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Our Ref: KN0141/14

07 June 2017

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Dear Sir or Madam

Town and Country Planning Act (1990)

Lidl Foodstore, Mitchells Way, Wombwell, Barnsley, S73 8DS

Planning Portal Reference: 06094482

We are instructed by Lidl UK GmbH to submit the enclosed application under Section 73 of the Town and Country Planning Act (1990) for the variation of conditions 2 and 7 on planning permission 2015/0927. Full planning permission was granted on 18 February 2016 for the erection of an A1 retail foodstore and substation with associated car park, access, landscaping, servicing and other associated works.

In addition to the completed Application Form and Certificate submitted via the Planning Portal, the application comprises the following:

1. Proposed Site Plan (1849 25);
2. Air Quality Assessment prepared by ADAS; and
3. A cheque in the sum of £195 as the requisite fee.

This letter provides a background to the proposed variations and a justification in accordance with the NPPG. We would be grateful if the remainder of this letter could be read in support of the proposed variations.

BACKGROUND

Conditions 2 and 7 on planning permission 2015/0927 require the approved development to be carried out to provide 2no. electric vehicle (EV) charging points capable of charging 4no. vehicles as indicated on the Proposed Site Plan (1849 10U).

Condition 2 currently states:

"The approved development hereby approved shall be carried out in strict accordance with the plans:

1849 07A Site Location Plan



1849 10U Proposed Site Plan
1849 11F Site Levels
1849 12 Floor Plan
1849 13 Rev A Elevations
1849 14B Surface Treatments
1849 15B Boundary Treatments
1849 16 Roof Plan
R-1746-01 landscape Details
000-01 Substation
T53-T23 installation one pager v.18 (Electric Charging Point Specification Details)
Terra_53-23_Installation Guide_EN_1_0 (Electric Charging Point Specification Details)
and specifications as approved unless required by any other conditions in this permission.

Reason: In the interests of the visual amenities of the locality and in accordance with LDF Core Strategy Policy CSP29, Design.”

In addition, condition 7 currently states:

“Before the proposed building is brought into use the electric vehicle (EV) charging points indicates on Site Layout Plan (Rev. U) shall be provided and thereafter retained.

Reason: To contribute towards a reduction in emissions in accordance with air quality objectives, and to accord with the Council’s Local Development Framework Development Core Strategy Policy 40, Pollution and Control and Protection.”

Following the opening of the foodstore in December 2016, a single EV charging point capable of charging 2no. cars was installed within the car park of the development. The reason being that there was no surplus electrical capacity to provide a second EV charging point. This still remains the case. Notwithstanding this technical fact, Lidl’s own experience suggests that new foodstore developments tend to have a low EV charging point usage, hence there is generally little demand. In light of these commercial reasons, Lidl considers the requirement to provide a second EV charging point as inappropriate.

The variation of conditions 2 and 7 is proposed to gain retrospective approval for the installation of a single EV charging point only. The Proposed Site Plan (1849 25) submitted with this application demarcates the revised location of the single EV charging point which was installed on site prior to the opening of the foodstore. Due to the arrangement of underground cables, the EV charging point is sited adjacent to the parking bays closest to the store.

It is proposed that conditions 2 and 7 read the following.

Proposed condition 2:



“The approved development hereby approved shall be carried out in strict accordance with the plans:

1849 07A Site Location Plan

1849 25 Proposed Site Plan

1849 11F Site Levels

1849 12 Floor Plan

1849 13 Rev A Elevations

1849 14B Surface Treatments

1849 15B Boundary Treatments

1849 16 Roof Plan

R-1746-01 landscape Details

000-01 Substation

T53-T23 installation one pager v.18 (Electric Charging Point Specification Details)

Terra_53-23_Installation Guide_EN_1_0 (Electric Charging Point Specification Details)

and specifications as approved unless required by any other conditions in this permission.

Reason: In the interests of the visual amenities of the locality and in accordance with LDF Core Strategy Policy CSP29, Design.”

Proposed condition 7:

“Before the proposed building is brought into use the electric vehicle (EV) charging point indicated on Proposed Site Plan (1849 25) shall be provided and thereafter retained.

Reason: To contribute towards a reduction in emissions in accordance with air quality objectives, and to accord with the Council’s Local Development Framework Development Core Strategy Policy 40, Pollution and Control and Protection.”

JUSTIFICATION

In addition to the commercial reasons identified above, we consider the provision of a second EV charging point to be unjustified in planning terms.

Policy CSP 40 of the Core Strategy (BMBC, 2014) relates to pollution control and protection. It sets out no specific requirement for EV charging points at commercial developments. It simply states:

“Development will be expected to demonstrate that it is not likely to result, directly or indirectly, in an increase in air, surface water and groundwater, noise, smell, dust, vibration, light or other pollution which would unacceptably affect or cause a nuisance to the natural and built environment or to people.”

It goes on to state:

“Developers will be expected to minimise the effects of any possible pollution and provide mitigation measures where appropriate [our emphasis].”



Given the wording of Policy CSP 40, it is clear that pollution mitigation measures for each development proposal are dealt with on a case-by-case basis. It is the decision of the LPA to request suitable pollution mitigation measures based on the evidence submitted with any planning application, where appropriate. This is reaffirmed by the fact that the LPA does not have any adopted or emerging standards which specify a minimum number of EV charging points for new commercial developments.

The Air Quality Assessment prepared by ADAS which accompanied the original planning application (2015/0927) provided exactly that evidence. This independently prepared Assessment is resubmitted in support of this variation of condition application. To assist the LPA, we provide a summary of the Assessment findings with reference to the six tests for planning conditions.

