this case, the applicant has submitted an Impact assessment to enable retail matters to be robustly assessed.

NPPF Paragraph 90 sets out the following criteria for what should be considered in a retail impact assessment as follows:

- the impact of the proposal on existing, committed and planned public and private sector investment in a centre or centres in the catchment area of the proposal; and
- the impact of the proposal on town centre vitality and viability, including local consumer choice and trade in the town centre and wider retail catchment (as applicable to the scale and nature of the scheme)

Each of the criteria above will be considered in turn as follows:

- The impact of the proposal on existing, committed and planned public and private sector investment in a centre or centres in the catchment area of the proposal

The response from Nexus states that the most significant recent investment at Chadderton relates to the redevelopment of the former Chadderton Sports Centre as the Palm Suite events venue and there is broad agreement on this point. Nexus are satisfied that the development of a foodstore and additional commercial unit would have no material impact on the operation of that venue.

Other potential investment proposals include the planned regeneration of Spindles Town Square Shopping Centre; however, Nexus are satisfied that this would serve a substantially different market and will not be impacted by a development.

Therefore, both the full and outline applications meet the first part of the impact test.

The second part of the impact test is as follows:

- The impact of the proposal on town centre vitality and viability, including local consumer choice and trade in the town centre and wider retail catchment (as applicable to the scale and nature of the scheme)

Considering the second part of the test, Avison Young (“AY”) sets out the approach to trade diversion impact in the Retail and Planning Statement (Section 7 & Appendix IV). Nexus have appraised the inputs and assumptions relied upon by AY in assessing the impact.

Nexus Planning conclude that they are satisfied with the following inputs and assumptions made by AY in their retail assessment, including the following:

- The Assessment Period;
The Baseline Position; and
- The Turnover of Proposed Development

In relation to potential trade diversion, Nexus confirm in their assessment, that the principal impacts of both proposals would likely centre on the Lidl at Jardine Way, the Morrisons at

Tweedale Street, and Asda at Milne Street. Only Asda is in the defined centre, with the other two stores not benefitting from 'policy protection' due to their siting.

Nexus also confirm that some expenditure will be diverted from smaller retailers within Chadderton District Centre, but not at a level, which gives cause for concern (impact of 3% identified at Table 4.1 of Nexus response) and Nexus do not believe that the identified impacts for smaller stores would likely undermine their future viability. Therefore, the principal consideration is the potential level of trade diversion from Asda, which according to table 4.1 of Nexus's response equates to circa 7.6% of its turnover.

To consider the potential day to day impacts, Nexus carried out a site visit and observed that Chadderton District Centre supports a good number of service uses and also accommodates a relatively strong comparison goods offer. A total of four units were observed as being vacant, which were mostly concentrated around the retail precinct in the centre; however, the vacancy rate remains below the national average level. Nexus conclude that the centre is vital and viable and performs an important local function.

Nexus have considered how the Asda will trade when the Aldi foodstore is fully operational and it is apparent that the Asda store will continue to 'overtrade' very substantially, even when the Aldi foodstore and commercial unit are trading in full. Therefore, Nexus consider that potential impacts as a result of both the full and outline applications are below the 'significant adverse' level.

Whilst some food shopping trips would be diverted from Asda and other retailers at Chadderton District Centre, both proposals will have a relatively narrow offer and residents would still have need to visit the centre to access other goods and services. There will still be a need for residents to make trips to retailers and service providers within Chadderton at other times.

Based on the above, Nexus conclude that the in-centre impacts arising from the foodstore and commercial unit would be below the 'significant adverse' level and would not justify refusal of the planning application on these grounds.

In terms of the potential need for a foodstore, whilst the Oldham Retail and Leisure Study (September 2020) carried out by Stantec does not recognise an undersupply of foodstores in the Borough, it does not take into account future population increases and additional catchment expenditure, which may result in additional need. In the area subject of the application alone, there is an additional 500 dwellings and over 64,000 sqm of commercial floorspace approved (minus the potential foodstore & commercial unit). Furthermore, the very strong performance of the Asda superstore in Chadderton, and the fact the store is overtrading is suggestive of the capacity to support an additional foodstore in the Chadderton area, which will also secure some benefit in providing more customer choice. No objections have been received from either Lidl (Jardine Way) or the Asda at Chadderton, which further supports the theory that the Chadderton area has the capacity for an additional foodstore, and the site subject of the application is clearly the best location for this provision, as demonstrated through the sequential assessment.

Therefore, in conclusion, the full and outline applications are considered to meet the second part of the impact test set out in NPPF paragraph 90. The potential trade diversion impacts to the defined centres is considered acceptable and no centre will be subject to significant adverse impacts and on that basis, the proposal complies with Policy 15 and the NPPF.

Overall, the development meets the requirements of the sequential and impact tests and significant weight is therefore given in favour of the proposal.

