

APPLICATION REPORT – OUT/349440/22
Planning Committee 12th October 2022

Registration Date: 15.07.2022
Ward: Chadderton Central

Application Reference: OUT/349440/22
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 is in excess 1000sqm in floor space created.

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 land partially developed for commercial / industrial use, 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 is a resubmission of previous application OUT/346784/21 and 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 (124 spaces, including 8 disabled bays, 11 parent and child spaces, 4 EV spaces and 6 motorcycle spaces);

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.

- DPD Policy 1 - Climate Change and Sustainable Development
- DPD Policy 2 – Communities
- DPD Policy 4 - Promoting Sustainable Regeneration and Prosperity
- DPD Policy 5 - Promoting Accessibility and Sustainable Transport
- DPD Policy 9 - Local Environment
- DPD Policy 13 – Employment Areas
- DPD Policy 14 - Supporting Oldham's Economy
- DPD Policy 15 – Centres
- DPD Policy 16 – Local Services and Facilities
- DPD Policy 18 - Energy
- DPD Policy 19 - Water and Flooding
- DPD Policy 20 - Design
- DPD Policy 21 - Protecting Natural Environmental Assets
- DPD 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, 1 no. letters in support and 9no. letters objecting to the proposal have been received.

Objections have also been received from the Councillors representing the Chadderton Central Ward.

The representations received raised the following (summarised) comments:

Support

- The application will bring much needed employment to the area.
- There is a need for this type of development in the area. The development will not serve hot food

Concerns

- The application has not changed from the previous scheme and should be refused.
- The amended scheme does not go far enough in addressing resident concerns.
- The operating times need to be reduced considerably.
- The noise survey submitted with the application is inadequate.
- The application breaches Development Plan Policy 14, the resubmission is no different.
- A proposal for a fast-food shop would not be supported and would result in adverse smells and no pest control.
- Traffic noise and running vehicles from having a drive thru facility would cause adverse amenity implications.
- Proposed lighting will impact the amenity of residents close to the scheme.
- The development would compromise any ability to implement the original outline planning permission.
- The proposed supermarket is incompatible with the original outline planning permission, and this is a procedural matter that needs to be addressed.
- The development results in the loss of employment land.
- The benefits of the development do not outweigh the harm of the loss of employment land.
- If Class E development is granted at the site, the developer would have the flexibility to use the buildings for any use within that class.
- It appears that it is possible for the applicant to explore other formats for the food store so that it can be situated within a town centre location. This has not been explored enough, and therefore the development fails the sequential test.
- Only sites within a 5-minute drive time have been assessed, and this is considered to be limited, and a more rigorous assessment is required before it can be concluded that the Sequential Test has been passed.
- The retail impacts are not clear from the information submitted.

- The application to extend the retail floorspace at the Lidl on Jardine Way has not been fully considered as part of the retail impacts.
- The pedestrian routes into the site are secluded routes and could give rise to potential dangers in public safety.

PLANNING CONSIDERATIONS

Principle of development

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 Policies 13 and 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 Local Plan Policies 13 and 14 are relevant. Local Plan Policy 13 states that Foxdenton will become a new employment area, and at paragraph 6.40 of the supporting text for the Policy, it identifies the site as being key to meeting the employment land requirements of the borough. Local Plan Policy 14 states that acceptable uses in the Foxdenton Business Employment Area ('BEA') are B1, B2 & B8 uses, with up to 25% residential. Given that both parts of the application appear to depart from Local Plan Policy 14, this needs to be considered carefully.

In relation to Employment Land Supply, Local Plan 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. 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. Local Plan Policy 14 recognises that residential development was an essential component to delivering employment uses at Foxdenton and therefore up to 25% of the site was considered acceptable for residential. 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.

This hybrid planning application appears to be a departure from Local Plan Policy 14, as the uses proposed (Class E(a) and (b)) do not comply with employment uses designated for the Foxdenton Strategic Site as described above. However, Local Plan Policy 14 does list some exceptions, in which development may be acceptable that does not comply with the Policy, providing that it can be demonstrated that uses in Local Plan Policy 14 are not possible to deliver. This can be demonstrated as follows: (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 asserts that they have provided justification that meets all of the exceptions set out in Local Plan Policy 14, and this will be explored in this section.

Local Plan Policy 14 Exception (a)

In relation to Local Plan Policy 14 exception (a) (marketing), the applicant has submitted an Employment Land Market Report (“ELMR”) to support their case, which has been undertaken by Aherne Property Consultants.

