



**PLANNING COMMITTEE:  
20 FEBRUARY 2020**

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**Report of: Corporate Director of Place and Community**

**Contact: Mrs. C. Thomas (Extn.5134)**  
**Email: catherine.thomas@westlancs.gov.uk**

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**SUBJECT: LATE INFORMATION**

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## **1.0 INTRODUCTION**

The information below has been received since compilation of your Agenda. The following also includes suggested adjustments to the recommendations further to the receipt of late plans and/or information.

## **2.0 ITEM 7 – PLANNING APPLICATIONS**

### **REPORT NO. 3 – LAND BOUNDED BY LIVERPOOL ROAD SOUTH, ABBEY LANE – 2019/1118/FUL**

**Environmental Health** (13.02.20) – No objections in principle. Only condition 12 was recommended by EH to protect the proposed dwellings from noise. No objection to the amended condition as proposed by the applicant.

Attention is drawn to condition 11 on the outline planning permission which requires details of the site remediation to be submitted to and approved by the applicant prior to development on site commencing. Condition 11 is still outstanding and before development takes place a comprehensive contaminated land investigation report must be submitted for approval. Additional condition recommended to require this.

**Further supporting information** (18.02.20) has been submitted by the agent in response to the comments from EH.

The Applicant understands the reason for EHO's suggestion of a planning condition to repeat the requirements of the current version of outline condition No.11 and would like to reiterate that he understands and accepts that a detailed remediation strategy must be presented to and be agreed by the Council as part of the planning conditions that apply to the approved housing development on

this site. A draft scheme has currently been prepared and is being finalised. The final scheme will be submitted in due course.

The agent comments that the EHO's response of 13 February queries whether further ground investigations were undertaken prior to the submission of the Reserved Matters application. The agent confirms that further investigations were done as required and reported to the Borough Council as part of the Reserved Matters submission (2017/0158/ARM). The ground investigation update report was prepared by Nicholls Colton and submitted as an appendix to the Applicant's Planning Statement.

The applicant would also like to reiterate the following:

The site access junction is to be provided at the outset because it will provide a safe, approved access to the site for the remediation contract period, which will later serve the housing development that follows;

When the highway works are started (in March 2020) the Applicant will pay the agreed financial contribution of £129,000 to the Borough Council in accordance with the Section 106 agreement;

The highway works will provide immediate betterment, with the installation of two new road crossing points; a Toucan crossing which will be part of the Council's Linear Park scheme infrastructure, and a second crossing with pedestrian refuge to serve the relocated bus stop. These works (Section 278 highway works) have been agreed with Lancashire County Council and preparations are being made for the works to be tendered and a contractor appointed.

#### **OBSERVATIONS OF CORPORATE DIRECTOR OF PLACE AND COMMUNITY**

Officers have held discussions with the agent who is aware of the need to submit a full remediation scheme. Following the advice of the EHO it is proposed to reword condition 11 on the outline planning application to read as follows:

"Prior to the commencement of development, with the exception of the proposed site access to a distance of 10 metres into the site, an appropriate site investigation must take place followed by any necessary remediation to make the contaminated areas suitable for their intended use. The investigation shall include:

A site investigation to identify any contaminants that may be present in the ground;

Risk Assessments of any contamination found to be present in order to determine whether present and future users of the site, and of adjacent areas, may be adversely affected;

Remediation of the site as appropriate having regard to the results of the site investigation and risk assessments;

Any such remediation shall have the effect of making the site fit for its intended use, and shall be followed by the production of appropriate validation certificates;

The results of the site investigation and risk assessments, together with details of any necessary remediation, shall be produced to and approved by this Authority before the commencement of the development of the site.

This will ensure that the land is effectively remediated to facilitate the future residential use.

## **REPORT NO. 4 – LAND BOUNDED BY LIVERPOOL ROAD SOUTH, ABBEY LANE – 2019/1119/FUL**

**Environmental Health** (13.02.20) – No objections in principle. None of the planning conditions the subject of this application were recommended by Environmental Health.

