

**Report to District Development Control
Committee**

Date of meeting: 2 December 2008



**Epping Forest
District Council**

Subject: Planning Application EPF/1305/08 – 1 Cartersfield Road, Waltham Abbey, Essex, EN9 – Demolition of existing buildings and erection of new 'lidl' foodstore and construction of five start-up industrial units (revised application).

Officer contact for further information: S Solon

Committee Secretary: S Hill Ext 4249

Recommendation:

That the committee considers the recommendation of the Area Plans subcommittee West to grant planning permission subject to the following conditions and a S106 agreement:

1. The development hereby permitted must be begun not later than the expiration of three years beginning with the date of this notice.

Reason:- To comply with the requirements of Section 91 of the Town and Country Planning Act 1990 (as amended).

2. The development shall be carried out in accordance with the amended plans received on 10/10/08 and 28/10/08 unless otherwise agreed in writing with the Local Planning Authority.

Reason:- In order to ensure that the development conforms with the approved plans, and for the avoidance of doubt.

3. The food retail floorspace, as identified and agreed in writing by the Local Planning Authority, shall not sell, or advertise to sell; tobacco products, loose confectionary, newspapers, magazines, greeting cards, lottery tickets or scratch cards; and shall not contain a pharmacy, dry cleaners, post office services, cash machine, butchers, fishmongers or bakers, unless otherwise agreed in writing by the Local Planning Authority.

Reason:- The submitted retail assessment was based on a discount supermarket that offers limited goods and services, and as such would not be detrimental to the vitality or viability of the town centre.

4. The gates to the car park shown on plan ref: 2 (amended 28/10/08) shall be installed and be in full working order prior to occupation of the site. These gates shall only be left open during the hours that the store is open, and one hour before and after, and shall be closed and secured at all other times unless otherwise agreed in writing by the Local Planning Authority.

Reason:- To ensure that the car park is not used outside of the store opening times to the detriment of neighbouring residential properties and for the purposes of crime prevention.

5. Prior to occupation of the site, details of CCTV equipment shall be submitted and agreed in writing by the Local Planning Authority and shall be installed and retained thereafter.

Reason:- To protect against crime and anti-social behaviour.

Further to the above conditions Officers would recommend the following additional conditions:

6. The development hereby permitted shall not be open to customers outside the hours of 07:30 to 22:00 on Monday to Saturday, and 09:00 to 18:00 on Sundays and public holidays.

Reason:- In order to minimise disturbance to local residents.

7. No deliveries shall be taken at or despatched from the site outside the hours of 07:30 to 18:30 on Monday to Saturday, 08:00 to 13:00 on Saturday, and not at any time on Sundays and public holidays.

Reason:- In order to protect the amenity of the area.

8. No refuse collection shall be carried out from the site outside the hours of 07:30 to 18:30 on Monday to Saturday, 08:00 to 13:00 on Saturday, and not at any time on Sundays and public holidays.

Reason:- In order to protect the amenity of the area.

9. All construction/demolition works and ancillary operations (which includes deliveries and other commercial vehicles to and from the site) which are audible at the boundary of noise sensitive premises, shall only take place between the hours of 07:30 to 18:30 Monday to Friday and 08:00 to 13:00 hours on Saturday, and at no time during Sundays and public holidays unless otherwise agreed in writing by the Local Planning Authority.

Reason: In the interests of the amenities of noise sensitive properties.

10. Prior to commencement of development, including demolition or site clearance works, a phased contaminated land investigation shall be undertaken to assess the presence of contaminants at the site in accordance with an agreed protocol as below. Should any contaminants be found in unacceptable concentrations, appropriate remediation works shall be carried out and a scheme for any necessary maintenance works adopted.

Prior to carrying out a phase 1 preliminary investigation, a protocol for the investigation shall be agreed in writing with the Local Planning Authority and the completed phase 1 investigation shall be submitted to the Local Planning Authority upon completion for approval.

Should a phase 2 main site investigation and risk assessment be necessary, a protocol for this investigation shall be submitted to and approved by the Local Planning Authority before commencing the study and the completed phase 2 investigation with remediation proposals shall be submitted to and approved by the Local Planning Authority prior to any remediation works being carried out.

