



Appeal Decision

Hearing held on 24 September 2024

Site visit made on 24 September 2024

by Jonathan Bore MRTPI

an Inspector appointed by the Secretary of State

Decision date: 07/10/2024

Appeal Ref: APP/W0734/W/24/3341975

Green Lane, Middlesbrough, TS5 7RJ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Lidl GB against the decision of Middlesbrough Council.
 - The application Ref is 22/0570/MAJ.
 - The development proposed is the erection of a new discount foodstore (Use Class E) with access, car parking, landscaping and other associated works, including the closure of Thackeray Grove.
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Decision

1. The appeal is dismissed.

Background and main issues

2. The proposal is for a discount food store with a gross internal area of 1,895 square metres and a net sales area of 1,251 square metres. The site is in the built up area, and although it is an out-of-centre retail location, the scheme would pass the sequential and retail impact tests. There would be advantages to local people in providing an additional retail store in this area, the proposal has a significant level of support, and the Council does not oppose a retail scheme in principle. The site is brownfield land and there are frequent bus services nearby. There is no conflict with those parts of Local Plan Policies H1 or CS13 which support the development of land in the built up area and seek to protect Middlesbrough's retail centres. The scheme would generate additional employment and economic activity.
3. However, concerns have been expressed about the design and layout of the scheme, highway safety, and whether the scheme would encourage non-car modes of travel, and these constitute the main issues in this appeal.

Reasons

The design and layout of the scheme

4. The site was formerly occupied by the Northern School of Art, now demolished, and its surroundings are strongly residential in character. It is generally acknowledged that the former college buildings were not attractive. They occupied much of the site and came close to some of the houses in Roman Road. However, the College buildings have gone and should have no influence over the quality of any future development, including its siting, dimensions and layout.

5. The locality consists almost entirely of two and three storey dwellings with pitched roofs, gables, and varied materials in the domestic styles of the late 19th and the 20th Centuries. Houses tend to be set back in their plots, which provides space for trees, shrubs and lawns at the front, giving the area a spacious, green appearance. The site is close to the Linthorpe Conservation Area which contains finely detailed residential properties.
6. The scheme does not have sufficient regard to this context. The southern wall of the store facing Green Lane, together with the flat roofline, would present a long blank non-active frontage to Green Lane and to part of Roman Road which would not be sufficiently alleviated by the red brick modelling. It is recognised that a retail scheme, which is not opposed in principle, would inevitably have a larger floorplate than the buildings around, and a different character. However, the long unbroken elevation and roofscape of this scheme would be unattractive and would detract from the character of the area, including the adjacent part of the Linthorpe Conservation Area, to which it would cause less than substantial harm.
7. Despite the substantial planting belt, the wide entrance on Green Lane would afford an unobscured view into the site towards the loading bay, a large acoustic fence, part of the car park and the long blank southern wall of the store, introducing a hard appearance which would further detract from the character of this leafy area. Both vehicle entrances and their associated car parking, with their inevitable and necessary lighting, signage and displays, would be unduly close to residential properties and would appear as a jarring contrast to their domestic appearance.
8. Furthermore, the building would be sited too close to the houses in Harrow Road. It would present a very long blank and dominant feature when seen from the back windows and the short gardens of those homes, at less than 6 metres from their rear garden fences. This would create a poor outlook, to the detriment of the residents' living conditions. The proposed tree planting in this area, being close to the rear of the houses and gardens, would have the potential to make matters worse by reducing daylight and increasing the dominance of the scheme. The former presence of the Northern School of Art, which was an unattractive set of buildings, and has been cleared, does not provide justification for this unacceptable arrangement.
9. In conclusion, the design and siting of the building and the access arrangements would not protect the character of the surrounding area, including the conservation area, and would adversely affect living conditions in neighbouring homes. It is recognised that there may be operational and security advantages in having a car park at the front with the store behind; similar layouts have been employed by the Appellant in many other locations. But there is also evidence of schemes by the same retailer that have been designed to reflect more closely the character of the area. Given the overwhelming residential character of the surroundings, and the proximity of the conservation area, the proposal does not display a sufficiently design-led approach towards mitigating its impacts on the character of the area.
10. For all the above reasons, the scheme would conflict with Local Plan Policies DC1, CS4 and CS5 which together seek high quality development that is well integrated with its context, protects Middlesbrough's townscape and heritage, and protects the living conditions of nearby properties.

