

**PLANNING AND DEVELOPMENT COMMITTEE**

A meeting of the Planning and Development Committee was held on Thursday 16 November 2023.

**PRESENT:** Councillors J Rostron (Chair), I Blades (Vice-Chair), D Coupe, M McClintock, M Nugent, J Platt, G Wilson, J Kabuye and J Thompson

**PRESENT BY INVITATION:** Councillors S Dean and P Storey

**ALSO IN ATTENDANCE:** J Elder, M Koszyczarek, A James

**OFFICERS:** P Clarke, A Glossop, R Harwood, S Thompson and J McNally

**APOLOGIES FOR ABSENCE:** Councillors J Ewan, I Morrish and J Ryles

23/14 **DECLARATIONS OF INTEREST**

Name of Councillor	Type of Interest	Item/Nature of Interest
Councillor Graham Wilson	Non-Pecuniary	Agenda Item 5, Item 2, land to rear of North Ormesby Institute, resident in ward

23/15 **MINUTES - PLANNING AND DEVELOPMENT COMMITTEE - 12 OCTOBER 2023**

The minutes of the meeting of the Planning and Development Committee held on 12 October 2023 were submitted and approved as a correct record.

23/16 **SCHEDULE OF REMAINING PLANNING APPLICATIONS TO BE CONSIDERED BY COMMITTEE**

The Head of Planning submitted plans deposited as applications to develop land under the Town and Country Planning Act 1990.

**22/0570/MAJ, Erection of a new discount food store (Use Class E) with access, car parking, landscaping and other associated works including the closure of Thackeray Grove at the Former Cleveland College of Art and Design, Green Lane, Middlesbrough, TS5 7RJ**

Full details of the planning application and the plan status were outlined in the report. The report contained a detailed analysis of the application and analysed relevant policies from the National Planning Policy Framework and the Local Development Framework along with detailing consultee and other responses.

Members heard that the site was the former Northern School of Arts campus on Green Lane, Middlesbrough. The site was located at the junction of Green Lane and Roman Road within a predominantly residential area. The Linthorpe Conservation area boundary extends to the eastern boundary of the site with the Roman Road Local Centre being located approximately 400 metres to the north. Tree Preservation orders are in place on five trees within the southern boundary of the site (TPO 82).

The site had been cleared following the demolition of the former Northern College of Arts building.

The application sought planning consent for the erection of a new discount food store (Use Class E) and access, car parking, landscaping and other associated works at the former Northern School of Arts campus site on Green Lane, Middlesbrough and includes the closure of Thackeray Grove.

The initial plans resulted in 73 individual objection letters and 266 pro-forma objection letters with 61 individual support letters and 551 pro-forma support letters, a petition in support signed by 49 individuals and 1 representation letter.

The revised plans had resulted in an additional 99 individual objection letters, 14 support letters and 3 representation letters. In addition, 25 emails of support had been received.

Members were advised that the proposed development had been assessed in relation to material planning considerations and the planning view was that the site was in a sustainable location however the manner in which development proposals had not taken up sustainable opportunities and had been brought forward in a way that represented unsustainable development. Members heard that the application site was outside of any defined centres identified within the adopted local development plan.

The Head of Planning stated that although the location was suitable for redevelopment, it did not mean that it was suitable for this type of development and that the proposed store should not be compared to the Northern School of Art as that building is no longer there, had been removed over 12 months ago and therefore this proposal should be considered against how the site currently stands.

The sequential test was considered not to have demonstrated flexibility in terms of both scale and format and failed to consider alternative sites the Council considered more appropriate for this scale of retail development, including Middlesbrough Town Centre within a five-minute drive time and Berwick Hills and Coulby Newham District Centre within the ten-minute drive time. An Impact Assessment had been submitted but was not considered to be a requirement for the scale of this retail development.

The layout of the proposed development had failed to adequately consider and adapt to the context of the surrounding residential area. In relation to the site layout with the position of the store to the rear of the site and the scale and location of the hard standing towards the site frontages. The scale, mass and design for the commercial development was considered to be visually dominant and out of character with the existing residential street scene and the character and appearance of the adjacent Linthorpe Conservation area.

The Head of Planning stated that the boundary of the site was immediately adjacent to residential properties. The impact on the amenity of the neighbours had been considered in relation to privacy, noise, light, outlook and health impacts. The proximity and the scale and mass of the main building to the northern and western boundaries was considered to have a detrimental impact in terms of overbearing and loss of outlook to these neighbours. Members were advised that the noise assessment report concluded there would be no detrimental impact from the plant and machinery located above the service area of the main store. However, the Noise Assessment was incomplete as it failed to assess the noise impact from the proposed substation positioned alongside a residential boundary, meaning the noise associated from the development could not be fully assessed.