AIR QUALITY ASSESSMENT

Dispersion modelling was undertaken in order to predict operational air quality impacts as a result of road vehicle exhaust emissions associated with traffic generated by the foodstore. It is important to note that the methodology used for the Assessment was agreed with Technical Officer, Mr Chris Shields, on 15 July 2015.

Based on the criteria outlined in LAQM TG(09) (DEFRA, 2009), 12 receptors were identified, with annual mean NO₂ and PM₁₀ concentrations predicted for 2016; the year the store opened. The Assessment considered 'with development' and 'without development' scenarios during the operational phase of the foodstore using the DMRB Screening Model – A DEFRA based resource – to quantify potential changes in pollutant concentrations at each receptor. Projected 2016 data relating to traffic flows was inputted into the Model. This data was obtained by EJSa who provided the accompanying Transport Assessment for the original planning application (2015/0927). The results of the DMRB Screening Model were then verified against local monitoring data, dated 2014 (BMBC), thus ensuring that a sufficient level confidence can be applied to the modelled results.

Tables 26 and 27 set out the modelled results for the 'with development' and 'without development' scenarios in relation to predicted annual mean NO₂ concentrations.

For both scenarios, at all 12 receptors, it is notable that the predicted annual mean NO₂ concentrations at 2016 were all below the maximum ambient level of concentration, as set out in Air Quality Objectives (AQO) for England, Scotland Wales and Northern Ireland (DEFRA, 2007). The AQO's explain that a maximum annual mean NO₂ concentration of 40 µg/m³ should not be exceeded either without exception or with a permitted number of exceedances over a specified timescale. The Assessment identified that, with the development, the highest predicted annual mean NO₂ concentration would be 36.76 µg/m³ at 70 Barnsley Road (R3). This is below the maximum ambient level of concentration.

Using the guidance set out in Land-Use Planning & Development Control: Planning for Air Quality (EPUK and IAQM, 2015), the Assessment identified that the significance of impacts on annual mean



NO₂ concentrations, as a result of the development, would be negligible at all 12 receptors in 2016. Indeed, the change in annual mean NO₂ concentrations from a 'without development' scenario to a 'with development' scenario was recorded to be imperceptible at all receptors.

Tables 28 and 29 set out the modelled results for the 'with development' and 'without development scenarios' in relation to predicted annual mean PM₁₀ concentrations.

For both scenarios, at all 12 receptors, the predicted annual mean PM₁₀ concentrations at 2016 were all well below the maximum ambient level of concentration, as set out in the AQO's. The AQO's explain that a maximum annual mean PM₁₀ concentration of 40 µg/m³ should not be exceeded either without exception or with a permitted number of exceedances over a specified timescale. The Assessment identified that, with the development, the highest predicted annual mean PM₁₀ concentration would be 16.28 µg/m³ at 70 Barnsley Road (R3). This is well below the maximum ambient level of concentration.

Using the EPUK and IAQM (2015) guidance set out above, the significance of impacts on annual PM₁₀ concentrations as a result of the development was predicted to be negligible at all 12 receptors in 2016. The change in annual mean PM₁₀ concentrations from a 'without development' scenario to a 'with development' scenario was recorded to be imperceptible at all receptors.

SUMMARY

The overall significance of operational phase road traffic emissions was determined as negligible at 2016. Going forward, it is clear that operational phase traffic generated by the foodstore will not contribute to a significant increase in NO₂ and PM₁₀ emissions, when taken as a mean annual concentration. Empirical evidence from a verified source exists to confirm that the requirement for a second EV charging point is unjustified.

The requirement for a second EV charging point fails the following tests for planning conditions, as prescribed in the NPPG.

I. Necessary

The Air Quality Assessment provides robust evidence to confirm that the requirement for a second EV charging point is not necessary to make the foodstore development acceptable in planning terms. The requirement for a second EV charging point fails the test of necessity.

II. Relevant to the development to be permitted

The NPPG advises that it is not sufficient for a condition to relate to planning objectives only. It must be justified by the nature or impact of the development permitted. As demonstrated, the impact of operational phase road traffic emissions generated by the foodstore is negligible, hence the



requirement for a second EV charging point is unjustified. The requirement for a second EV charging point is therefore not relevant to the development to be permitted.

III. Reasonable in all other aspects

Noting the evidence set out in the accompanying Air Quality Assessment, the provision of a second EV charging point will place an unjustifiable and disproportionate burden on the applicant. The requirement for a second EV charging point therefore fails the test of reasonableness.

The requirement for a second EV charging point fails at least three of the six tests for planning conditions. Conditions 2 and 7 should be varied to require the provision and retention of a single EV charging point only, as installed on site.

CONCLUSION

This application seeks approval for the variation of conditions 2 and 7 on planning permission 2015/0927. Both conditions require the approved foodstore development to be carried out to provide 2no. electric vehicle (EV) charging points capable of charging 4no. vehicles.

Following the opening of the store, a single EV charging point was installed in the car park. Asides from being inappropriate for commercial reasons, this covering letter explains why the requirement for a second EV charging point is unjustified in planning terms, with reference to the conclusions of an independently prepared Air Quality Assessment. We conclude that the requirement for a second EV charging point fails a number of the six tests for planning conditions, therefore it is respectfully requested that conditions 2 and 7 are varied accordingly.

We trust that the information provided is sufficient for the LPA to register and consider the application. We enclose a cheque for £195.00 as the requisite planning fee. Please could I have a receipt in due course? If you have any queries regarding the submission or require any additional information, please do not hesitate to contact us.

Yours faithfully



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