Following remediation, a completion report and any necessary maintenance programme shall be submitted to the Local Planning Authority for approval prior to first occupation of the completed development.

Reason:- Since the site has been identified as being potentially contaminated and to protect human health, the environment, surface water, groundwater and the amenity of the area.

11. The rating level of noise (as defined by BS4142:1997) emitted from any air conditioning, condenser units or mechanical plant shall not exceed 5dB(A) above the prevailing background noise level. The measurement position and assessment shall be made according to BS4142:1997.

Reason:- To protect nearby noise sensitive premises from significant loss of amenity due to noise.

12. No plant machinery shall be erected on the northern façade of the industrial units unless otherwise agreed in writing by the Local Planning Authority.

Reason:- To protect nearby noise sensitive premises from significant loss of amenity due to noise.

13. Prior to commencement of the development, details of suitable access arrangements to the site in connection with the demolition/construction operations shall be submitted and agreed in writing by the Local planning Authority. These shall include wheel washing facilities, turning and off loading facilities for delivery/construction vehicles within the limits of the site, and adequate parking area for those employed in the demolition/construction operations.

Reason:- In the interests of highway safety during the construction/demolition stages.

14. Prior to occupation of the site, the existing eastern access shall be permanently closed and replaced with full upstand kerbs and full depth footway construction.

Reason:- In the interests of highway safety.

15. The parking area shown on the approved plan, including bicycle and powered two wheeler parking, subject to the alterations required under condition 17, shall be provided prior to the first occupation of the development and shall be retained free of obstruction for the parking of staff, customers and visitors vehicles thereafter.

Reason:- In the interests of highway safety.

16. A flood risk assessment shall be submitted to and approved by the Local Planning Authority prior to commencement of development. The assessment shall include calculations of increased run-off and associated volume of storm detention using Windes or other similar programme. The approved measures shall be undertaken prior to the first occupation of the building hereby approved and shall be adequately maintained in accordance with a management plan to be submitted concurrently with the assessment.

Reason:- Since the site is located within a PPS25 Flood Risk Assessment Zone and is of a size where it is necessary to avoid generating any additional flood risk downstream of the storm drainage outfall.

17. Notwithstanding the car parking layout indicated on plan ref: 2 (amended 28/10/08), the preserved cherry trees to the east of the site and preserved willow to the southeast of the site shall be retained. No development shall take place on site, including site clearance, tree works, demolition, storage of materials or other preparatory work, until all details relevant to the retention and protection of trees, hereafter called the Arboricultural Method Statement, have been submitted to the Local Planning Authority and approved in writing. Thereafter the development shall be undertaken only in accordance with the approved details, unless the Local Planning Authority has given its prior written consent to any variation.

The Arboricultural Method Statement shall include a tree protection plan to show the areas designated for the protection of trees, shrubs and hedges, hereafter referred to as Protection Zones. Unless otherwise agreed, the Protection Zones will be fenced, in accordance with the British Standard Trees in Relation to Construction-Recommendations (BS.5837:2005) and no access will be permitted for any development operation.

The Arboricultural Method Statement shall include all other relevant details, such as changes of level, methods of demolition and construction, the materials, design and levels of roads, footpaths, parking areas and of foundations, walls and fences. It shall also include the control of potentially harmful operations, such as burning, the storage, handling and mixing of materials, and the movement of people or machinery across the site, where these are within 10m of any designated Protection Zone.

The fencing, or other protection which is part of the approved Statement shall not be moved or removed, temporarily or otherwise, until all works, including external works have been completed and all equipment, machinery and surplus materials removed from the site.

The Arboricultural Method Statement shall indicate the specification and timetable of any tree works, which shall be in accordance with the British Standard Recommendations for Tree Works (BS.3998: 1989).

The Arboricultural Method Statement shall include a scheme for the inspection and supervision of the tree protection measures. The scheme shall be appropriate to the scale and duration of the works and may include details of personnel induction and awareness of arboricultural matters; identification of individual responsibilities and key personnel; a statement of delegated powers; frequency, dates and times of inspections and reporting, and procedures for dealing with variations and incidents. The scheme of inspection and supervision shall be administered by a suitable person, approved by the Local Planning Authority but instructed by the applicant.

