

Committee date: 08.12.09

HONITON ST MICHAELS
(Honiton)

Application No. 09/2153/MFUL

Target Date: 25.01.2010

Applicant:

Lidl UK

Location:

Heathpark Service Station Site, Heathpark Way

Proposal:

Demolition of petrol station & convenience store and erection of food store with associated parking and servicing

BACKGROUND

A planning application was submitted in September 2008 for the development of a food store on the Heathpark Service Station site and a report was put forward for the March 2009 Development Management Committee. The application was withdrawn before the meeting because of issues regarding the ownership of the site but the report recommended approval subject to a 106 legal agreement.

The current application is an almost identical resubmission and the following report is an update to the previous report which is attached in full.

CONSULTATIONS

The Highway Agency

The Highway Agency directs that the following conditions be attached to any grant of planning permission:

1. A comprehensive travel plan will be developed for all elements of the development hereby permitted. The acceptability of the travel plan will need to be agreed in writing by the Local Planning Authority and Local Highway Authority (in consultation with the Secretary of State for Transport), in advance of occupation of the development.
2. The construction of the development hereby permitted shall not commence until there has been submitted to and approved in writing by the Local Planning Authority (in consultation with the Secretary of State for Transport and Devon County Council) a construction management plan.

The Highways Authority also request that planning permission shall not be granted until such time as the applicant has entered into a Section 106 legal agreement with the Council (in consultation with the Highways Agency acting on behalf of the Secretary of State for Transport), to secure the provision of a financial contribution of £29,000 towards the identified improvements to Turk's Head junction.

This sum shall only be applied to improvements to the Turk's Head junction and any funds not used within 5 years shall be returned to the developer.

County Highway Authority

The traffic generation potential for the proposed use will be similar in all respect to the current use of the site as a petrol station/Budgen food store. There will be no significant impact on the local highway network if the development were to be approved.

It is understood that the Highways Agency has requested a contribution towards improvement to the trunk road network, but there are no identified contributions necessary to the County's highway network.

Recommends the following conditions be incorporated in any grant of permission:

1. The improved southernmost site access and visibility splays shall be constructed, laid out and maintained for that purpose in accordance with the application drawings before any other operations are commenced.
2. The existing northernmost access shall be effectively and permanently closed in accordance with details which shall previously have been submitted to and approved by the Local Planning Authority as soon as the amended southernmost access is capable of use.
3. No part of the development hereby approved shall be brought into its intended use until the access, parking facilities, commercial vehicle, loading/unloading area, visibility splays, turning area and access drainage have been provided and maintained in accordance with details which shall have been submitted to and approved in writing by the Local Planning Authority and retained for that purpose at all times.
4. In accordance with details that shall previously have been submitted to and approved by the Local Planning Authority provision shall be made within the site for the disposal of surface water so that none drains onto any County highway.

Economic Development Manager

No comments received

Estates – EDDC

No comments received

Environment Health Manager

Air quality

No comments received

Noise

It has been assumed that the daytime operational noise impact of the store would not have a significant impact on the nearest residential units as they are approximately 80 metres away from the site and close to other road traffic noise sources.

However, noise from plant (air handling units etc) should be appropriately conditioned as such systems can affect background noise levels and provide a source of annoyance if not conditioned appropriately.

Therefore I would recommend the following condition:

Any plant (including ventilation, refrigeration and air conditioning) or ducting system to be used in pursuance of this permission shall be so installed prior to the first use of the premises and be so retained and operated so that the noise generated at the boundary of the nearest neighbouring property shall not exceed Noise Rating Curve 35; as defined by BS8233:1999 Sound insulation and noise reduction for Building Code of Practice and the Chartered Institute of Building Services Engineers (CIBSE) Environmental Design Guide 1999. Details of the scheme shall be submitted to and approved by the Local Planning Authority prior to the first use of the premises and retained thereafter.