Representations on retail grounds

Since the above retail assessment was carried out, two representations have been received from Hollis Vincent (“HV”) on behalf of a local resident’s group and as already discussed, MRRP on behalf of Tesco Stores in relation to retail matters, and they raised several concerns, including the following (in summary):

- the nature of the sequential assessment, which excludes defined centres on the basis of the commercial and locational preferences of the retail operator (identified at page 4 of the MRPP letter);
- the use of erroneous assumptions in the applicant’s retail impact assessment and the need to undertake a health check assessment of Middleton town centre (page 5 of the MRPP letter);
- the omission of a commitment from the submitted retail impact assessment (page 6 of the MRPP letter);
- the need for a condition (should planning permission be granted) to regulate the control and use of the proposed ‘flexible use’ unit (page 6 of the MRPP letter);
- whether the smaller commercial unit would meet a principally local need or whether, in practice, it could be located within Chadderton district centre (paragraph 4.28 of the HV report);
- the appropriate parameters to be applied in reviewing sequential alternative foodstore sites (paragraph 4.29 of the HV report);
- the potential to accommodate the proposed foodstore on two further sites within Chadderton district centre, these being Land to the Rear of Chadderton Reform Club and the Former Jubilee Works (paragraph 4.39 of the HV report); and
- the applicant’s overestimation of the expenditure that would be diverted from more distant foodstores as part of its retail impact assessment (paragraph 5.26 of the HV report).

Nexus were instructed by Oldham Council to review the representations raised by both MRRP and HV. The applicant has also responded to the representations raised. Referring to the response given by Nexus, the representations have been reviewed and they do not change the outcome of the initial advice given.

On concerns raised in relation to the sequential assessment, Nexus state that they are very familiar with the local geography and the provision of foodstores across the wider area. Nexus believe that, in practice, the town centres of Oldham and Middleton serve largely different markets and that any alternative site within these centres would not fulfil a broadly comparable role to a foodstore located at the application site. This judgement is reached with reference to

the location of competing provision and the distance between the application site and the higher order centres referred to by MRPP. Nexus's view is not reliant on Aldi's identification as the proposed operator. Nexus confirm that they remain of the view that the applicant's five-minute drivetime is appropriate in this case.

Nexus have also assessed Middleton Town Centre, and conclude that, in practice, the application proposal would attract a limited proportion of the turnover of the Tesco and Aldi stores in Middleton. The proposed foodstore would support a modest amount of comparison goods floorspace and does not replicate the wider role and function of Middleton town centre (or any other centre). Shoppers undertaking grocery shopping at the proposed foodstore would still have a need to visit Middleton (and other centres) to source other goods and services. In this context, Nexus believe it to be clear that the impact to Middleton town centre is limited and would not impact upon Middleton's general role and function.

MRRP made reference to that Lidl extension granted under reference FUL/346783/21. The proposal provides for an extension with a gross internal area of 391m². Of this, 177m² will be dedicated to sales and the back of house warehousing area will be extended by 208m². Nexus have assessed this on a worst-case scenario i.e., if the whole extension was a net sales area. Having assessed the worst-case scenario, Nexus remain of the view that the in-centre impacts arising from the application proposal coupled with the Lidl extension would be below the 'significant adverse' level which would merit the proposal's refusal. The Asda store would continue to trade exceptionally well and would continue to draw custom into Chadderton district centre. The Lidl extension is relatively distant from Middleton town centre and would not divert a material amount of trade from it.

MRRP stated that there is a need for a planning condition in order to regulate the use of the commercial unit. Nexus concur with the view that a restrictive condition is required for the proposed use and this would be applied to any decision notice. Nexus also reaffirm that the smaller unit (when subject to a restrictive condition that would limit its use to a café, sandwich shop or bakers), will meet localised need, and could not meet the same needs if it were located within (or in proximity to) a defined centre rather than at the application site.

HV introduced two further prospective sequential alternative sites, including:

- Land to the Rear of Chadderton Reform Club measuring 0.26 hectares; and
- the Former Jubilee Works measuring 0.31 hectares.

Nexus confirm that both sites are too small to offer realistic potential to accommodate the broad type of foodstore development proposed by the applicant. In addition, the attractiveness of both sites for grocery retail is further diminished as they do not benefit from a main road frontage and are only partially visible from Middleton Road. Nexus do not believe that either site would prove attractive to grocery operators in practice and believe that both can be discounted from the sequential assessment on the ground of suitability.

HV indicates that the sequential test should be applied without reference to specific operators' requirements and notes the metropolitan store format being developed by Lidl. Nexus acknowledge that operators are able to support different formats of store, dependent on the local circumstances. Nexus state that the metropolitan format is typically supported in larger

centres (in particular, within London) that benefit from a densely populated area and high local footfall. HV set out Lidl's requirements at Appendix 1. Lidl's requirements confirm that the metropolitan format is 'created for the urban city centre'. In addition, Lidl's website provides an updated summary of the locational requirements for the metropolitan format, which states that:

'The metropolitan store is perfect for city centres. Thanks to the smaller space requirements and the adaptability of the façade design, a metropolitan store can be ideally integrated into densely populated city centre areas. Together, we can find the right solution for your location.'

Nexus state that in their own experience discount foodstores will only occupy sites smaller than 0.5 hectares in particular local circumstances. HV refers to the scale of Aldi foodstore development in Sale and Stretford, and the planned occupation of the Altair development in Altrincham by Lidl. However, in this regard, it is important to recognise that these are not comparable to the situation in Chadderton because:

- Sale town centre is a higher order centre than Chadderton district centre, and the Aldi development incorporates residential development above (something that would not be appropriate in the context of the Foxdenton site);
- Altrincham town centre is also a higher order centre than Chadderton district centre, and the proposed Lidl store would be part of major regeneration scheme in the heart of Altrincham Town Centre that will include a mixture of residential, retail, leisure and public realm improvements, which is an entirely different type of development than the Foxdenton scheme; and,
- The Aldi store at Stretford benefits from a substantial existing surface car park area to the south, which directly serves the store (this area is not included within HV's consideration of the site occupied by the foodstore use, yet this provision was crucial to allowing a non-typical Aldi food store to be deliverable in that situation, and so this example is not comparable to the Foxdenton context).