Following the meeting in July 2023 when the planning application had been deferred due to the officer's report recommending refusal following the late submission of revised plans. Subsequent revised plans were submitted and included the following changes :-

- 7 Additional trees along the northern boundary
- Removal of 2 car parking spaces on the northern boundary at the entrance/exit to Roman Road
- Relocation of the cycle store area to 2 areas to the east and south of the car park on former landscape areas
- Relocation of footpath links from Roman Road and Green Lane
- Relocation of vehicle charging points
- Increased width of vehicle access from Roman Road with pedestrian island
- Additional footpath to side of vehicle entrance to Roman Road
- Pedestrian crossing islands on Roman Road and Green lane
- Replacement of timber cladding with fair faced brickwork.
- Closure of Thackeray Grove
- Removal of proposed low lying brick wall and coping stone detail to the side of the vehicle entrance on Roman Road

Detailed reasons for objection relating to the principle of the development are listed below:

- Local plan did not include discount supermarket in middle of residential area allocated for residential use.
- Contrary to Policy CS13 which aims to protect existing hierarchy of town, district and local centres and states no retail development will be allowed that impacts on the vitality and viability of local centres with Acklam/Cambridge Road, Eastbourne, Linthorpe Village Roman Road and Saltersgill Avenue being within 1 mile of the application site.
- Impact on vitality of town centre, contrary to Local Plan ambitions
- New shopping development at Tollesby so impact on occupation of units within this development and Saltersgill shops
- Diversion of trade from other Lidl stores and lead to boycotts of Lidl generally
- Will draw trade from existing local retailers (Roman Road, Linthorpe Village and Acklam Road) and adversely impact vitality and viability of local centres, particularly independent retailers unable to compete. Lidl's assessment is to draw £9.87 million of annual trade from local centres by 2027.
- Variety of existing stores (18 listed) within a 2-mile radius so no need for store
- Sequential Test flawed as states local need for large store when seeking non-local trade as otherwise why provide 94 car parking spaces.
- Sequential test of available sites based on Lidl requirements and not valid interpretation.
- Revisions do not alter the principle that the proposal fails the sequential test.
- No requirement for store in area shown by closure of the Co-op store.
- Lidl typically have 5-minute catchment area. No case provided of demographic people will serve and if their needs are met locally or further afield (possibly by Lidl at Newport which is a 5-minute drive).
- Lidl has stores already close to site – Newport 1.6 miles, Thornaby 2.4 miles, Cargo Fleet 2.9 miles and 2 stores in Stockton just over 3 miles, question if becoming a monopoly.
- Despite the developer's assertion that all the nearby centres are in good health, proposal will have a negligible impact on them. Development of this

scale will threaten the vitality and viability of existing centres and the variety of shops and services they provide.

- Loss of local shops means loss of jobs and impact on local economy as Lidl providing 20 jobs at zero-hour contracts.
- Local shops closing due to abundance of supermarkets taking trade.
- Co-op site could be utilised, and Lidl have opened in existing centres e.g Easter Road, Edinburgh
- Co-op closure means if this goes ahead may not find a retailer for that vacant unit.
- Reference to special status of Lidl and Aldi as 'discount food stores' quotes an appeal from 15 years ago. Change in retail since then with Sainsburys and Tesco providing similar retail offer, pricing and opening hours.
- Failure to adopt local plan left residents with unwanted development.
- Store more suited to a brownfield site.
- Regeneration should be to areas run down where commercial sites have stood empty.

The Head of Planning highlighted concerns in regard to the design/appearance of the application which included:

- Store design inconsistent with residential housing
- Proposal not in keeping with the Conservation area with listed buildings.
- All other examples quoted of development in conservation area pre-date the conservation designation with the Council recognising the need to strengthen the powers by introducing an Article 4 directive.
- Unsympathetic to surrounding area no suggestion of urban form or design contribution to the established building style in the area.
- Landscape boundaries will not make significant difference from the trees which were lost.
- Removal of trees and concrete across the full site
- Disregard for appearance of the area by chopping down 15 established trees that cannot be replaced.

Further objections in relation to amenity were included in the report which had been provided to all committee members.