## **REPORT NO. 5 – ESBANK DAY NURSERY, TANHOUSE – 2019/0712/FUL**

Two further objections have been received from local residents which raise the following concerns:

The development will be cramped and reduce the quality of life of local residents;  
The land should be used to provide facilities of the children of the area;  
Impact on existing parking provision for local residents;  
The appeals process is unfair and biased in favour of applicants as there is no third party right of appeal;  
Members of the planning committee may not have visited the area;  
Unoccupied land on the outskirts of town should be used for housing instead of this congested area.

## **OBSERVATIONS OF CORPORATE DIRECTOR OF PLACE AND COMMUNITY**

Issues relating to design/layout and parking have been addressed in the main report. In addition, the Local Planning Authority cannot determine the nature of the applications submitted for consideration. Therefore, whilst I appreciate that local residents may wish the land to be used for other purposes, this is not for the Local Planning Authority to determine. Residential development is acceptable in principle on this site, car parking is provided for the proposed dwellings in accordance with the Council's standards and the scheme would not result in a net reduction in communal car parking spaces available to local residents.

The appeals process is a national system and not one which West Lancashire Borough Council has chosen to apply. Therefore whilst I appreciate that the local resident is aggrieved as there is no right of appeal for third parties, this procedure cannot be altered locally by this Council.

## **REPORT NO. 9 – THE BAY LEAF, LIVERPOOL ROAD –2018/1190/FUL**

### **Letter from Pegasus Group on behalf of the Co-operative Group Limited (12.02.20)**

Following publication of the Agenda a further representation has been received from Pegasus Group on behalf of the Co-operative Group Limited.

In their representation Pegasus Group advise that the revised Retail Impact Assessment (RIA) does not provide reliable evidence that the proposed out-of-centre Aldi store would not have a significant, adverse impact on Tarleton Village Centre, and that the Council should take a precautionary approach and refuse the application to support the objective of Local Plan Policy IF1: Maintaining Vibrant Town and Local Centres.

### Catchment Areas

The letter advises that the use of Zone 9 of the Chorley Retail and Leisure Study (CRLS) as the primary catchment area for the proposed Aldi Store is not evidenced as being comparable with a 10 minute off-peak drive-time from the application site.

### Trade diversion and turnover of Coop Store

It goes on to say that assumptions about trade diversion in the RIA are subjective and unrealistic. There does not appear to be a transparent explanation of how the assumptions about trade diversion were derived from data on shopping patterns and other data about competing facilities.

It questions the validity of assuming 'constant market shares' when projecting expenditure patterns from a 2017 survey forward to a design year of 2023 in the market of food and convenience retailing. Pegasus advise that there is a significant underestimate of the current turnover of the Co-op store, which indicates that there will be less scope for expenditure 'clawback' and more likelihood of a significant adverse impact on the Village Centre from trade diversion to the proposed out-of-centre Aldi store. The RIA estimates trade diversion at 10.2%, whilst the Co-operative Group estimate that trade diversion from its store would be in excess of 20%, with knock on effects of secondary impacts on other businesses in the Village Centre.

### Conclusions

Pegasus do not agree with White Young Green (WYG) that Avison Young's (AY) third, revised RIA provides reliable evidence that the proposed out-of-centre Aldi store would not have a significant, adverse impact on Tarleton Village Centre, as the latest revised RIA does not overcome all the objections to previous versions.

### **Letter from Avison Young (AY) on behalf of the applicant, Aldi Stores Limited (13.02.20)**

In response to the representation from Pegasus Group, Avison Young have submitted a letter in response.

### Catchment Areas

The letter includes a visual showing the 10 minute drive time from the planning application site in the context of Zone 9 of the Chorley Retail and Leisure Study is attached to the representation. They advise that this visual shows that Zone 9 is an excellent match with an Aldi foodstore typical catchment area in a rural location. Therefore the adopted study area is able to identify, in a robust fashion, the local shopping patterns a new Aldi foodstore will have the greatest influence over.

### Trade diversion and turnover of Co-op Store

The letter goes on to discuss the availability of evidence concerning the current trading performance of the Co-op, and advises that taking into account the

turnover of the Co-op included in the Chorley Retail and Leisure Study and the net sales area of the Co-op Store that the store is currently trading well. The most recent letter from Pegasus confirms this view and states that Avison Young's calculation represents 'a significant underestimate of the turnover of their store', which indicates that Tarleton Co-op is performing better than the already 'above average' turnover level established as part of the Chorley Retail and Leisure Study (CRLS) by both Avison Young and White Young Green. Therefore, the Co-op is better placed to withstand the impact of a new competitor entering the local retail market than one which is underperforming.