Reason: To protect the residential amenity of the locality in accordance with the Local Plan.

Noise monitoring we have carried out has shown that this is a quiet area at night. I am therefore concerned about noise from night time noise activities such as servicing etc and, as this is a small store with only a limited number of deliveries necessary each day, I would suggest that any such activities are restricted appropriately. I would suggest the following condition:

Deliveries of stock and plant to the premises shall not take place between the hours of 11pm and 6am on any day.

Reason: To protect the amenities of local residents.

Contamination

In view of the extent of this development and the decommissioning of the petrol station I consider that a full contaminated land assessment and treatment is required.

TOWN/PARISH COUNCIL

The Town Council supports the proposed conditions from consultees, particularly the condition from Environmental Health regarding the restriction of delivery times. The Town Council is concerned that there appear at this stage to be no comments from the Highways Agency.

The Town Council remains concerned regarding Highway matters as follows:

A crossing is required over Heathpark Way to facilitate residents from local estates to be able to safely access the store

A filter lane is required in Turks Head Lane

A crossing is required on Exeter Road between Lidl and the entrance to the new Aldi store

A crossing is required over Turks Head Lane to facilitate pedestrians crossing this busy junction.

In addition the Town Council believes that the resolution of air pollution problems should be prioritised.

The Town Council has concerns regarding localised flooding in Exeter Road, particularly in properties directly opposite the entrance to Heathpark Way.

The Town Council remains concerned that the lack of retail sites in the town centre is leading to a division of shopping areas in Honiton.

WARD MEMBER(S)

No comments received.

REPRESENTATIONS

1 letter of objection:

- Heathpark Service Station is on a much more accessible road for the heavy goods vehicles which make some 70% of the fuel business
- Offers more choice than other petrol stations in town
- Lack of need for another food store in the town

RELEVANT PLANNING HISTORY

App. No	Proposal	Decision	Date
08/2549/MFUL	Demolition of petrol station & convenience store and erection of food store with associated parking and servicing	Withdrawn	03.03.09
05/1963/FUL	Amendment to planning permission Ref. 04/P1785 to re-located car wash	Approved	06.09.05
04/P1785	Extension to existing sales building	Approved	07.09.04
03/P2608	Raise existing HGV canopy	Approved	16.12.03
98/P1427	Change of use of parking area to sales area	Approved	14.10.98
90/P2221	Petrol filling station/shop/carwash	Approved	11.06.91
88/P2599	Timber and builder's merchants depot	Approved	07.03.89

PLANNING POLICIES

Government Guidance

PPS1 – Delivering Sustainable Development

PPG13 – Transport

PPS6 – Planning for Town Centres

Devon County Structure Plan (2001-2016)

Policy ST5 – Development Priority 2001 -2016

Policy ST15 – Area Centres

Policy C06 – Quality of New Development

Policy C015 – Air Quality

Policy C016 – Noise Pollution

Policy TR5 – Hierarchy of Modes

Policy TR7 – Walking and Cycling

Policy TR9 – Public Transport

Policy TR10 – Strategic Road Network

Policy SH1 – Shopping Facilities (Sequential Approach)

Policy SH2 – Shopping Facilities and Settlement Hierarchy

East Devon Local Plan (1995-2011)

Policy S4 – Development Within Built-up Area Boundaries

Policy D1 – Design and Local Distinctiveness

Policy D2 – Sustainable Construction

Policy D4 – Landscape Requirements

Policy EN15 – Control of Pollution

Policy SH1 – Town Centre Shopping Areas

Policy SH3 – Large Stores and Retail Related Uses in Area Centres

Policy TA1 – Accessibility of New Development

Policy TA4 – Footpath/Bridleways and Cycle Ways

Policy TA7 – Adequacy of Road Network and Site Access

Policy TA9 – Parking Provision in New Development

Policy E3 – Safeguarding Employment Land and Premises

Supplementary Planning Documents

Draft East Devon Retail Needs Study
Town Centre Health Check

CONSIDERATIONS AND ASSESSMENT

Comparison of current submission to previous scheme

The application proposes the same siting, position, design, landscaping and access arrangements as previously proposed with the only change to the scheme being a slight reduction to the footprint of the building resulting in a slightly smaller convenience sales area of 857 sq.m. as opposed to the originally proposed 957 sq.m. This is a minor change but one that reduces very slightly the overall retail impact of the scheme.