The Head of Planning highlighted that trees had been removed by Lidl which had resulted in a Forestry Commission investigation and issuing of a restocking order. The order sets out the number of trees and types of trees that should be replanted. It was advised that the proposal for the planting and landscaping was not in accordance with the restocking order.

The Highways Officer highlighted concerns in relation to safety which included:

- the development proposals had taken a default standardised approach centred around car-based travel and as such did not support, prioritise nor incentivise sustainable travel.
- Green Lane busy east/west arterial corridor
- Existing private drives west of the proposed site
- Introduction of significant new junction would cause competing and conflicting movements happening within a congested area.
- Residents reversing on and off drives in the vicinity of the entrance and exit of

the new junction.

- No vehicle swept paths had been submitted for the highway improvement works including the closure of Thackeray Grove and the pedestrian refuges, the Highways Authority do not have confidence that they could be delivered particular concern is the pedestrian refuge at the junction of Roman Road which is a main transport and the Highways Authority have serious reservations whether this would be deliverable with buses turning right into Roman Road
- Pedestrian/cycle access – the new junction which is proposed on Green Lane is approximately 21.5 meters wide the existing junction of Green Lane/Roman Road was 19 meters wide, so the new junction is wider than the existing junction.
- Pedestrian refuges that had been provided are 2 meters wide which is the absolute minimum for a pedestrian, but it does not accommodate for cyclists.
- Pedestrians will have traffic passing them to the front, behind including at the store entrance articulated vehicles manoeuvring into and out of the site.
- Residents who are not visiting the store will now have to negotiate the new junction.
- Width of junction on Green Lane breaks down into a 10-meter crossing distance and a 9.3-meter crossing distance.
- Acknowledge that pedestrian route had been provided into the store via Green Lane and Roman Road however likely design lines for pedestrians would be to enter the site diagonally through the store area which would mean avoiding negotiating the junction however no facility have been provided similarly for those pedestrians arriving from the north (Roman Road) the footway does not connect to any other footway on the site.
- Pedestrians would need to walk diagonally through a carpark with car parking spaces or negotiate the junction to get to the pedestrian/cycle crossing facilities.
- Previous discussions about a Ped Cycle route along the frontage, the current position is works are not proposed to provide a pedestrian/cycle route however Lidl have offered a contribution towards this scheme but there is currently no scheme tabled.
- Concern there is no infrastructure off site, when pedestrians get on site there is some infrastructure however the infrastructure is arranged that a vehicle takes dominance. There is car parking all around the site near to crossing points. Swept paths show that vehicles will be manoeuvring main pedestrian crossing points into the store.
- Cluttered area for those not arriving by car.
- Servicing arrangements for the store involve articulated HGV's undertaking manoeuvres within an area with minimal stacking space.
- Two deliveries per day have been quoted by the applicant.
- The HGV will block access to a number of the car parking spaces the driver will have on his blind side have to reverse into the service dock adjacent to parent and child spaces and where it is likely to have pedestrians manoeuvring in the area which is clearly a safety issue and will increase the length of servicing while the driver waits to ensure he can undertake the manoeuvre safely.
- No vehicle swept paths for servicing vehicles approaching from the east have been provided which leads to concerns over if the refuge is deliverable.
- Not a pleasant environment for parents taking their children to school standing in the refuge with vehicles around them.

Members were advised that it was the view of the Highway Authority that

development proposals cannot be supported for the reasons as set out above. As such the recommendation was that the application be refused on the grounds of Highway Safety and Sustainability.

The Head of Planning clarified to the committee that Northern Gas Network had withdrawn their objection.

The Head of Planning read out some additional comments in support of the scheme which included:

- Lidl would address local shopping needs.
- The Co-op used to provide this service now an empty store.
- Traffic lights on Green Lane will benefit motorists which Aldi have done on Marton Road
- Tesco on Acklam Road approved on a dangerous crossroads.
- Cycle path will benefit the development.
- Tree planting will address the tree loss.

The Head of Planning provided a summary to the Committee:

- The principal of development of the site is acceptable.
- It is in a sustainable location.
- Design and layout the building scale, layout and carpark is not suitable or appropriate.
- The proposal does not demonstrate or address the impact on the highway network in terms of safety and access for servicing particularly for pedestrians and cyclists.
- Scale, mass and position of the building will have an overbearing impact on surrounding residential properties and significantly affect the outlook.

A Member asked how easy it would be to alter the plans to include safe pedestrian access and if it was ever included before. The Member was advised that the committee needed to consider the application before them and that the planning department was of the view that the principle for the development was acceptable, but it was necessary for a design to come forward that could be supported.