The ELMR states that the development market for industrial type buildings is geared towards standard units preferably over 100,000 sq ft built to specification, and there is a strong market for these types of units if they are situated in highly accessible motorway locations, and these account for 80% of the market. In relation to the site subject of this application, whilst planning permission has been granted for industrial and office type uses, the ELMR concludes that the application site cannot satisfy the requirements set out above in terms of size and location.

The characteristics of the site are such that commercial employment development is unlikely to be achieved as set out in the ELMR. The net developable area is 0.8 ha (2 acres) which can only accommodate about 35,000 square feet of development and the current market requires a minimum of 100,000 square feet to be viable. Smaller schemes have been developed in recent years in the area but only where there have been subsidies or public sector intervention, according to the ELMR.

The configuration of the site is such that it is compromised by a roundabout, which makes the site triangular in nature, and the ELMR concludes that it would require a proposal of two separate buildings to maximise development density which would increase costs. In addition, the close proximity of the residential development of Phase R2 also puts off potential B2 and B8 occupiers due to concerns over the limits on noise and hours of operation that this proximity to residential would require.

The ELMR provides evidence that the site has been marketed since late 2013 for the uses it has planning permission for (B1a office and B2 & B8 general industrial). Since then, only one serious interested party was identified, but this party ultimately chose not to pursue the site due to its configuration and proximity to the housing at Phase R2. No other serious interest has been received for site since then. The ELMR concludes that the site has no real prospects of coming forward for the uses it has planning permission for in the foreseeable future. For the avoidance of doubt, the ELMR provides evidence that the site has been marketed using the following methods:

1. Dedicated website – the scheme has a website (www.broadwaygreen.co.uk) where both the latest scheme brochure and plans can be downloaded.

2. Marketing Brochure – this is available on the scheme’s dedicated website and the websites of the scheme’s retained marketing agents JLL and Avison Young. This detail is contained at Appendix 9 of the Employment Land Market Report
3. Site Marketing Boards – Since work commenced on the site, large marketing boards have been displayed in prominent locations advertising the design and build opportunities available. These can be seen on-site.

The ELMR report concludes that an extensive marketing exercise has been undertaken for the site. In the view of Aherne Property Consultants Ltd, if there was genuine commercial interest in the site, then this would have been identified during the marketing exercise. Officers have reviewed the information submitted and are satisfied with the level of detail contained in the marketing exercise, and therefore the proposed development meets the criteria in Local Plan Policy 14 under part (a) of the exceptions.

Local Plan Policy 14 Exception (b)

To address exception (b), the applicant submitted a viability appraisal for an office development on the site. An office development was chosen for the viability appraisal, due to the configuration of the site and proximity to residential properties which makes the site unattractive to B2 and B8 uses, as discussed above. The viability appraisal for the site concluded (in summary) that the output of the appraisal results in a negative profit of almost £1.6 million for an office development at the site, meaning the site is not viable for this type of employment development.

Whilst an independent appraisal of the viability report has not been carried out, one was not considered necessary on the strength of the information submitted to demonstrate compliance with exception policy (a).

Local Plan Policy 14 Exception (c)

The applicant also asserts that the development meets exception (c) of policy 14, on the basis (in summary) that Foxdenton BEA can be regarded as an area ‘in need of investment’ given that the policy states a ‘masterplan’ will be prepared and the fact that it is evidently a major local regeneration project of borough wide significance. In the applicant’s view, the introduction of the proposed commercial hub to the Foxdenton BEA would meet exception (c), in that it would result in significant benefits for both the local community and the future employees of a substantial new business Park (Broadway Green) once this is fully constructed.

However, in assessing whether a development meets exception (c), the explanatory text for Local Plan Policy 14 at paragraph 6.64 states the following:

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 Local Plan Policy 14 exception (c), it is not considered that the application meets the criteria. The explanatory text in Local Plan 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, therefore, it cannot be concluded the development meets exception (c) of Local Plan Policy 14.

Overall, therefore, it is considered that the application has met the criteria in exception (a) of Local Plan Policy 14.

In addition to this, there are also tangible benefits to the scheme, which should be given due weight, and include the following:

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 are working closely with the Council to look to provide jobs for local people.
2. The extant outline planning permission is for a development for B1(a), B1(c), B2 & B8 uses (with a building of up to 16m in height) and, whilst the applicant does not consider these uses viable, they do present a fallback position for what development has been permitted 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.

