

Town And Country Planning Act 1990

**Proof of Evidence of Mr Daniel
Brown on Behalf of the Appellant
Regarding Planning Matters**

Summary Proof of Evidence

Appeal by: Aldi Stores Ltd

Site Address: Homebase, Sturlas Way, Waltham Cross, EN8 7BF

LPA Reference: 07/21/0519/F

PINS Reference: APP/W1905/W/22/3292367

June 2022

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1. Summary of Evidence

Qualifications and Purpose of my Evidence

- 1.1 My name is Daniel Brown and I am an Associate Director in the Planning, Development and Regeneration team of Avison Young. I am instructed by the appellant Aldi Stores Ltd ('Aldi') to provide evidence to this inquiry in respect of general planning matters. My proof directly addresses the Council's first reason for refusal and deals with the relevant planning balance test to be applied. In applying the planning balance, I also rely on the evidence of my colleagues Mr Justin Griffiths, Senior Associate Architect at The Harris Partnership; and, Mr Tim Britton, Associate Transport Planner at Connect Consultants.

Background and Current Position Regarding Reasons for Refusal

- 1.2 The appeal is made against the refusal by Broxbourne Council of planning application reference 07/21/0519/F at Homebase, Sturlas Way, Waltham Cross, EN8 7BF. This application, made in full and submitted by Aldi Stores Ltd ('Aldi'), proposed the:

"Refurbishment, extension and external alterations to existing non-food retail unit to enable it to trade as part foodstore and part non-food retail unit, alongside modifications to existing external garden centre, car parking layout, landscaping and other associated site works".

- 1.3 Five reasons for refusal were given, and these are set out in full at paragraph 2.2 of my proof of evidence. The Council's position on the reasons for refusal has changed since the application's determination. Officers have since accepted the findings of a revised Noise Impact Assessment (Revision 4) and noise impact is therefore no longer being advanced by the Council as a ground for refusal. This is confirmed in the agreed Statement of Common Ground relating to Noise Matters (Core Document 4.5).
- 1.4 It is agreed within the Parent SoCG (Core Document 4.4) that the proposed development would not cause any unacceptable adverse effects with regard to other planning matters (which were not reasons for refusal) relating to surface water drainage, trees and landscaping, and biodiversity and ecology. This is subject, where appropriate, to mitigation measures that will be secured via planning condition.

Compliance with The Development Plan

Reason for Refusal 1

- 1.5 The starting point in considering whether the proposed development should be granted planning permission is the policies of the adopted development plan, in this case the Broxbourne Local Plan 2018-2033. The Council allege that the proposed development would undermine their ability to pursue a comprehensive mixed-use development at the allocated site, contrary to policies WC2, DS1, PM1, RTC2 and DSC7 of the Local Plan and the Waltham Cross Town Centre Strategy.

- 1.6 In responding to this first reason for refusal, my Proof of Evidence has had regard to what I consider to be three key interrelated matters. These are: the interpretation of Local Plan Policy WC2 and the development options it envisions; the nature and scale of works proposed and whether these would constitute incremental development prejudicing future development; and the Council's vision for the Northern High Street Area, the timescales for delivery, and scheme's bearing (or otherwise) on this.
- 1.7 With regards the policy's interpretation, I have explained that significant modifications were made to both the Policy W2 and its reasoned justification at the request of the Inspector prior to the Local Plan's adoption. This was following the participation of Homebase in the Local Plan process and their stated intention to remain in occupation (a position they have since maintained). These modifications promote flexibility in terms of appropriate future development options for land 'west of Sturlas Way'. The wording requires ongoing engagement with the landlord and longstanding tenant as well as alluding to potentially insurmountable barriers which may prevent redevelopment (i.e. long-lease constraints).
- 1.8 This engagement has, in a practical sense, taken place. The Council has now published a draft Town Centre Planning Framework which indicates their 'masterplan' for the site and detailed representations have in turn been made by LCP, Homebase and others. The landlord and tenant's position is one of categorical rejection of the residential-led vision for the site for the foreseeable future on grounds of its ill-conceived nature and lack of site availability, viability and deliverability.
- 1.9 On this basis, it must be concluded that the 'status-quo' of the site remaining in retail use to accommodate both Homebase and Aldi is the most logical and realistic option over the foreseeable time horizon. Based on the reasoned justification for Policy WC2 (as amended following Homebase's representations to the Local Plan), reaching this conclusion regarding the site's continued use for retail purposes is entirely reasonable and is not contrary to the policy wording when considered as a whole.
- 1.10 Policy WC2 may state that the site is to be developed 'in accordance with a comprehensive masterplan'. However, the scheme cannot be found in conflict with this part of the policy when there is no adopted masterplan in existence. The Council have seemingly sought to begin preparation of this through the recent publication of the draft Town Centre Planning Framework, but my evidence has explained that this document cannot be afforded weight in the determination of this planning application. It is evidently an initial draft, subject to change following input by the public/stakeholders, and its consultation period ends just four days prior to the opening of the Inquiry. Furthermore, we are aware of several significant objections to the document from key town centre stakeholders (including LCP and Homebase).
- 1.11 More importantly this masterplan was not scrutinised at the time of the local plan examination and cannot be retrospectively treated as if it was (or will be) part of the development plan. It is no more than a material consideration whose production was encouraged by policy WC2. What is proposed in this case is investment in retail within the town centre where such a use is positively encouraged, as well as using an existing building more efficiently. It would be an odd result for the appeal to be dismissed upon the basis of a conflict with the ideas within an untested masterplan when in reality the masterplan ought to be founded upon the recognition as to what is realistic in the foreseeable future.