The Planning Agent for Lidl addressed the Committee and provided them with positive reasons as to why the planning application should be approved.

- Lidl is in full ownership of the site.
- Committed to providing a new store in this location.
- Represent a significant private investment in Middlesbrough.
- Consider proposal will deliver a number of substantial benefits.
- A new discount shopping choice for residents
- Allow more residents to shop locally and sustainably.
- Helping local residents with cost-of-living pressures in an area with a significant lack of retail
- Redevelopment of previously developed site which is located in a sustainable location which is also considered to be sustainable development in its truest sense.
- Positive impact with the creation of 40 new well-paid jobs for local residents
- Energy efficient store with a rooftop solar panels and electric vehicle charging points.

- Significant tree planting and high-quality landscaping

The Planning Agent stated that the Council agree that the principle of development is acceptable by the Council and all other technical matters are either acceptable or details can be secured via suitable conditions. The committee heard that the applicant had worked very hard on the proposal and had proactively engaged with the council in trying to address any concerns that had been raised with a view to finding a compromise. In the agents view the proposal is acceptable in planning terms and the reasons for refusal are not sound also in view that the proposal should be supported given the overwhelming support from local residents during the public consultation which further demonstrates there is a need for this store in this location.

A Member questioned how flexible Lidl was prepared to be in the design of the store in response the Planning Agent stated that Lidl have a specific model that they try to replicate across the country which is part of the business model, and the reason Lidl can provide goods at a low cost. Lidl had considered the constraints of the site and there are stores across the country in similar locations including inside and close to conservation areas. It was advised that trees would be planted to the south of the site and the layout has been designed using principles of secure design, the elevation will face the car park. Members heard that pedestrian and vehicle access had been improved as much as it could be due to the constraints of the site.

A Member stated that Lidl stores are of a standard design but the standard design could be the same on an industrial park or anywhere, but this store will be in the middle of a residential area where the majority of access will be by foot the Member questioned whether a proper footpath could be included to make it safe. The Planning Agent responded that there was a dedicated footpath from the south and dedicated access from Roman Road and that this highway arrangement is not unusual.

A Member raised concerns over a blindsided reverse manoeuvre being required and queried why the servicing bay could not be in a different location. It was advised that the delivery bay could not be achieved anywhere else due to the layout of the site.

The Highway Agent for Lidl stated that there was a direct pedestrian route to the store in the shortest distance. In response to the question regarding HGV servicing he stated that it was a standard layout and had the same in various locations across the country and that the movement would take approximately 45 seconds it was also confirmed that all servicing would be accessed from the west of the site so vehicles would not be turning right onto the site. The Agent felt that there were no safety issues on the site and stated that the closure of Thackeray Grove would support this. It was also advised that Lidl would provide a contribution towards a cycle scheme if that came forward.

A resident spoke in objection to the closure of Thackeray Grove and raised the following concerns:

- Road extremely busy during school drop off and pick up times and also when people returning from work.
- Will make Kingston Avenue a rat run.
- Ludicrous to shut a road off to accommodate a store the houses have been there for over 100 years.
- Thackeray Grove has the widest access for exiting the Tollesby estate.

- No bins were collected when Thackeray Grove was resurfaced because cars were parked on both sides and the bin wagons could not get down Kingston Avenue

Another resident spoke in objection to the application and raised the following concerns:

- Number of shops already in the vicinity
- Do not need another shop already 8 in the vicinity.
- No response to concerns from a resident.
- 19 trees chopped down which were the habitats of wildlife.
- Polluting the atmosphere with dust
- Pollution from extra 90 cars coming into the area.
- No attempt to replace trees that had been chopped down.
- Respectable, residential area in a conservation area
- Did not talk to local residents.

The Ward Councillors spoke in objection to the application and raised the following concerns:

- Number of food stores already in the area within walking distance
- The junction of Green Lane and Junction Road is already at capacity with traffic.
- Number of schools in the area, 5 primary and 3 secondary schools who use the area regularly for walking to and from school.
- Conflict of cars using the proposed Green Lane entrance and pedestrians using the footpath
- On school routes
- Conflict of residents being able to enter and exit their properties on Green Lane
- Knock on issues of closing Thackeray Grove will cause problems on Tollesby Road and Kingston Avenue
- Egress on Kingston Avenue is particularly narrow.
- Design of building does not fit into the area it is a conservation area.
- No sensitivity to local area
- Conflict between cars, pedestrians and HGV's is significant and has not been addressed.
- Too close to properties on Harrow Road and also Green Lane
- Proposals to plant trees along the boundary of Harrow Road will cut light from resident's gardens and properties.
- Removal of a large number of trees without the approval from the Forestry Commission
- Bus stop on Green Lane does not seem to be in any of the plans which is used predominantly by school buses.
- Cycle Lane listed by TVCA believe has been taken out.
- Lidl sent letters out to residents in all TS5 who live miles away from the site.
- Against closure of Thackeray Grove
- Thackeray Grove is a wide road and a main vein for entering and exiting to six different Avenue's.
- If Thackeray Grove is closed residents would need to use Kingston Avenue