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.

One of the main objectives of protecting employment land is to ensure that land is available to create employment opportunities in certain business sectors for people. However, as set out above, the site has been extensively marketed for those uses and no serious interest has come about for the uses the site has planning permission for. Given that the marketing evidence has been accepted, there is now a justification to consider alternative uses for the site, and the first type of alternative uses that should be considered are those still generate employment, albeit in different business sectors to those originally planned.

Given the marketing evidence submitted with the application, and when this is considered alongside the benefits of the scheme, it is considered that this together weighs significantly in favour of supporting the principal of development.

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 approaches 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 agrees in their response that the sequential assessment should focus on whether there are 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.

Nexus concurs with the applicant 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.

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

Site 1: Units 10 and 25 Chadderton Mall

These units have been identified as being vacant at the time of Nexus's latest visit (September 2022). As such, it is considered that both are currently available. However, the applicant's Planning and Retail Statement identifies that the ground floor of each unit respectively extends to 72 sq.m and 91 sq.m. As such, it is evident that both available units at Chadderton Mall 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 as considered with the previous application.

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, as concluded with the previous application.

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 as of September 2022, 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.

Site 6: Former Jubilee Works, Cobden Street

The former Jubilee Works sites identified on Cobden Street accommodates an office and factory operation, and surface car parking. The site extends to 0.31 hectares in total, although it is understood that the car park (which extends to around 0.15 hectares of the total area) is associated with the residential development to the north of the site fronting onto Middleton Road. Nexus is unaware of any part of the Jubilee Works site being marketed for redevelopment.

In any event, Nexus conclude that the site is too small to offer realistic potential to accommodate the broad type of foodstore development proposed by the applicant. In addition, the attractiveness of the site for grocery retail is further diminished as it does not benefit from a main road frontage and is only partially visible from Middleton Road. Therefore, the site can be discounted from the sequential assessment on the ground of suitability.

Site 7: Land to the rear of Chadderton Reform Club

This site was not included in the sequential assessment as part of the previous application; however, the applicant has elected to include it as part of this submission. The site is a roughly rectangular surface level car park, which extends to 0.26 hectares. Nexus conclude that the site does not benefit from a main road frontage being only partially visible from Middleton Road. Given the limited scale of the site and its location, Nexus do not believe that it represents a suitable sequential alternative.

As part of the representations received for the previous application and the current application, it has been suggested that the proposed foodstore could be configured in a 'metropolitan'

format. The metropolitan format is used by Lidl and is a compact format that means the store can be accommodated for example within an existing building in areas where land availability in city centres is scarce.

Nexus acknowledge that operators are able to support different formats of store dependent on the local circumstances. However, it is in Nexus's view that that the metropolitan format is typically supported in larger centres (in particular, within London) that benefit from densely populated areas and high local footfall. This is confirmed by Lidl themselves on the website, in which it states (on the metropolitan format):

'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 also states that in their own experience discount foodstores will only tend to occupy sites smaller than 0.5 hectares. Representations on the previous application also referred 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.

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. In Nexus's view a coffee shop, bakery or sandwich shop in the location of the proposed development would generally meet local needs associated with adjacent employment uses; nearby residential dwellings; those that are passing through the area; and visitors to the foodstore (once it comes forward).

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 of the distance between the site and Chadderton District Centre, and in addition the food and drink operators in the district centre largely serve a different market than the above. In addition, no sites within or well connected to The Downs and Grimshaw Lane local centres in Middleton that are open or available that could serve the same day to day sustenance needs as described above. 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 is satisfied that the development of a foodstore and additional commercial unit would have no material impact on the operation of that venue.

The planned regeneration of Spindles Town Square Shopping Centre is also due to commence, and this is evident following the grant of planning permission under reference FUL/348415/22. However, Nexus is 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 Application Proposal and Commitments

In relation to potential trade diversion, Nexus confirms in their assessment, that the principal impacts of both proposals would likely centre on the Lidl at Jardine Way, the Morrisons at Tweedale Street, which are both out of centre stores and the Asda at Milne Street (Chadderton District Centre).

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 (less than 3%) as identified at Table 4.1 of Nexus response). 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 the Asda, which according to table 4.1 of Nexus’s response equates to a solus impact of 6% and a cumulative impact of 6.7% of its turnover.