Nexus do not consider that operators would likely be interested in pursuing a metropolitan model in Chadderton due to the size of the centre and its limited role. The housing market in Chadderton is also markedly different to that which is apparent in Altrincham and Sale, and the scope for a mixed-use development is diminished. Chadderton does not fit the profile of a 'densely populated city centre area' which is the stated target location for a metropolitan store model. Therefore, considering all of the above, Nexus believe that the sequential test should be applied to the proposed foodstore use on the basis of a minimum site size of 0.5 hectares.

With all matters considered in the representations, the outcome of the initial advice given from Nexus has not changed, and no objections are raised on retail grounds.

Conclusion

Justified weight has been given to the relevant material considerations for assessing the principle of development for both the full & outline planning proposals as follows:

- Significant weight is given to the fact that neither the full or outline applications comply with policy 14 and both applications together will result in the loss of a small amount of employment land and this is not in favour of the proposal;
- Substantial weight is given to the type of alternative uses proposed for the site, in that they will still create employment opportunities and commercial investment in the area, and this, along with the benefits of both the full and outline applications as set out above in this report, have been given due weight; and
- Significant weight is given to the fact that both the full and outline planning proposals have passed both the retail sequential and impact test, which is in favour of the proposal.

Significant weight has been given to Policy 14, however, considering the type of alternative uses proposed and the benefits of the scheme, these are considered to outweigh the loss of a relatively small amount of employment land in this case.

On balance it is considered for the reasons set out in this report that a departure from Policy 14 is justified and on that basis, the principle of development is considered acceptable.

Design

Given that the application is submitted in hybrid form, the design elements of the foodstore and proposed commercial building are considered separately as follows:

Full Application

The design and appearance of the Aldi foodstore is of a standard design for the Aldi brand. The building is of a modest scale, compared to some other supermarket chains owing to the type of business model Aldi operate. The height of the overall building is 8m and this is comparable to most two storey properties. The building will have a contemporary appearance, with extensive glazing to the north and west elevations, which breaks up the massing and adds interest to the most visible elevations from Lydia Becker Way. The building also incorporates a pressed metal canopy over the entrance and trolley bay in anthracite grey, which adds further interest to a fairly standard rectangular building.

A simple palette of materials is proposed to give the building a contemporary appearance, which include a combination of black brickwork, anthracite and silver cladding panels throughout, with fascia signage (signage subject to separate application ADV/346767/21). The use of black brickwork, anthracite and silver cladding panels compliments the recently approved reserved matters applications on Phase C1, for large industrial units under applications RES/346195/21 & RES/346295/21. These buildings have a modern industrial appearance and incorporate anthracite cladding panels throughout both proposals and it is a strong positive to have some continuity in the appearance of what is delivered at Foxdenton.

In terms of layout, the building is situated on the eastern side, this allows for good pedestrian linkages from the north, servicing to the south east and maintains a no build strip to the south,

for enhanced landscaping and a valuable gap to the residential properties to the rear of the site.

Internal customer car parking occupies the central area and includes provision for 120 car parking spaces in total, including 8 disabled bays, 8 parent and child spaces and 4 EV spaces and 5 motorcycle spaces. The disabled bays and parent and child spaces are sited at the front of the store and provide easy access to the entrance. A new vehicular access and egress junction to Lydia Becker Way is located on the north-western boundary of the application site (north-western corner) and this will provide access for servicing vehicles, customers and staff. The entrance to the foodstore will face west towards the new roundabout and this will tie in directly with a pedestrian link situated north of the site from Lydia Becker Way. The servicing area is positioned on the south east boundary of the site and Environmental Health have no objection to this.

The design and appearance of the Aldi foodstore will function well in an area previously designated for an employment use and will not have an adverse impact on the attractiveness of the area. A considerate approach has been taken in terms of appearance and this is demonstrated in the material palette selected. The scheme also proposes a generous landscaping scheme, which achieves biodiversity net gain. Therefore, on the basis of the above, the development accords with NPPF Section 12 and Policy 20.

Outline Application

The design, layout and appearance elements of the commercial unit are reserved for future consideration and no specific details have been submitted at this stage.

However, the Retail and Planning Statement does set out some fundamentals for the building, which include:

- The building will be situated in the south west corner of the site;
- The building will extend to a maximum height of 6m AOD, equivalent of 1 storey; and
- The maximum area of land for use of the commercial unit will extend no more than 1,245m² and the commercial unit itself will be no more than 300m²

The remaining elements of the proposal will be assessed as part of any future reserved matters application for the site.

Residential Amenity

In this section, I will assess the potential impacts on residential amenity of both the proposed food store and commercial unit, these will be considered separately.

NPPF Paragraph 185(a) seeks to mitigate and reduce to a minimum, potential adverse impacts resulting from noise from new development and avoid noise giving rise to significant adverse impacts on health and the quality of life. Local Plan Policy 9 seeks to ensure that development does not have an unacceptable impact on the environment or human health caused by air quality, odour, noise, vibration or light pollution.