The new application is accompanied by an updated Retail Impact Assessment, Transport Statement and Geo-Environmental Report and is also accompanied by the results of a public consultation exercise and a survey of Heavy Goods Vehicle users of the existing petrol station.

Principle of Development

The current application raises no different issues from the previous submission.

The letter of objection is noted but there are no local plan policies protecting service stations and the two other service stations in the town provide an alternative facility.

Retail Impact

On the previous application GVA Grimley assessed the submitted retail impact assessment and concluded that there was a qualitative and quantitative need for the new store, that the sequential test had been adequately carried out and that there would be no adverse retail impact on the town centre. At the time the previous report was written the planning application for the new Aldi store had been approved and the assessment concluded there was sufficient capacity in the town for two new food stores.

The following changes have occurred in the retail composition of the town since the previous report:

Somerfield replaced by Budgens
M&S Simple Food closed
Woolworths replaced by Iceland
Resolution to approve Tesco's in Seaton

The updated Retail Impact Assessment considers these changes including the slight reduction on the proposed store area and concludes as follows:

- Need

In qualitative terms it was previously considered that the proposed store would contribute to the range and choice of convenience goods in the town and, notwithstanding the changes that have occurred in the high street, the provision of an additional budget food operator will still make a valuable contribution to consumer choice.

In quantitative terms an adjustment has been made to take account of the likely expenditure lost and gained as a result of the changes to the town centre retail composition and on the basis of the calculations (done using the same methods as in the previous assessment) there is still a need for the proposed store.

- Sequential Test

The changes that have occurred in terms of the M&S site becoming vacant and the takeover of the Woolworths site by Iceland were considered previously by GVA Grimley and it was concluded that neither site was reasonably suitable or available. The other sites assessed were also discounted.

The only additional site that has been considered at the request of officers is the Bradfords site adjacent to the railway station but as identified in the update this site was considered by GVA Grimley in respect of the proposed Aldi store and was dismissed as not meeting all the policy tests of suitability, availability and viability. GVA Grimley confirmed that their assessment of available sites applied equally to both schemes given the similarity of the Aldi and Lidl operation and site requirements. There have been no other changes in terms of available sites.

- Impact

GVA Grimley's previous assessment of impact took into account the permission for the Aldi store and considered the scenario of permission being granted for a new store in Seaton and concluded that the Lidl store would not have an adverse level of impact on the town centre. These conclusions are still valid as no other food retail permissions have been granted since the previous assessment.

The concerns of the Town Council are noted but all these tests are aimed at protecting the town centre and only allowing new retail uses out of the town centre when there are no other sites available. It is accepted that at the current time there are no available alternative sites for the store and there is a need in the town for an additional operator.

Highways Impact

The current application raises no different issues from the previous submission.

The comments of the Town Council regarding road improvements are noted but apart from the required contributions towards improvements to the Turks Head roundabout no other improvements are required by the Highways Authority or Highways Agency. It would not therefore be reasonable for the Council to require any additional works.

Visual Impact

The current application raises no different issues from the previous submission.

Sustainability

The current application raises no different issues from the previous submission.

Environmental Health Issues

With respect to noise and contaminated land the current application raises no different issues from the previous submission.

In terms of air quality no comments have been received on the current application but on the previous application a condition covering air quality monitoring was recommended. As air quality

is a known issue in this part of the town and the Town Council have raised this as an area of concern it is considered reasonable to impose this condition in line with the previous recommendation.