which is a much narrower road with cars parked on both sides this would lead to absolute mayhem and possible accidents as children use this route to and from school, parents also park in Kingston Avenue when picking up their children.

- Kingston Avenue is a totally unacceptable alternative as a permanent entrance and exit to serve these roads.

**ORDERED** that the application be **REFUSED** for the reasons outlined in the report.

**23/0308/COU, Change of use of part rear car park two hand car wash (Sui Generis) including canopy and portacabin for staff use at land to the rear of North Ormesby Institute, Middlesbrough**

*\*\* Councillor Wilson left the room at this point of the meeting having already declared an interest in this item as a resident of this ward.*

Full details of the planning application and the plan status were outlined in the report. The report contained a detailed analysis of the application and analysed relevant policies from the National Planning Policy Framework and the Local Development Framework.

Permission was sought for the change of use of land to the rear of the North Ormesby Institute to be used as a hand car wash (sui generis), the erection of a canopy and a portacabin for staff use.

Following a consultation exercise, objections were received from 4 properties. The objections related to noise, privacy, scale, design and appearance, traffic matters and flood risk, drainage matters.

The proposed use was considered to be a suitable sustainable use for the site. It is in a mixed-use location on an existing commercial site with good links to existing transport networks. The separation distance to neighbouring residential properties, the scale and design of the proposed structures, their location on the site, and the proposed operating hours, reduced the impact on the residential properties as a result the impact was minimal and would not be significantly detrimental to the amenity of residents. The development was considered to be in accordance with the requirements of Policies DC1, CS4 and CS5.

The use would include the erection of a canopy, a portacabin for staff use and the use of one of the store units to the rear of the North Ormesby Institute for storage of equipment. Part of the existing enclosed yard would also be used for waste storage.

Members heard that following a consultation exercise 34 neighbouring properties were consulted. One resident contacted the Planning Officer to confirm the access to the site and then confirmed that they had no objections to the development. Four objections were received from residents. The objections are summarised below.

- Increase in traffic on Ormesby Road.
- Persons using the club parking on the road not in the car park.
- Noise disturbance from equipment and vehicles.
- Privacy.
- Eyesore.
- Scale of development.
- Lack of information.
- Inadequate drainage details and information relating to disposal of chemicals/cleaning agents used.
- Use of water and climate change.

- Increase risk of flooding.
- Aerosol vapours; and,
- Antisocial hours of work/opening times.

During the application process, following comments from consultees and the Local Planning Authority, revised details were submitted. The revised scheme replaced a caravan with a portacabin for the staff facilities and included details of the proposed canopy.

Members were advised that in order to ensure the impact of the development on amenities and the appearance of the streetscene were kept to a minimum, conditions would be used to restrict the opening hours and delivery/collection times. It was also considered to be necessary to impose a condition relating to the type of car washing taking place on the site i.e. hand washing using a hand-held pressure washer. This would require any changes to the type of washing to be assessed through a further submission and allow assessment in terms of the impact on the amenity of residents, or the visual impact on the area to ensure that unacceptable impacts did not occur.

Members were advised that the application was an acceptable form of development, fully in accordance with the relevant policy guidance and there were no material considerations which would indicate that the development should be refused.

A Member queried what signage would be on the site and the Development Control Manager advised that a further planning application would need to be submitted for signage to be added to the site.

**ORDERED** that the application be **Approved on Condition** for the reasons set out in the report.

23/17      **APPLICATIONS APPROVED BY THE HEAD OF PLANNING**

The Head of Planning submitted details of planning applications which had been approved to date in accordance with the delegated authority granted to him at Minute 187 (29 September 1992).

**NOTED**

23/18      **PLANNING APPEALS**

The Head of Planning informed the Committee that there were no planning appeals to report.

23/19      **ANY OTHER URGENT ITEMS WHICH IN THE OPINION OF THE CHAIR, MAY BE CONSIDERED.**

None