Reason:- To comply with the duties indicated in Section 197 of the Town and Country Planning Act 1990, so as to ensure that the amenity value of the most important trees, shrubs and hedges growing within or adjacent to the site is adequately protected during the period of construction.

18. No development shall take place, including site clearance or other preparatory work, until full details of both hard and soft landscape works (including tree planting) have been submitted to an approved in writing by the Local Planning Authority, and these works shall be carried out as approved. These details shall include, as appropriate, and in addition to details of existing features to be retained: proposed finished levels or contours; means of enclosure; car parking layouts; other vehicle artefacts and structures, including signs and lighting and functional services above and below ground. Details of soft landscape works shall include plans for planting or establishment by any means and full written specifications and schedules of plants, including species, plant sizes and proposed numbers / densities where appropriate. If within a period of five years from the date of the planting or establishment of any tree, or shrub or plant, that tree, shrub, or plant or any replacement is removed, uprooted or destroyed or dies or becomes seriously damaged or defective another tree or shrub, or plant of the same species and size as that originally planted shall be planted at the same place, unless the Local Planning Authority gives its written consent to any variation.

Reason:- To comply with the duties indicated in Section 197 of the Town and Country Planning Act 1990 so as to ensure that the details of the development of the landscaping are complimentary, and to ensure a satisfactory appearance to the development.

19. The industrial units hereby approved shall be completed prior to the occupation of the store.

Reason:- The provision of the industrial units was a significant factor in the reuse of the designated employment land for retail purposes.

20. The industrial units hereby approved shall be used solely for B1, B2 and B8 and for no other purpose of the Schedule to the Town & Country Planning (Use Classes) Order 2005, or in any provision equivalent to that Class in any Statutory Instrument revoking or re-enacting that Order.

Reason:- To ensure that no alternative industrial use is made of the premises which would be likely to be a nuisance or annoyance to adjoining residents.

The proposed S106 agreement should include the following:

- **A financial contribution of £54,000 towards public transport infrastructure in the vicinity of the site.**
- **The provision of a financial contribution of £5,000 to fund necessary Traffic Orders/Road Markings for both sides of Cartersfield Road along the length of the development.**

Report

1. This application has been referred by the Area Plans Sub Committee West with a recommendation for approval. The report to the sub-committee carried a recommendation from officers to refuse planning permission and the planning merits of the case are attached (to be read in conjunction with the report for planning application Ref: EPF/1771/08).

Planning Issues

2. The debate at the sub-committee meeting centred mainly on the merits of the proposed development in relation to policies TC2 and TC3, however there was also reference made to E1, ST2 and ST5. This application was considered alongside planning application Ref: EPF/1771/08 – Variation of condition 5 attached to planning permission EPF/808/93 to read 'The development shall be used for non-food retailing and no other purpose, with the exception of up to 1486 sqm (16000 sqft) GIA floorspace within Unit 1 which may be used for the sale of food (Class A1) at Unit 1, Highbridge Retail Park, Highbridge Street, Waltham Abbey.

3. The sub-committee considered the merits of two such discount food retail stores being located in out-of-centre locations within Waltham Abbey, and the impact that these would have on the vitality and viability of Waltham Abbey Town Centre. The sub-committee felt that two discount foodstores would not detrimentally impact on the town centre despite the submitted retail statements and retail statement assessment concluding otherwise. As such officers consider that the provision of two such units would be contrary to policies TC2 and TC3 of the adopted Local Plan and Alterations.

4. The sub-committee also considered that the merits of this case constitute material considerations to overcome any harm resulting from the proposal. Particularly with regards to the creation of five start-up industrial units and a financial contribution towards public transport.

5. The second reason for refusal recommended by officers, relating to the impact on the neighbouring residential properties caused by the height and proximity of industrial Unit 1, has been overcome by the submission of an amended plan showing Unit 1 being located further from the northern boundary.

Conclusion

6. Should the Committee grant planning permission it should be subject to the conditions stated above and subject to a S106 agreement.