### Conclusions

Avison Young conclude that in view of the submitted evidence, the independent findings of WYG, and the fact that Pegasus have provided no meaningful evidence to the contrary, it must be concluded that the anticipated level of impact forecast on Tarleton's Co-op store as a consequence of the proposed Aldi would not result in a 'significant adverse' impact on its ongoing trade and turnover.

### **Comments from White Young Green (WYG) as the Council's retail consultant (19/02/20)**

White Young Green (WYG) have provided an independent review of the further key matters raised by Pegasus together with comments on the response provided by Avison Young (AY)

### Catchment Areas

WYG previously reviewed the use of the Zone 9 of the CRLS as the catchment area of the application scheme as part of our October 2019 appraisal and were satisfied that Zone 9 broadly reflects a 10-minute drive time from the application site.

WYG note that the plan showing the extent of a 10-minute drive time from the application site was previously provided by AY as part of its July 2019 retail impact assessment. In its February 2020 letter AY has also provided population estimates for the 10-minute drive time area and Zone 9, which further confirms that Zone 9 represents an appropriate catchment area for the application scheme.

### Trade diversion and turnover of Coop Store

WYG accept the confirmation from the Co-operative Group that AY's estimate of the existing turnover of the Co-op store represents a significant underestimate.

In its February 2020 response letter, AY point to the findings of both the CRLS and WYG's October 2019 letter that the Co-op store is currently performing well and trading at a level above the company average. AY highlights that Pegasus confirms this view and indicates that the Tarleton Co-op is performing even better than the already 'above average' turnover level established from the household survey findings.

Pegasus asserts that the AY's trade diversions assumptions are subjective and unrealistic. It considers that a transparent explanation of how the trade diversion assumptions were derived was not provided.

WYG consider that Pegasus has not provided any evidence that alters our conclusions in our October 2019 letter. We conducted a detailed review of AY's trade diversion assessment against the household survey evidence and the locations and types of existing stores as part of our October 2019 appraisal. We generally accepted AY's trade diversion methodology and assumptions, and considered that the application proposal would be likely to recapture consumer expenditure currently being spent at destinations outside of the Zone 9 catchment area.

Reflecting the higher turnover of the store, we acknowledge that the level of trade diversion from the store is likely to be higher than identified by AY in monetary terms, but consider that the implications in terms of the percentage trade impact of the application will not be significant. Indeed, we agree with AY's assertion that the stronger trading performance of the Co-op store, confirmed by the Co-operative Group, suggests that the store will be better placed to withstand the trade diversion impacts of the proposed scheme.

With regards to the Co-operative Group's assessment that trade diversion from the Co-op store in Tarleton would be in excess of 20%, we agree with the AY's response that this assessment can be afforded limited weight in determining the application given the lack of transparency and information provided on the data inputs and assumptions used to arrive at this figure.

### Conclusions

We consider that Pegasus has not provided any new evidence that alters our conclusions in relation to the impact of the application scheme as set out in our October 2019 letter and that the information provided by AY reconfirms our conclusions in this respect. Accordingly, we remain satisfied that the proposed development is not likely to lead to a significant adverse impact on the vitality and viability of Tarleton or any other defined centre.

### **OBSERVATIONS OF CORPORATE DIRECTOR OF PLACE AND COMMUNITY**

As stated in the Committee Report at para 10.17 in making a planning decision based upon an impact assessment, paragraph 90 of the NPPF advises that a planning application can only be refused where the proposal is likely to lead to **significant** adverse impacts.

Officers have carefully considered the comments of Pegasus Group on behalf of the Co-operative Group Limited, the response of Avison Young on behalf of the applicant and the views of White Young Green as the Council's independent retail consultant

I am still satisfied that the proposed development is not likely to lead to a significant adverse impact on the vitality and viability of Tarleton and Hesketh Bank Village Centres, or any defined centre, and is therefore in accordance with paragraph 89 of the NPPF and Policy IF1 of the Local Plan.