- 1.12 At all events, the appeal proposals involve the reconfiguration and more efficient use of an existing building. It does not involve redevelopment of the appeal site. Thus, the position after the appeal is allowed will still be that of the current building being beneficially occupied for retail purposes.
- 1.13 Turning to the 'masterplan' in the Planning Framework document itself, my evidence has shown that it raises more questions about the realism of the Council's residential-led redevelopment of the town centre than it answers. My analysis of the opportunity sites identified highlights the considerable challenges and constraints of delivering new-build residential development in Waltham Cross town centre. The suggested time horizons for delivery appear far too optimistic and concerningly are not supported by any market demand, viability or technical evidence.
- 1.14 To compound matters, the appeal site is the largest identified in the draft Framework and would supposedly yield almost twice the number of residential units as any other. The challenges associated with its delivery are therefore only magnified. It is inevitably the highest risk of the opportunities identified and one which logic suggests will (and should) only come forward once it is clear that there is the necessary market demand to ensure that it can be delivered viably. It is little wonder that the landowner has no interest in pursuing residential redevelopment over the site's existing retail use, and has made this position abundantly clear in representations.
- 1.15 Ironically, the draft Planning Framework also accepts that the appeal site is an appropriate one for a convenience store such as Aldi, with this highlighted in the 'preferred option' presented.
- 1.16 All of this points to the fact that delivering significant residential development on the appeal site is not some 'medium-term' opportunity that with a fair wind might be delivered in the next five or even ten years. It is a far more complex, much longer-term opportunity which, given its scale, would surely be one of the final pieces of a jigsaw once various other town centre residential developments have been delivered and proven their viability through lettings / sales.
- 1.17 Acknowledging this long-term time horizon for any future redevelopment of the appeal site is very important because the works proposed to the unit to introduce Aldi are minor in nature and can be delivered quickly. They will not pre-determine long-term decisions about the delivery and development of the 'Waltham Cross Northern High Street' vision as aspired to in WC2 and the Town Centre Strategy any more so than Homebase continuing to trade at the premises (which they have explained they will do, irrespective of the outcome of the appeal).
- 1.18 For this reason, utilising the building and site in a more efficient and economically advantageous way through the introduction of an Aldi foodstore cannot logically be regarded as undermining the Council's ability to pursue a comprehensive mixed-use development. Aldi's foodstore could trade for a decade or more before the appeal site is a position to be redeveloped in the fashion preferred by the Council, in view of the market, commercial and deliverability factors outlined in my evidence.
- 1.19 On this basis, it must be concluded that the application proposals are not, as the Council allege, contrary to Policy WC2 and those other policies referenced in connection with the comprehensive development of town centre land. This is given that the policy itself deliberately promotes flexibility in terms of appropriate future development options for the appeal site, based on engagement with the landlord and tenant (i.e. allowing the 'status-quo' of the site remaining in retail use).