Highway safety

11. The site lies close to the staggered junction of Green Lane, Roman Road and Thackeray Grove. Whilst the junction does not have a notably poor accident record, the Council's Red Optima AI programme evaluates this junction as having a high accident risk, and my on-site observations bear this out. The junction is uncontrolled and hazardous right turning movements from and into Roman Road and Thackeray Grove commonly take place against the busy stream of traffic on Green Lane.
12. The scheme would add a modest 5% to the total background traffic using all the arms of the junction, and the junction would have the capacity to deal with the additional traffic. However, there is already potential for conflicting movements at the junction, which would be increased by the scheme, and the proposal would be likely to attract pedestrian and cycle movements. There is a zebra crossing on Emerson Avenue to the east, but it is not immediately adjacent to the site. Without adequate mitigation measures, the scheme would have negative impacts on highway safety and would conflict with Local Plan Policy CS19, Road Safety.
13. The Appellant is not proposing signalisation as part of the scheme, but nonetheless has included (should it be considered necessary) an agreed Grampian-style planning condition within the Statement of Common Ground which would require signalisation at the junction and the closure of the Green Lane end of Thackeray Grove before development took place. If the development had been acceptable in all other respects, this would in my view have been a necessary measure, because it would reduce the risk from conflicting traffic movements and provide safe pedestrian and cycle crossing facilities adjacent to the site, furthering the aims of Policies CS18(e) and CS19. A further benefit would arise from the Appellant's offer to allow on-site drop off and pick up parking for the nearby school, potentially reducing the congestion caused by twice-daily verge parking on Green Lane. But these potential benefits do not outweigh the other objections to the scheme.
14. The other safety issues raised by the Council are less significant. The manoeuvring of delivery vehicles within the customer car park is a normal arrangement at the Appellant's other stores and there is no recent evidence of any incident having taken place there. Deliveries only take place once or twice a day. The manoeuvring of HGV delivery vehicles immediately behind parent and child parking spaces, as shown on the submitted site plan, is not a desirable arrangement, but were the scheme acceptable in other respects this would be a matter of detailed site layout.
15. In conclusion, the scheme as it stands without the junction improvements described above would conflict with Local Plan Policy CS19, Road Safety. The potential for delivering a junction improvement scheme is recognised, although currently there is no design, but on its own such a scheme would not overcome the other objections to the appeal proposal.

Whether the scheme would encourage non-car modes of travel

16. The scheme would be well located to take advantage of local bus services and would provide an adequate number of cycle parking spaces. The Council has expressed some concern about unprotected pedestrian routes through the car park and the potential for walk-in customers to use the vehicular entrances,

but it must be recognised that a degree of give and take between pedestrians and vehicles is inherent in any food store car park. These detailed matters, and other items of concern to the Council including the position of the cycle parking, could be resolved through minor design changes were the scheme acceptable in other respects.

17. However, the substantial bell mouth of the proposed Green Lane entrance, as designed for this scheme, would be a significant obstacle for pedestrians, including children going to and from the nearby school. The entrance would be well-used by two-way traffic and, although a central refuge would be provided, the crossing would be so wide that pedestrians would feel exposed and the crossing would be daunting for some. This aspect of the scheme would conflict with Local Plan Policy CS5, which seeks the removal of barriers to access and movement, Policy CS17, which promotes integrated and safe pedestrian routes, and Policy CS19, which aims to protect the safety and quality of the environment in residential and commercial areas.
18. Local Plan Policy CS18 promotes schemes for cycling and walking. Green Lane is intended to form part of the strategic East/West cycle corridor identified in the Integrated Transport Strategy 2018-2028. The Council argues that the proposed ghost right turn lane at the proposed Green Lane entrance would prevent the future implementation of cycle lanes in that location. But as yet there is no designed and funded scheme for cycle lanes here, and the Green Lane entrance as designed would be unsatisfactory anyway, for the reasons described above. Any cycle route designed for this part of Green Lane would need to take into account the potential development of the site, and vice versa, and as well as any proposals for the junction of Green Lane, Roman Road and Thackeray Grove.
19. As regards car parking, 91 spaces are proposed and the Council argues, citing Local Plan Policy CS18, that this number could be reduced. But the scheme already provides significantly less than the maximum of 135 spaces indicated in the Tees Valley Highway Design Guide. The suggestion that parking should be further reduced in order to bear down on the use of the private car is unconvincing. The store would attract walk-in trade and some cyclists, but food stores of this nature are principally attractive to households who purchase larger amounts and arrive by car. The model works because the number of spaces provided give confidence to shoppers that they will find a parking space. Insufficient parking provision, or a difficulty in finding available parking spaces, can lead to undesirable queuing on the highway.
20. The diagrams of the anticipated car park usage in this case suggest that there might be some potential parking capacity to allow for adjustments in layout and design to overcome the criticisms of the appeal scheme, but that is not a matter for this appeal.
21. To conclude, the only substantive concern on this issue relates to the Green Lane access, which would be a deterrent to pedestrians, and for this reason the scheme would conflict with Local Plan Policies CS5, CS17 and CS19. The other items are matters of detailed design.