Full Application

The nearest sensitive receptor to the foodstore is a residential development to the south of site. This has been constructed by Redrow Homes and was originally designated as Phase R2 under previous planning approvals. The proposed foodstore is closest to the properties that back on to the development site on Cavalier Square, and these are located over 20m from the delivery bay on the south elevation and 25m from the plant area.

A noise impact assessment has been submitted with the application. The assessment concludes that servicing procedures undertaken in the daytime on weekdays, would have a negligible impact, deliveries between 06.30 & 7am would have a 'low impact' and deliveries in the Sunday hours would also have a low impact and this is without proposing any mitigation. Potential impacts as a result of plant equipment have also been assessed and the noise impact assessment concludes that this will have a 'low impact' on the immediate surroundings. Environmental Health has reviewed the noise assessment and do not object to the findings.

Many representations have been received requesting that the proposed foodstore be reconfigured to limit potential amenity implications to the residential properties to the south of the site. However, given that Environmental Health do not object to the siting of the foodstore on amenity grounds, the applicant has instead considered further mitigation. This includes the installation of a 3m high acoustic fence on the southern boundary, which will provide screening and details of this will need to be submitted and approved by the Council prior to installation, to ensure residential amenity is maintained and the developer has voluntarily accepted this condition. The developer has also volunteered and accepted a condition in relation to a lighting scheme, to help minimise impacts to residential amenity. In addition, an enhanced landscaping scheme is also proposed on the southern boundary, which includes an additional 13 trees in the buffer area, ranging in height from 3m to 4.5m in combination. This will provide further screening between the development and the properties south, which is supported.

In terms of levels, the foodstore would sit higher than the properties directly to the south. The finished floor level (FFL) for the foodstore is proposed at +110.1. The FFL's of the properties to the south range from 108 to 106, with levels dropping as the housing development heads west of the proposed foodstore. It is clear from visiting Cavalier Square that there is an existing level change as the properties rise up to face the site and the proposal would sit between 2 – 4m higher than the properties to the south, depending on the position. The Aldi building itself has an overall height of 8m and whilst the level change is noticeable the overall balance in this case needs to be considered. As part of the hybrid planning permission granted previously, the approved Parameters Plan 05060_MP_02_002 Rev E specified that in principle a commercial building would be acceptable up to 16m in height, in the same locality as the foodstore, which is significantly higher. Whilst the level differences are noted in this application, the proposal is significantly lower in height than what was originally approved as part of the hybrid planning permission, and given the strong fallback position, this would not form the basis of a reasonable planning refusal in this instance.

Given the proximity of the proposed development to residential properties, a Construction Environment Management Plan (CEMP) will need to be submitted and agreed in writing prior to the commencement of development. This document will need to consider the following:

- Hours of operation
- The use of quiet working methods
- The use of most suitable plant
- Controlling noise and vibration at source

This will assist to help ensure that the amenity of residents close by is not adversely affected during the construction period.

Overall, based on the above and subject to conditions the development is acceptable and complies with the NPPF Section 15 and Local Plan Policy 9.

Outline Application

Given that the commercial unit is submitted in outline (all matters reserved), there are no specific details on what the end use will be, except that it would be a use in either Class E(a) or E(b).

In terms of amenity, for the purposes of the noise assessment, a coffee drive-thru facility has been used as an example to gauge potential amenity implications. The noise assessment concludes that potential noise from any plant equipment would be controlled to meet Oldham Council requirements and noise from customer vehicles using such a facility is expected to have a no worse than 'low impact', when assessed using the method described in BS 4142:2014. It is noted that the outcomes are speculative, and this is reasonable, given this element of the application has been submitted in outline. However, notwithstanding these conclusions, given that the end use has not been established, it is reasonable to attach a suitably worded planning condition for a noise assessment to be submitted, which considers the specific use when this is established.

Highways

Outline and Full application

In terms of highways, the submitted Transport Assessment (TA) assesses both the full and outline applications and therefore, they will be assessed together in this section. The TA assumes that the flexible use commercial unit will operate as a drive-thru coffee shop for the purposes of assessing the potential transport impacts.

TfGM observed that the traffic counts used in the TA are from 2013 and were considered too old for the purpose of the current assessment, and therefore concerns were raised about the data used to assess the impacts to surrounding junctions, as a result of the development: including.

TfGM concluded that a contribution of £12,800 should be made by the applicant to implement a SCOOT at traffic signals from Lydia Becker Way to Foxdenton Way to help mitigate the impact of the foodstore on the highway network.

The Transport Consultant for the applicant noted the age of the data, however, also stated that they would not be able to do the traffic counts in the school holidays and even if the additional counts were undertaken, the financial contribution set out above may still be required. Therefore, the applicant has accepted the request for a contribution of £12,800 in relation to the foodstore, in lieu of the requirement to undertake further traffic counts and TfGM and the Highways Engineer have accepted this proposal.

Whilst the TA does consider traffic generation as a result of both proposals, it does not consider the layout and how traffic would be managed within the site, if a drive-thru facility was to be built at the site. The Highways Engineer has raised some concerns at the prospect of a drive-thru facility at the site, and the conflict this may cause in the car park. However, the application is for a flexible commercial use and there is no guarantee that a drive-thru coffee shop would be built at the site and this can only be considered at reserved matters stage.

Overall, subject to conditions and a contribution of £12,800, the full application is considered acceptable and the outline application, specifically the principle of a flexible use commercial unit in Use Class E(a) and (b) meets the criteria of Policy 5 and section 9 of the NPPF.