1.20 However, it is also because even if one was to adopt a view that the Local Plan's ultimate objective is the redevelopment of the appeal site for a comprehensive residential-led scheme (which I don't), then it remains the case that there is no technical breach of Policy WC2 in allowing Aldi's introduction to the existing Homebase unit. This is in view of the fact that the works are minor, can be delivered quickly, and will not pre-determine long-term decisions about alternative development options any more so than the present retail use. Such alternative development options remain simply 'long term' aspirations at this point in time, with no adopted masterplan, no support or interest in redevelopment by the landowner, significant lease constraints associated with the longstanding tenant, and evident unresolved challenges with the wider delivery of new build, large-scale residential development in the town centre. In short, the relatively minor form of works proposed will result in no identifiable harm in the context of WC2, as there is no credible alternative development option, informed by a robust, adopted masterplan, that it would impact upon the delivery of.

Reason for Refusal 2

- 1.21 As part of their second reason for refusal, the Council allege that the proposal presents a layout that is not considered to integrate with the town centre and fails to enhance the character and appearance of the wider area. In response, Mr Griffiths' evidence explains that the definition of the appeal site as forming part of the town centre is not a matter of disagreement and that by virtue of its very existence the site and proposals are integral to the town centre. The only realistic matter for debate is therefore the extent to which the proposals will enhance integration between the site and other parts of the town centre.
- 1.22 That said, contrary to the reason for refusal, it is hard to see how the appeal proposals will do other than enhance the level of integration with other parts of the town centre compared to the existing position, albeit noting that there already appears to be the use of the existing site as a de facto town centre car park.
- 1.23 Through his evidence Mr Griffiths demonstrates that the application proposals will enhance, in a proportionate way, the level of integration of the appeal site has with the rest of the town centre by providing a clearer and safer arrangement for visitors than that which currently exists. The starting point for this argument is that Aldi's introduction would of itself enhance the site in terms of its connectivity and integration, given that foodstores in town centre locations have a far greater propensity than DIY operators to generate linked shopping trips and spin-off trade for other town centre businesses.
- 1.24 In terms of the character and appearance of the site, Mr Griffiths demonstrates that the application proposals represent an enhancement to both the building and the wider site in almost every respect. He emphasises that the betterment achieved through the design modifications are acknowledged at Paragraph 8.14 in the Council's own Planning Committee Report (Core Document 3.1) which states that the "...design modifications proposed represent an improvement...". He also highlights that repurposing and upgrading the building in the manner proposed is an entirely sensible strategy in sustainability terms. It will minimise the loss of embedded carbon in the existing built form, whilst addressing other planning objectives.

- 1.25 Mr Griffiths robustly concludes that the scheme as submitted is acceptable in the context of the Council's Design and Sustainable Construction policies and specifically WC2, PM1, DSC1, DSC3, DSC7 and DSC8.

Reasons for Refusal 3 and 4

- 1.26 The Council's third reason for refusal alleges that the proposed development would not provide sufficient connectivity improvements for cyclists and pedestrians and improvements to promote the use of public transport. Meanwhile, the fourth reason states that the proposal does not adequately address the shortfall in car parking spaces at the site. In combination, the Council is therefore of the view that there is conflict with transportation policies TM1, TM2, TM3 and TM5.
- 1.27 In response, the evidence of Mr Britton establishes that the appeal site is without doubt highly accessible for pedestrians, cyclists and those using public transport, given its town centre location. Notwithstanding this, the scheme itself, through both internal and external works, will provide proportionate enhancements to connectivity in order to further promote the site's usage through these sustainable modes of travel.
- 1.28 In relation to the adequacy of future car parking provision, Mr Britton's evidence demonstrates that the proposed number of spaces (155) will provide more than enough spare capacity to accommodate both proposed retailers. This is based on statistical analysis informed by up-to-date parking demand and pedestrian survey data. Finally, Mr Britton's Proof of Evidence also addresses other highways matters which are raised by the Council's Statement of Case. Whilst these do not relate directly to the reasons for refusal, he comments upon them in order to assist with the Inspector's consideration of the scheme.
- 1.29 Drawing the above together, Mr Britton's proof robustly demonstrates that the proposed development would provide proportionate and sufficient connectivity improvements for cyclists and pedestrians, and improvements to promote the use of public transport. It would therefore accord with Policies TM1, TM2 and TM3 of the Local Plan. Furthermore, the scheme's car parking capacity would be sufficient to accommodate the two retailers proposed and, on this basis, there would be no conflict with Policy TM5.

Compliance with the Development Plan - Summary

- 1.30 In view of the above I consider that the proposed development would comply with the policies of the development plan, both in terms of the specific examples give above and also when it is taken as a whole.