Drainage

The current application raises no different issues from the previous submission.

The concerns of the Town Council about localised flooding are noted but the Environment Agency have not requested a flood risk assessment for this scheme and details of a scheme for the drainage of surface water will be conditioned.

CONCLUSIONS

The current application does not raise any significantly different issues from the previous proposal and therefore is recommended for approval with similar conditions as was previously considered appropriate and the required 106 legal agreement.

RECOMMENDATION

APPROVE subject to the applicant entering into an agreement under Section 106 of the Town and Country Planning Act 1990 to secure:

- A contribution of £29,000 for infrastructure improvements at the Turks Head Junction in accordance with the requirements of the Highways Agency;

and the following planning conditions:

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission and shall be carried out as approved.
(Reason – To comply with section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.)
2. Before development is commenced, a schedule of materials and finishes, and, where so required by the Local Planning Authority, samples of such materials and finishes, to be used for the external walls and roofs of the proposed development shall be submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details.
(Reason - To ensure that the materials are sympathetic to the character and appearance of the area.)
3. No development shall take place until a landscaping scheme has been submitted to and approved in writing by the Local Planning Authority; such a scheme to include the planting of trees, hedges, shrubs, herbaceous plants and areas to be grassed. The scheme shall also give details of any proposed walls, fences and other boundary treatment. The landscaping scheme shall be carried out in the first planting season after commencement of the development unless otherwise agreed in writing by the Local Planning Authority and shall be maintained for a period of 5 years. Any trees or other plants which die during this period shall be replaced during the next planting season with specimens of the same size and species unless otherwise agreed in writing by the Local Planning Authority.
(Reason - In the interests of amenity and to preserve and enhance the character and appearance of the area.)

4. No delivery shall be taken at or despatched from the site, including waste collection, between the hours of 11pm and 6am on any day.
(Reason – To protect nearby occupiers from excessive noise.)
5. No development shall commence until details of the surface water drainage from the site has been submitted to and improved in writing by the Local Planning Authority: the development shall be carried out in accordance with the approved details.
(Reason – To ensure satisfactory drainage of the site.)
6. Any plant (including ventilation, refrigeration and air conditioning) or ducting system to be used in pursuance of this permission shall be so installed prior to the first use of the premises and be so retained and operated so that the noise generated at the boundary of the nearest neighbouring property shall not exceed Noise Rating Curve 35; as defined by BS8233:1999 Sound Insulation and Noise Reduction for Building Code of Practice and the Chartered Institute of Building Service Engineers (CIBSE) Environmental Design Guide 1999. Details of the scheme shall be submitted to and approved in writing by the Local Planning Authority prior to the first use of the premises and retained thereafter.
(Reason – To protect adjoining occupiers from excessive noise.)
7. No development shall commence until details of an energy study for the building hereby permitted to reduce energy usage and/or provide for renewable energy production on site has been submitted to and approved in writing by the Local Planning Authority; the development shall be carried out in accordance with the approved details.
(Reason – In the interests of energy efficiency/sustainability and to comply with Policy D2 of the East Devon Local Plan.)
8. Notwithstanding the submitted details, no development shall commence until details of all external lighting, including times of operation and luminance levels, has been submitted to and approved in writing by the Local Planning Authority; the development shall be carried out in accordance with the approved details. No other lighting including security lighting fixed to the building shall be erected without the prior written consent of the Local Planning Authority.
(Reason – In the interests of energy efficiency and to minimise light pollution.)
9. A comprehensive travel plan will be implemented for the development hereby permitted. The acceptability of the travel plan shall be agreed in writing by the Local Planning Authority and Local Highway Authority (in consultation with the Secretary of State for Transport), in advance of occupation of the development.