Ecology and Landscaping

Full Application and Outline Application

A Preliminary Ecological Report has been submitted with the application, which assesses the whole site (covering both the full and outline applications). The site for both schemes has now been cleared in preparation and the habitats currently on the whole site are considered to be young.

The Ecological Report confirms that there are no implications for roosting bats or breeding birds as a result of either scheme. However, the report also concludes that there are habitats on site suitable for invertebrates, and that suitable habitats should be retained where possible. The report also recommends that the planting of a variety of additional habitats should be implemented into the design of both schemes to ensure that there is no net loss of biodiversity.

As part of mitigating any potential loss of biodiversity as a result of the development, a Landscaping Plan has been submitted with the application, which shows that 29 new trees will be provided across the site, along with native hedge mix planting, ornamental shrub planting, wildflower and other grassland, which is clearly a biodiversity net gain.

GMEU have reviewed the details submitted including the Ecological Report and have not raised any objections to the findings. GMEU have recommended conditions in relation to the provision for bird boxes across for the full application, which can be secured by way of condition.

In relation to the proposed commercial unit, it is noted that landscaping is a reserved matter and further details will need to be submitted for that section of the site when an end user is found. However, the landscaping proposed across the site, as part of the full application will help contribute strongly addressing this matter.

Therefore, the development complies with policy 21 and section 15 of the NPPF.

Flood Risk & Drainage

Full Application and Outline Application

A Flood Risk Assessment has been submitted with the application, which considers the site as a whole covering both the full and outline applications and therefore, both applications will be considered together.

Policy 19 states that the council will ensure development does not result in unacceptable flood risk or drainage problems by directing development away from areas at risk of flooding, and protecting and improving existing flood defences, water resources and quality, and that development proposals must carry out and pass the Sequential Test and, where necessary, the Exception Test, and be accompanied by a site-specific flood risk assessment.

According to the Environment Agency Flood Maps, the whole site is located in Flood Zone 1 and is at the lowest risk of flooding. Both the foodstore proposal and commercial unit would be considered in the 'less vulnerable' use within flood risk vulnerability classification. In respect of surface water drainage, the Flood Risk Assessment submitted with the application states that all post-development hard surfaced / drained areas will discharge to the diverted, culverted 'ordinary' watercourse located adjacent to the western / northern plot boundaries via the 225mm diameter stub pipe provided at the western side of the plot at a rate of 1.5m per second.

United Utilities (UU) have reviewed the submitted Flood Risk Assessment and have confirmed that the drainage proposals are acceptable in principle. However, UU do not have sufficient information on the detail of the drainage design. There is a wider drainage strategy that has been implemented as part of the overall Foxdenton Strategic Site, and UU would like to understand further how this phase of development will link into the wider drainage network.

Therefore, a suitably worded planning condition will need to be applied to the full and outline applications, relating to surface water and subject to conditions, both applications comply with NPPF Section 14 and Policy 19.

Ground Conditions

Full Application & Outline Application

As with flood risk, the applicant has submitted a Geotechnical and Geoenvironmental Desk Study, that covers the whole site and, on that basis, both the full and outline application will be considered together in relation to ground conditions.

National guidance within paragraphs 178 and 179 of the NPPF and Local Plan Policies 7, 8 and 9 are relevant, which seek to ensure that a site is suitable for its new use taking account of ground conditions, including from natural hazards or former activities such as mining, pollution arising from previous uses and any proposals for mitigation.

The Environmental Health team has reviewed the submitted Geoenvironmental Site Assessment and Gas Addendum Report and has advised that there are no objections to the proposal. It is advised that condition relating to the requirement for a remediation strategy, and this will be applied should planning permission be granted.

Planning balance

There are a significant number of material planning considerations which must be weighed up in assessment of both the full and outline applications, both positives and adverse:

The major positives are set out in detail above and include:

1. The Aldi foodstore will create 40-50 full and part-time jobs and the commercial unit will also create further jobs (numbers still to be confirmed).
2. The extant outline planning permission for a development for B1(a), B1(c), B2 & B8 uses (with a building of up to 16m in height) presents a fallback position and is therefore a material planning consideration. The B2 & B8 uses that could be provided could include heavy industrial 24-hour operations and could provide fewer jobs. In contrast, this current hybrid application proposes a single storey building restricted by condition limiting hours of operation and servicing, and a similar commercial type building subject to the same restrictions. Furthermore, the proposed foodstore building would be half the height of the already approved commercial building. It is therefore considered that the new proposal would likely have a lesser impact on nearby residents when compared with a B2 and/or B8 industrial type use.
3. The introduction of an Aldi foodstore and commercial unit in either use classes E(a) or E(b) will play a role in enhancing consumer choices in Chadderton, specifically on the Foxdenton site. The wider site has planning permission for 500 dwellings and a substantial amount of employment floor space. The proposed foodstore will not only provide for weekly food shops but also convenience shopping. The commercial unit could also provide for convenience food and drink uses for both residents and employees in the immediate area. This provides increased local facilities for those members of the local community who find it difficult to travel (some of the representations received in support make reference to this benefit).
4. The Retail Impact Assessment submitted with the application demonstrates that the Aldi foodstore will 'clawback' some £3.45m of convenience expenditure to the area from other Aldi's in Oldham, situated outside the Primary Catchment Area.
5. Both the foodstore and commercial unit will deliver economic development into Chadderton. The proposed foodstore specifically will signal strong investment potential in the area and could help boost the local economy.