Material Considerations

Waltham Cross Town Centre Strategy

- 1.31 Conflict with the objectives of the Waltham Cross Town Centre Strategy (2015) is cited in both reasons for refusal one and two. In terms of this alleged conflict, Section 6 of my Proof of Evidence (see Paragraph 6.15) explains that there is actually very little difference in the way that the Homebase site

is treated in both the Town Centre Strategy and Policy WC2 of the Local Plan. Flexibility around future development options is indicated in both cases.

1.32 For example, the diagram on Page 24 of the Strategy refers to the Homebase site as being one for “potential inclusion” in the Northern High Street revitalisation area, rather than forming part of the “Main Opportunity Site”. This would suggest that its inclusion and future redevelopment was far from a certainty – much like the difference between land to the east and west of Sturlas Way in Local Plan Policy WC2. Further, the second paragraph of Page 30 explains that the Homebase site “may offer further potential for a broader range of town centre uses through a mixed-use development” and that the Council “will engage with the landowner and tenant to explore its potential”.

1.33 These statements are no different to the guidance contained within the reasoned justification to Policy WC2. It has been explained at length in my evidence that, in practice, this engagement has taken place and resulted in the landowner and tenant’s confirmation that they fully intend for the site to remain in retail use for the foreseeable future. I do not therefore consider the application scheme to be in conflict with the Town Centre Strategy.

1.34 Furthermore, the fact that two national retailers now wish to invest in a part of the town centre which is recognised in the Town Centre Strategy as warranting additional investment in order to secure greater footfall, means that the scheme can be regarded as fully supportive of one of the main objectives of the document.

1.35 Notwithstanding this, in my view the Town Centre Strategy can only be afforded limited weight in the determination of this planning application in any case. This is in view of the fact that it was only subject to limited consultation, and this dates back to a first draft of the document in 2012/13, which actually proposed a very different strategy for the northern part of the town centre, involving the introduction of a major foodstore. Furthermore, the Strategy is now over seven years old and, in terms of its implementation period, actions beyond 2020 fall within its ‘longer-term’ time horizon. The document is therefore clearly approaching the end of its intended lifetime, is in need of review / replacement, and is therefore of reduced relevance for decision making purposes.

Waltham Cross Town Centre Planning Framework (Draft)

1.36 As discussed in Section 6 of my evidence (Paragraphs 6.49 to 6.54), the draft Town Centre Planning Framework cannot be afforded any weight in the decision-making process at the present time. The Framework remains very much in draft form, its first round of consultation ended only four days prior to the opening of this Inquiry, and the Council are evidently not in a position to have robustly considered and reflected on the comments received. Further, we are aware of several significant outstanding unresolved objections, two of which from the landowner / tenant at the appeal site. The document itself states that the views of key stakeholders will be examined, and Framework revised where necessary to reflect these. The initial draft cannot therefore be given weight.

Benefits to the Vitality and Viability of Waltham Cross Town Centre

1.37 Section 7 of my evidence (paragraphs 7.1 to 7.13) has explained that the principle of retail development on the application site is wholly in accordance with the thrust of national planning policy

for town centres, as set out in Section 7 of the NPPF, as well as the core objectives of Local Plan Policy RTC2. This is not a matter which is disputed in the Council's committee report, only the fact that the foodstore without residential uses does not accord with their residential-led vision for the site.

- 1.38 As an in-centre retail investment, Aldi's proposal is strongly supported by the Government's longstanding town centre first principle. Academic research supports the notion that foodstores within town centres are exceptionally well placed to foster linked shopping trips which will in turn drive footfall and spin off trade for wider businesses in the town centre. In my view, the application site is particularly well placed to do this, given its prominent gateway location at the northern end of the town centre and the ease and safety of the pedestrian journey to other shops and services in the centre. Further, pedestrian surveys conducted to inform Mr Britton's evidence demonstrate that people are already making journeys between the site and centre.
- 1.39 Finally, I have highlighted that the Council themselves at one time envisioned the delivery of foodstore at the northern end of High Street through the draft Town Centre Strategy (2013) to, presumably, perform an anchor role and foster linked-trips. The draft Town Centre Planning Framework (2022) also shows a foodstore forming part of a residential-led development on the appeal site, continuing the theme of the Council recognising the value of such an offer to the vitality and viability of the town centre.