The Travel Plan will need to be prepared in line with prevailing policy and shall include as a minimum:

- (1) The identification of targets for trip reduction and modal shift
- (2) The methods to be employed to meet these targets
- (3) The mechanisms for monitoring and review
- (4) The mechanisms for reporting
- (5) The penalties to be applied in the event that the targets are not met
- (6) The mechanisms for mitigation.
- (7) The implementation of the travel plan to an agreed time scale or time table and its operation thereafter.

(8) Mechanisms to secure variations to the travel plan following monitoring and reviews.

A review of the targets shall be undertaken within 6 months of the occupation of the development and on an annual basis thereafter, at the time of submission of the annual Travel Plan, report for a period of 5 years.

(Reason – In order that the development promotes public transport, walking and cycling and limits the reliance on the private car, minimising its impact on the Strategic Road Network.)

10. The development hereby permitted shall not commence until there has been submitted to and approved in writing by the Local Planning Authority (in consultation with the Secretary of State for Transport and Devon County Council) a Construction Management Plan. The plan shall include details of construction operation hours, construction delivery hours, car parking for contractors, specific measures to be adopted to mitigate construction impacts in pursuance of the Environmental Code of Construction Practice and a proposal to encourage the use of multiple occupancy vehicles and non-car travel to the site by contractors' staff. The plan shall also include, for information purposes, details of construction vehicle movements, construction vehicular routes to and from site and expected number of construction vehicles per day. The development shall then be carried out strictly in accordance with the approved Construction Management Plan.

(Reason – In the interest of Highway Safety and securing the operational capacity of the trunk road network.)

11. Air quality monitoring shall be carried out by the applicant in accordance with a specification and schedule to be submitted to and approved in writing by the Local Planning Authority. The details shall be submitted prior to the commencement of the development hereby permitted and shall consist of nitrogen dioxide diffusion tube monitoring at 10 positions in areas to be agreed. The results of the monitoring shall be submitted to the Local Planning Authority following completion of the assessment.

(Reason – In the interests of air quality.)

12. The improved southernmost site access and visibility splays shall be constructed, laid out and maintained for that purpose, in accordance with the application drawings before any other operations are commenced.

(Reason – To provide a satisfactory access to the site with adequate facilities for short term parking.)

13. The existing northernmost access shall be effectively and permanently closed in accordance with details which shall previously have been submitted to and approved by the Local Planning Authority as soon as the amended southernmost access is capable of use.

(Reason – To prevent use of a substandard access and to minimise the number of accesses onto the public highway.)

14. No part of the development hereby approved shall be brought into its intended use until the access, parking facilities, commercial vehicle loading/unloading area, visibility splays, turning area and access drainage have been provided and maintained in accordance with details that shall have been submitted to and approved in writing by the Local Planning Authority and retained for that purpose at all times.

(Reason – To ensure that adequate facilities are available for the traffic attracted to the site.)

15. In accordance with details that shall previously have been submitted to and approved in writing by the Local Planning Authority, provision shall be made within the site for the disposal of surface water so that none drains onto any County highway.

(Reason – In the interests of public safety and to prevent damage to the highway.)

16. Unless otherwise agreed by the Local Planning Authority, development other than that required to be carried out as part of an approved scheme of remediation must not commence until conditions 1, 2, 3 and 4 have been complied with. If unexpected contamination is found after development has begun, development must be halted on that part of the site affected by the unexpected contamination to the extent specified by the Local Planning Authority in writing until condition 4 has been complied with in relation to that contamination.

1. Site Characterisation

An investigation and risk assessment, in addition to any assessment provided with the planning application, must be completed in accordance with a scheme to assess the nature and extent of any contamination on the site, whether or not it originates on the site. The contents of the scheme are subject to the approval in writing of the Local Planning Authority. The investigation and risk assessment must be undertaken by competent persons and a written report of the findings must be produced. The written report is subject to the approval in writing of the Local Planning Authority. The report of the findings must include:

(i) a survey of the extent, scale and nature of contamination;

(ii) an assessment of the potential risks to:

- human health,
- property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes,
- adjoining land,
- groundwaters and surface waters,
- ecological systems,
- archeological sites and ancient monuments;

(iii) an appraisal of remedial options, and proposal of the preferred option(s).