The adverse impacts include:

1. The development fails to comply with policy 14, which results in the loss of 3.1% of the approved Foxdenton employment floor space granted as part of planning permission and a loss of 1.3% of the 82 hectares of employment land set out in Policy 4.

Significant weight is given to the fact that both the full and outline applications do not comply with policy 14. However, for the reasons set out in this report substantial weight has been given to the collective benefits of both applications since these are considered to outweigh the adverse impacts. The retail assessment undertaken as part of the application indicates that both the foodstore and commercial unit will not have an adverse impact on the surrounding centres, and significant weight has been given to this.

On the basis of applicable national and local planning policy, and the various considerations set out above, on balance, it is recommended that both the full application and outline application should be approved subject to a legal agreement, which will secure £12,800 towards off site highway improvement works relating to the Aldi scheme (full application).

RECOMMENDED CONDITIONS

Grant planning permission subject to the following conditions:

Part A – Full Application

1. The development must be begun not later than the expiry of THREE years beginning with the date of this permission. REASON - To comply with the provisions of Section 51 of the Planning and Compulsory Purchase Act 2004.
2. The development hereby approved shall be fully implemented in accordance with the Approved Details Schedule list on this decision notice. REASON - For the avoidance of doubt and to ensure that the development is carried out in accordance with the approved plans and specifications.
3. The Class E foodstore hereby permitted shall have a maximum Gross Internal Area of 1,804 sq.m and a maximum net sales area of 1,315 sq.m. The sales area shall be used primarily for the sale of convenience goods, with a maximum of 300 sq.m used for the sale of comparison goods. REASON: To reflect the basis on which the application has been assessed and to protect the vitality and viability of nearby town centres, having regard to policy 16 of the Local Plan
4. No development comprising the erection of any external walls shall take place until specification of the materials to be used in the construction of the external surfaces of the development, including the roof, have been submitted to and approved in writing by the Local Planning Authority. The Development shall be carried out in accordance with the approved details. The materials to be used throughout the development shall be consistent in terms of colour, size and texture with the approved details. REASON - To ensure that the appearance of the development is acceptable in the interests of the visual amenity of the area having regard to Policy 20 of the Oldham Local Plan.

5. No development shall commence unless and until a site investigation and assessment to identify the extent of land contamination has been carried out and the consultant's report and recommendations have been submitted to and approved in writing by the Local Planning Authority. Written approval from the Local Planning Authority will be required for any necessary programmed remedial measures and, on receipt of a satisfactory completion report, to discharge the condition. REASON - Prior approval of such details is necessary as they are fundamental to the initial site preparation works and in order to protect public safety having regard to Policy 9 of the Oldham Local Plan.
6. No development shall commence unless and until a site investigation and assessment in relation to the landfill gas risk has been carried out and the consultant's written report and recommendation have been submitted to and approved by the Local Planning Authority. Written approval from the Local Planning Authority will be required for any necessary programmed remedial measures and, on receipt of a satisfactory completion report, to discharge the condition. REASON - Prior approval of such details is necessary as they are fundamental to the initial site preparation works and in order to protect public safety as the site is located within 250 metres of a former landfill site having regard to Policy 9 of the Oldham Local Plan
7. Prior to the commencement of any phase of development hereby approved, a scheme in the form of a Construction Environment Management Plan (CEMP) shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall include details for the methods to be employed to control and monitor noise, dust and vibration impacts, along with adequate wheel wash facilities. The approved scheme shall be implemented to the full written satisfaction of the Local Planning Authority before the demolition or construction works are commenced, which shall be maintained for the duration of the demolition or construction works. REASON - Prior approval of such details is necessary since they are fundamental to the initial site preparation works and to safeguard the amenities of the adjoining premises and the area having regard to Policy 9 of the Oldham Local Plan.
8. Prior to the commencement of any part of the development hereby approved, details of the method of surface water and foul water drainage from the site shall be submitted to and approved in writing by the Local Planning Authority. The approved details shall be implemented in full prior to first occupation of the approved development and shall be maintained thereafter. Reason - Prior approval of such details is necessary since they are fundamental to the initial site preparation works and to ensure that the site is satisfactorily drained having regard to Policy 19 of the Oldham Local Plan.
9. No development comprising the construction of a building shall take place until a detailed energy statement has been submitted to and approved in writing by the Local Planning Authority. The statement shall set out how the development will accord with the Energy Infrastructure Target Framework set out in Oldham Local plan Policy 18 and shall detail how:
 - s
 - a target area has been determined; and,
 - how the development will meet this target.

The development shall be carried out in accordance with the approved scheme phasing arrangements and retained as operational thereafter.

REASON – To ensure that the development accords with the provisions of Policy 18 of the Oldham Local Plan.

10. Prior to the commencement of development above ground/slab level full details of mitigation for loss of nesting bird habitat will be submitted to and agreed in writing by the Local Planning Authority. Proposals shall include:

- a) A monitoring programme.
- b) Details of location of nesting opportunities

The works shall be carried out strictly in accordance with the approved details.

REASON - In order to mitigate the impact on nesting bird habitat having regard to Policy 21.