Consumer Choice and Competition Benefits

- 1.40 Section 7 of my evidence (paragraphs 7.20 to 7.23) also explains that the Council's Retail Study data suggests that such a new Aldi foodstore will help to reduce 'overtrading' in the two largest existing foodstores in Waltham Cross town centre (Sainsbury's and Lidl) and redistribute this expenditure to another, accessible town centre location. This in turn will increase consumer choice in the centre, with Aldi of particular benefit in this regard given the '*cost of living crisis*' that the UK is facing and the fact that Aldi is currently the UK's lowest-priced supermarket.
- 1.41 Furthermore, Aldi's introduction will increase competition between the existing mainstream foodstores that already serve the local Waltham Cross catchment. This could involve fresh investment by these retailers in their existing town centres stores and / or more competitive local pricing structures to avoid losing market share to Aldi. Either way, it is clear that such competition between town centre retailers will be beneficial to local consumers by keeping costs low during a period where household budgets will continue to be squeezed, particularly for the poorest in society.

Job Creation

- 1.42 The sub-division of the existing retail unit and the introduction of an Aldi foodstore will provide a substantial amount of new employment (40 to 50 jobs), the majority of which would be for local people. This is in addition to the retention of existing, important local jobs at the Homebase store (30 jobs). The scheme would also support construction jobs, albeit only for a temporary period, and there could well be other, wider economic benefits during construction associated with investment in local supply chains.

Economic Investment

- 1.43 The very fact that the scheme offers the guarantee of deliverable economic development and new local jobs in Waltham Cross by a national brand (Aldi) will help boost the local economy and will assist in attracting further investment to the settlement. The overall economic value of Aldi's investment in Waltham Cross is anticipated to exceed several million pounds and the retailer's introduction will also facilitate a considerable investment by Homebase in their existing store. This show of confidence in the town centre and Waltham Cross more generally could positively influence potential investment decisions by others in the residential, retail and service sectors.

Sustainability Benefits

- 1.44 The proposal is consistent with NPPF principles supporting the utilisation of suitable brownfield land in existing settlements and in promoting a more efficient use of land / buildings, particularly in sustainable locations such as town centres. Aldi's introduction will also offer other sustainability benefits to the town centre, including the provision of car parking spaces equipped with Electric Vehicle Charging Points and belowground infrastructure to accommodate many more at a future date. The application proposals will also provide both on and off-site enhancements that will improve links to the site and wider town centre via non-car modes. Finally, the opportunity for the proposed customer car park to operate as a town centre car park (where linked shopping trips can start and end) should also be acknowledged.

Planning Balance

- 1.45 I consider that the appeal proposals should be allowed, due to their compliance with the policies of the adopted development plan when considered as a whole. In addition, the application of the presumption in favour of sustainable development weighs in favour of granting planning permission. On top of this, the various further social, economic and sustainability benefits I have identified, which would be brought about by the introduction of a new foodstore to this town centre location, are also matters which must be given substantial weight in the determination of this appeal.
- 1.46 Even if a decision maker were to determine that the appeal proposals did not accord with the Local Plan's policies taken as a whole, I consider that the substantial benefits that the appeal proposals would bring to this town centre location, would constitute material considerations which would outweigh any conflict with the development plan, and that the appeal proposals should still be allowed.
- 1.47 In particular, this is given that the minor form of works proposed to an existing retail unit will result in no identifiable 'harm' to much longer-term Local Plan development aspirations. The works cannot predetermine future outcomes in view of the fact that the town centre's development strategy remains indeterminate, it is not informed by a robust, adopted masterplan which has the buy in of key stakeholders and landowners. Accordingly, all indicators suggest that an alternative, residential-led form of development on the appeal site is at best many years away, if indeed achievable at all.
- 1.48 In this context, the immediate-term social and economic benefits of the application proposals for the town centre should be given substantial weight. The delivery of a foodstore will enhance 'vitality and

viability' through an increased town centre customer base and consequent rise in footfall and linked shopping trips to other shops and services. It will increase consumer choice and competition in the centre's food retail sector, helping to keep food prices competitive and potentially stimulating counter investment by other retailers. It will create 40 to 50 new jobs, whilst safeguarding 30 existing Homebase positions. It will also result in physical enhancements to the building to the benefit of the site and locality's appearance. These benefits and Aldi's proposed town centre investment more generally should be afforded particular significance in light of the ongoing national economic uncertainty which has been brought about by the current 'cost of living crisis', the long-term economic effects of which remain far from clear.

- 1.49 In conclusion, I consider that the planning balance in this case is clear-cut. The proposed development accords with the policies of the development plan. There would be many substantial benefits to allowing this significant town centre investment, and there are no reasonable grounds for refusing it based on available evidence. The presumption in favour of sustainable development also applies. Accordingly, I consider that the appeal should be allowed.

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