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 considers that potential impacts as a result of both the full and outline applications are below the 'significant adverse' level, and the retail impacts on the Asda store are not considered to form the reasonable basis for a planning refusal.

To consider the potential day to day impacts, Nexus carried out a site visit at Chadderton on the 5th September 2022 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 three units were observed as being vacant, which represents a decrease from the 11% vacancy rate recorded in August 2021. Vacant retail units are particularly concentrated around the Chadderton Mall shopping

Whilst some food shopping trips would be diverted from Asda and other retailers at Chadderton District Centre, Nexus conclude that 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 concludes 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 relation to Middleton, Nexus concludes that, it is clear that the proposed development would not impact upon Middleton's general role and function. Nexus have reached this view with reference to the evidence submitted by the applicant and with good knowledge of Middleton's current role and function. As such, Nexus do not believe there to be any requirement to undertake a health check assessment of Middleton town centre given the nature, scale and acceptability of the impact that would arise in this location.

As part of the previous proposal (reference OUT/346784/21) which is the same as the current proposal in terms of the retail floor space being created, Nexus concluded that the proposed development would attract a limited proportion of the turnover of the Tesco and Aldi stores in Middleton. Nexus also stated that 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).

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 the Asda at Chadderton as part of this application, 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 are 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 off the proposal.

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 the development meets the exception (a) of Local Plan Policy 14, and the marketing evidence submitted alongside the ELMR clearly demonstrates the site, does not have any real prospect of coming forward for the uses it has planning permission for.
- Significant 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
- Moderate 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.

On balance it is considered for the reasons set out it is considered that the principle of development is considered acceptable.

Design & Layout

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.

A simple palette of materials is proposed to give the building a contemporary appearance, which include a combination of anthracite and silver cladding panels throughout, with fascia signage, which will need to be considered as part of separate Advertisement Consent application. The use of 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, since the previous application OUT/346784/21, the store has been reorientated to take account of residents' concerns who live to the south of the site. The new orientation ensures that deliveries take place further away from the residential properties. The building is still situated on the eastern side of the site and will be accessed via pedestrian linkages from both the east and north. The siting also 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 both the northern part of the site and a small portion to the west. Provision is made for 124 car parking spaces in total, including 8 disabled bays, 11 parent and child spaces, 4 EV spaces and 6 motorcycle spaces. The disabled bays and parent and child spaces are sited directly to the front and side 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 north towards Lydia Becker Way. The servicing area is positioned on the eastern boundary of the site and Environmental Health have no objection to this subject to conditions.

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. 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 layout indicates that the development will incorporate a drive thru facility;
- 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 would be closest to the properties on Cavalier Square that back on to the development site.

One of the main concerns raised in the representations received as part of the previous application was the orientation of the store and the potential impacts servicing and deliveries could have on the residents of the properties to the south on phase R2. As part of the current application, the application has reorientated the store so that deliveries and servicing of the store would now take place on the eastern boundary, further away from the residents backing on to the site. The front of the store will now face out towards Lydia Becker Way, and as with the previous application, most of the northern part of the site will be left for parking. By the very fact that servicing and deliveries would take place further away from the residential properties, this is an improvement on the previous scheme.

An updated Noise Impact Assessment (“NIA”) has been submitted with the application, which considers the revised layout. The NIA concludes that deliveries are proposed between 06.30 and 23.00 Monday to Saturday and between 08.00 and 17.00 on Sunday. The NIA asserts that deliveries within these periods would have at worst a low noise impact, though for the majority of the time they will have a negligible impact. In addition, impacts as a result of external plant equipment have also been assessed and the NIA concludes that this will have a ‘low impact’ on the immediate surroundings in the worst-case scenario.

The applicant is opting to install some mitigation measures, and these include a 3m high acoustic fence on the southern boundary, which will provide screening between the development, and residential properties to the south. 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 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 same as the previous application. The FFL's of the properties to the south range from 108 to 106, with levels dropping from east to west. 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 and orientation. The Aldi building itself has an overall height of 8m and whilst the level change is noticeable, this needs to be balanced with a number of factors. 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.

To further ensure that residential amenity is considered during the construction phase of the development, a Construction Environment Management Plan (CEMP) will be required, and this would 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

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. There is no reasonable basis to refuse the application on residential amenity grounds.

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). However, the submitted layout indicates that the facility could have a drive thru facility.