11. No development above ground/slab level shall take place until details of electric vehicle charging points have been submitted to and approved in writing by the Local Planning Authority. The development shall not be first occupied until the charging points have been installed and made operational in accordance with the approved details. Thereafter the charging points shall be retained and kept available for the use of electric vehicles. REASON: In order to promote sustainable means of travel having regard to Policies 5 and 9 of the Oldham Local Plan.

12. Prior to the first occupation of any part of the development hereby permitted full details of all soft landscaping works shall have been submitted to and approved, in writing, by the Local Planning Authority. All soft landscaping works shall be completed in accordance with the approved soft landscaping scheme within the first planting season following completion of building operations / first occupation of the development (whichever occurs first). Any trees, shrubs, plants or hedges planted in accordance with the approved scheme which are removed, die, or become diseased or become seriously damaged within five years of completion of this completion of the approved soft landscaping scheme shall be replaced within the next planting season by trees, shrubs or hedges of a similar size and species to that originally approved. REASON: To ensure that the development site is landscaped to an acceptable standard having regard to Policies 9, 20 and 21 of the Oldham Local Plan, and saved Policy D1.5 of the Unitary Development Plan.

13. Notwithstanding the submitted plans, prior to its erection, details as to the exact location and design/ appearance of the acoustic fence shall be submitted to and approved in writing by the Local Planning Authority. The approved fencing shall be erected prior to the store first being occupied and shall be retained as such thereafter. REASON: To ensure acceptable levels of amenity for surrounding residents in accordance with Policy 9.

14. No external lighting shall be installed until a lighting strategy has been submitted to and approved in writing by the Local Planning Authority. Such details shall include the location, height, type and direction of any light sources and the intensity and timing of their illumination. Any lighting, which is so installed, shall not thereafter be altered without the prior consent in writing of the Local Planning Authority other than for routine maintenance that does not change its details. REASON: To ensure acceptable levels of amenity for surrounding residents in accordance with Policy 9.

15. The development hereby approved shall not be brought into use until the access to the site, car parking spaces and servicing areas have been provided in accordance with the approved plan Ref:2969 BOL-102 Rev B and with the details of construction, levels and drainage, which shall have been submitted to and approved in writing by the Local Planning Authority prior to the commencement of the construction of the access and parking spaces. Thereafter the parking spaces and turning area shall not be used for any purpose other than the parking and manoeuvring of vehicles. REASON - To ensure adequate off-street parking and servicing facilities are provided and remain available for the development so that parking does not take place on the highway to the detriment of highway safety having regard to Policies 5 and 9 of the Oldham Local Plan.
16. The foodstore shall not be first occupied until a Travel Plan for staff/employees at the premises has been submitted to and approved in writing by the Local Planning Authority. The Travel Plan shall be implemented from the date that the development is first brought into use in accordance with timescales set out in the plan and any subsequent revisions REASON: To ensure the development accords with sustainable transport policies having regard to Policy 5 of the Oldham Local Plan.
17. The development hereby approved shall not be brought into use until details of the boundary and surface treatment between the two parts of the site (Class E Foodstore and Class E (a) or (b) flexible use commercial unit) have been submitted to and approved in writing by the Local Planning Authority. All works that form part of the approved scheme shall be retained until the development pertaining to the outline planning permission has been constructed. Reason – To ensure the safe and efficient operation of the car park and servicing areas of the Class E Foodstore
18. Before the foodstore opens a scheme for the provision of secure cycle parking shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall be implemented as approved and shall remain available for users of the development thereafter. REASON - In order to promote sustainable means of travel having regard to Policies 5 and 9 of the Oldham Local Plan.
19. All hard and soft landscape works shall be carried out in accordance with the approved plan (Ref:2969-VL L01 Rev C) prior to the occupation of any part of the development or in accordance with the programme approved in writing by the local planning authority. Thereafter any trees or shrubs which die, are removed or become seriously damaged or diseased within a period of five years from the completion of the development shall be replaced in the next planting season with others of a similar size, number and species to comply with the approved plan unless otherwise agreed in writing by the Local Planning Authority. REASON - To ensure that the landscaping scheme is carried out and protected in the interests of visual amenity and to safeguard the future appearance of the area having regard to Policies 9, 20 and 21 of the Oldham Local Plan, and saved Policy D1.5 of the Unitary Development Plan.
20. No works to trees or shrubs shall take place between the 1st March and 31st August in any year unless a detailed bird nest survey by a suitably experienced ecologist has been carried out immediately prior to clearance and written confirmation provided that no active bird nests are present which has been agreed in writing by the Local Planning Authority. REASON - To ensure the protection of bird habitats, which are protected species under the Wildlife and Countryside Act 1981, having regard to Policy 21 of the Oldham Local Plan.

21. The foodstore here by permitted shall not be open to the public outside the hours of 08:00 – 22:00 Monday to Saturdays and 09:00 – 18:00 Sundays. REASON: To safeguard the amenity of the adjoining premises and the area generally. having regard to Policy 9 of the Oldham Local Plan.
22. No deliveries shall take place to the site outside of the hours of 06:30 – 23:00 Mondays to Saturdays and 08:00 to 17:00 Sundays. REASON: To safeguard the amenity of the adjoining premises and the area generally. having regard to Policy 9 of the Oldham Local Plan.