Other matters

22. Noise from plant and equipment and from manoeuvring vehicles has been raised as a concern. If other aspects of the scheme were acceptable, noise

mitigation could be addressed by a condition. However, this does not alter my conclusions on the main issues.

Conclusion

23. The site consists of brownfield land and is accessible by public transport. A retail scheme is acceptable in principle and carries local support. The development would have economic and employment benefits. It would be possible by means of a Grampian condition, and subject to appropriate funding and design, to address the additional impact of the scheme and improve crossing facilities for pedestrians and cyclists by signalling the junction of Green Lane, Roman Road and Thackeray Grove. However, the design and siting of this particular scheme would detract from the character of the surrounding area including the Linthorpe Conservation Area and harm the living conditions of residents in Harrow Road. It would also create a significant obstacle for pedestrians on Green Lane. These deficiencies outweigh the benefits of the scheme. The scheme would conflict with Local Plan Policies DC1 and CS5 in respect of its design and siting and effect on neighbouring living conditions, and Policy CS5, CS17 and CS19 in respect of the Green Lane access.
24. I have considered all the other matters raised but they do not alter the balance of my conclusions. For all the reasons given above, the appeal is dismissed.

Jonathan Bore

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Sasha White KC	Instructed by Rapleys
Richard Huteson	Rapleys LLP
Toan Chau	Cora IHT Ltd
Neil Shurety	Border Archaeology

FOR THE LOCAL PLANNING AUTHORITY:

Konstanza Bell	of Counsel
Andrew Glossop	Development Control Manager, Middlesborough Council
Simon Thompson	Transport Development Lead with the Council
Heather Nelson	Conservation Officer with the Council

INTERESTED PARTIES:

Anthony James	Local resident
Dermot O'Brien	Local resident
Jacky Ball	Local resident
Kieran Hazley	Local resident

DOCUMENTS

Appellant's statement of case, including appendices containing heritage and highways statements, technical note, rebuttal, noise assessment and SCP peer review of highway proposals

Council's statement of case and final rebuttal

Statement of Common Ground

Letters of representation

PLANS

Site location plan ZZ-XX-DR-A-900001-S2-P1, 17 August 2022

Existing site plan ZZ-XX-DR-A-900004-S3-P1, 17 August 2022

Proposed site plan ZZ-XX-DR-A-910002-S3-P22, 1 September 2023

Proposed floor plan ZZ-00-DR-A-010001-S3-P1, 17 August 2022

Proposed elevations ZZ-XX-DR-A-020001-S3-P8, 1 September 2023

Proposed roof plan ZZ-RF-DR-A-010001-S3-P2, 17 August 2022

Context section ZZ-XX-DR-A-910006 -S3- REV P5, 1 September 2023

Landscape Details R/2547/2G, 1 September 2023

External Works GA 5282-MP-00-ZZ-DR-S-0101-S2-P02, 1 September 2023

Proposed enabling works 5282-MP-00-ZZ-DR-S-0113-S2-P01, 1 September 2023

Proposed Levels Scheme 5282-MP-00-zz-Dr-S-0103-S2-P01, 1 September 2023