The NIA also considers the potential amenity impacts of a commercial unit and uses a drive thru coffee shop 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.

In addition to the noise assessment, Environmental Health have requested that the acoustic barrier requested as part of the full application, also be included as part of the outline planning permission to help protect the existing residential properties. Finally, Environmental Health have also requested that an Air Quality Assessment (“AQA”) is submitted, and this will be conditioned so that this information will be required as part of a reserved matters application. The AQA will need to consider any potential air quality impacts of delivering a drive thru type facility at the site. Any mitigation measures that are recommended as part of the AQA will need to be implemented. Overall, subject to planning conditions, the outline element will comply with NPPF section 15 and Local Plan Policy 9.

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 have commented both on the previous and current proposals. In the most up to date response, they requested more details on trip generation and junction modelling to establish whether a contribution would be needed for highway improvement work. As part of the previous application, TfGM requested a contribution of £12,800, if the applicant was unable to submit the further information requested, which the applicant accepted. Given that the development is of the same scale and size, the applicant has opted to accept the request for £12,800 again, and this will be used to implement a SCOOT at the traffic signals from Lydia Becker Way to Foxdenton Way to help mitigate the impact of the foodstore on the highway network. TfGM have accepted this contribution in lieu of the request to provide further information.

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. This would need further assessment and would be considered as part of reserved matters application, specifically as part of the matter of ‘layout’.

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 21 new trees will be provided across the site, along with native hedge mix planting, ornamental shrub planting, wildflower and other grassland

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, and the requirement for an updated invasive species survey, which can be secured by way of condition. In addition, GMEU also recommend a condition that ensures that development does commence between 1st March and 31st August, unless a detailed bird nest survey is undertaken, which will be applied as a 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.

Local Plan 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

To consider ground conditions, 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 in principle, more information and investigation is required on the site, and as a result pre commencement conditions relating to contamination and landfill will be required. On that basis, no objections are raised to the scheme on the basis of ground conditions.

Planning balance

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

Firstly, as set out in this report, the applicant has submitted ELMR report, which clearly provides evidence of an extensive marketing exercise that has been undertaken for the site. It also provides an overview of why the site has no real prospect of coming forward for the uses it has planning permission for, based on their knowledge of the market. Aherne Property Consultants Ltd, have robustly concluded that if there was genuine commercial interest in the site, then this would have been identified during the marketing exercise. Therefore, it has been concluded that the development meets exception (a) of Local Plan Policy 14. This weighs in favour of the development.

In addition, there are some clear benefits to the scheme, which has been set out in this report, which include the following:

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 are working closely with the Council to look to provide jobs 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.
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.

Based on the evidence submitted, the development appears to have no realistic prospect of coming forward for the uses it has planning permission for, and this in conjunction with the benefits should be given significant weight in favour of the proposed development.

The previous application demonstrated adverse impacts by virtue of the fact that it did not comply with Local Plan Policy 14 and resulted in the loss of 1.3% of employment land, however, this matter has been overcome through the evidence submitted as part of this application.

Overall, significant weight must be given to both the evidence submitted as part of this application, which demonstrates through marketing that the site meets the Exception (a) of Local Plan Policy 14, and the benefits set out above. It has been proven through the evidence submitted that the adverse impacts of losing a small amount of employment land at Foxdenton

does not significantly and demonstrably outweigh the benefits, when assessed against the policies in this NPPF when taken as a whole, and therefore, 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:
 - 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. 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.
13. 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.
14. 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.
15. 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
16. The use of the building hereby approved shall not commence until a scheme for the provision of pedestrian routes to and through the site has been implemented in accordance with details which shall have previously been submitted to and approved

in writing by the local planning authority. All works that form part of the approved scheme shall be retained at all times thereafter. Reason – In order to promote sustainable means of travel having regard to Policies 5 and 9 of the Oldham Local Plan

17. 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.
18. All hard and soft landscape works shall be carried out in accordance with the approved plan (Ref:2969-VL L01 Rev E) 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.
19. 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.
20. 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.
21. 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. As part of any reserved matters application details as to the exact location and design/appearance of an 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.
11. As part of any reserved matters application, an assessment of air quality 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 surrounding land uses. The approved mitigation measures shall be implemented in full before first occupation and shall be retained at all times thereafter. Reason - To ensure acceptable levels of amenity for surrounding residents in accordance with Policy 9
12. 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
13. 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.

14. 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.
15. 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.
16. 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):