Part B - Outline Planning Permission

1. Application for approval of the reserved matters of 1) Access 2) Appearance 3) Landscape 4) Layout and 5) Scale shall be made to the Local Planning Authority before the expiration of six years from the date of this permission. The development hereby permitted shall be begun either before the expiration of six years from the date of this permission or two years from the date of approval of the last of the reserved matters whichever is the later. REASON - To comply with Section 51 of the Planning and Compulsory Purchase Act 2004.
2. The development hereby approved shall be fully implemented in accordance with the Approved Details Schedule list on this decision notice. REASON - For the avoidance of doubt and to ensure that the development is carried out in accordance with the approved plans and specifications.
3. The premises shall be used for a café, sandwich shop or bakers and for no other purpose (including any other purpose in Class E of the schedule to the Town and Country Planning (Use Classes) Order 1987, or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order with or without modification). REASON: To ensure that the use of the commercial unit is acceptable having regard to Policies 15 and 16 of the Oldham Local Plan.
4. The flexible use commercial unit hereby permitted shall have a maximum Gross Net Sales Area of 240sq.m. The sales area shall be used primarily for the sale of convenience goods. REASON: To reflect the basis on which the application has been assessed and to protect the vitality and viability of nearby town centres, having regard to policy 16 of the Local Plan
5. No development comprising the erection of any external walls shall take place until samples of the materials to be used in the construction of the external surfaces of the development, including the roof, have been submitted to and approved in writing by the Local Planning Authority. The Development shall be carried out in accordance with the approved details. The materials to be used throughout the development shall be consistent in terms of colour, size and texture with the approved details. REASON - To ensure that the appearance of the development is acceptable in the interests of the visual amenity of the area having regard to Policy 20 of the Oldham Local Plan.
6. No development shall commence unless and until a site investigation and assessment to identify the extent of land contamination has been carried out and the consultant's report and recommendations have been submitted to and approved in writing by the

Local Planning Authority. Written approval from the Local Planning Authority will be required for any necessary programmed remedial measures and, on receipt of a satisfactory completion report, to discharge the condition. REASON - Prior approval of such details is necessary as they are fundamental to the initial site preparation works and in order to protect public safety having regard to Policy 9 of the Oldham Local Plan.

7. No development shall commence unless and until a site investigation and assessment in relation to the landfill gas risk has been carried out and the consultant's written report and recommendation have been submitted to and approved by the Local Planning Authority. Written approval from the Local Planning Authority will be required for any necessary programmed remedial measures and, on receipt of a satisfactory completion report, to discharge the condition. REASON - Prior approval of such details is necessary as they are fundamental to the initial site preparation works and in order to protect public safety as the site is located within 250 metres of a former landfill site having regard to Policy 9 of the Oldham Local Plan
8. Prior to the commencement of any part of the development hereby approved, details of the method of surface water and foul water drainage from the site shall be submitted to and approved in writing by the Local Planning Authority. The approved details shall be implemented in full prior to first occupation of the approved development and shall be maintained thereafter. Reason - Prior approval of such details is necessary since they are fundamental to the initial site preparation works and to ensure that the site is satisfactorily drained having regard to Policy 19 of the Oldham Local Plan.
9. Prior to the commencement of development an assessment of the nature and extent of noise affecting the neighbouring residential properties shall be submitted to and approved in writing by the local planning authority. The assessment shall be carried out in accordance with a methodology which has been previously approved in writing by the local planning authority and shall identify mitigation measures required to protect the development. The approved mitigation measures shall be implemented in full before first occupation of the dwellings and shall be retained thereafter. Reason - To provide an acceptable level of noise both within the proposed dwellings and the residential area generally.
10. No external lighting shall be installed until a lighting strategy has been submitted to and approved in writing by the Local Planning Authority. Such details shall include the location, height, type and direction of any light sources and the intensity and timing of their illumination. Any lighting, which is so installed, shall not thereafter be altered without the prior consent in writing of the Local Planning Authority other than for routine maintenance that does not change its details. REASON: To ensure acceptable levels of amenity for surrounding residents in accordance with Policy 9
11. The submission of an application for an approval of reserved matters for the development shall show details of:
 1. the means of vehicular and pedestrian access to the site
 2. the means of servicing the buildings
 3. the provision made for car parking and maneuvering within the site
 4. secure cycle storage facilities

REASON - To ensure adequate off-street parking and servicing facilities are provided and remain available for the development so that parking does not take place on the

highway to the detriment of highway safety having regard to Policies 5 and 9 of the Oldham Local Plan.

12. The proposed end use shall not be open to the public outside the hours of 08:00 – 22:00 Monday to Saturdays and 09:00 – 18:00 Sundays. REASON: To safeguard the amenity of the adjoining premises and the area generally. having regard to Policy 9 of the Oldham Local Plan.
13. No deliveries shall take place to the site outside of the hours of 06:30 – 23:00 Mondays to Saturdays and 08:00 to 17:00 Sundays. REASON: To safeguard the amenity of the adjoining premises and the area generally. having regard to Policy 9 of the Oldham Local Plan.
14. No works to trees or shrubs shall take place between the 1st March and 31st August in any year unless a detailed bird nest survey by a suitably experienced ecologist has been carried out immediately prior to clearance and written confirmation provided that no active bird nests are present which has been agreed in writing by the Local Planning Authority. REASON - To ensure the protection of bird habitats, which are protected species under the Wildlife and Countryside Act 1981, having regard to Policy 21 of the Oldham Local Plan.

LOCATION PLAN (NOT TO SCALE):