This must be conducted in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11'.

2. Submission of Remediation Scheme

A detailed remediation scheme to bring the site to a condition suitable for the intended use by removing unacceptable risks to human health, buildings and other property and the natural and historical environment must be prepared, and is subject to the approval in writing of the Local Planning Authority. The scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures. The scheme must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.

3. Implementation of Approved Remediation Scheme

The approved remediation scheme must be carried out in accordance with its terms prior to the commencement of development other than that required to carry out remediation, unless otherwise agreed in writing by the Local Planning Authority. The Local Planning Authority must be given two weeks written notification of commencement of the remediation scheme works.

Following completion of measures identified in the approved remediation scheme, a verification report (referred to in PPS23 as a validation report) that demonstrates the effectiveness of the remediation carried out must be produced, and is subject to the approval in writing of the Local Planning Authority.

4. Reporting of Unexpected Contamination

In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken in accordance with the requirements of condition 1, and where remediation is necessary a remediation scheme must be prepared in accordance with the requirements of condition 2, which is subject to the approval in writing of the Local Planning Authority.

Following completion of measures identified in the approved remediation scheme a verification report must be prepared, which is subject to the approval in writing of the Local Planning Authority in accordance with condition 3.

(Reason - To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.)

Reasons for approval

The proposal complies with Devon Structure Plan 2001 – 2016 Policies:

Policy ST5 – Development Priority 2001 -2016
Policy ST15 – Area Centres
Policy C06 – Quality of New Development
Policy C015 – Air Quality
Policy C016 – Noise Pollution
Policy TR5 – Hierarchy of Modes
Policy TR7 – Walking and Cycling
Policy TR9 – Public Transport
Policy TR10 – Strategic Road Network
Policy SH1 – Shopping Facilities (Sequential Approach)
Policy SH2 – Shopping Facilities and Settlement Hierarchy

The proposal complies with the adopted East Devon Local Plan 1995 – 2011 Policies:

Policy S4 – Development Within Built-up Area Boundaries
Policy D1 – Design and Local Distinctiveness
Policy D2 – Sustainable Construction
Policy D4 – Landscape Requirements
Policy EN15 – Control of Pollution
Policy SH1 – Town Centre Shopping Areas
Policy SH3 – Large Stores Retail Related Uses in Area Centres

Policy TA1 – Accessibility of New Development
Policy TA4 – Footpath/Bridleways and Cycle Ways
Policy TA7 – Adequacy of Road Network and Site Access
Policy TA9 – Parking Provision in New Development
Policy E3 – Safeguarding Employment Land and Premises

The proposal does not adversely affect the privacy and/or amenity of neighbouring properties.

The design and external appearance of the proposal does not harm the visual amenity of this site and surrounding area.

The access to serve the proposal does not prejudice highway safety.

The proposal includes the use of previously developed land.

The applicant has adequately demonstrated the need for the proposed retail floor space and acceptable impact on the town centre.

The applicant has reasonably demonstrated the sequential test as required by PPS6.

The proposal would not generate a level of noise that would unreasonably affect the amenity of nearby properties.

Informative

This permission does not include any consent for signage for which a prior grant of Advertisement Consent may be required. The developer is advised to enter into pre-application discussion prior to any such application being submitted. In particular the Council will be keen to reduce the size and impact of illuminated totem signs.

Approved Plan Nos. :-

Site Location Plan – 934/01
Site Plan as proposed showing levels – 934/03B
Store Plan as proposed – 934/04B
Elevations as proposed – 934/05B
Site Plan as proposed - 934/06B
Sections as proposed – 934/09B

List of background papers:-

Application file, consultations and policy documents referred to the report.