

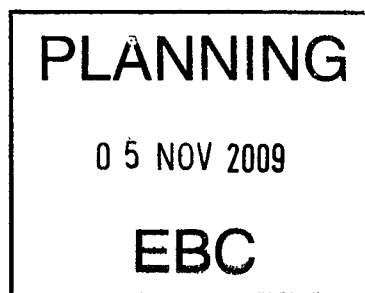
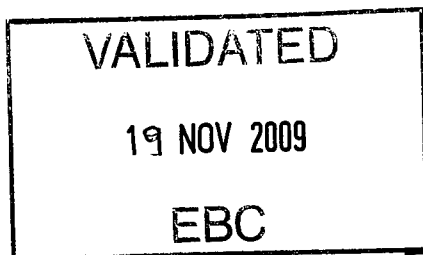
5 November 2009

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Dear Steve

ERE/1109/022

Construction of a mixed use development comprising of a new A1 food store, non-food A1 retail units, office space and associated car parking, access roads, footways and landscaping at Mark Street, Sandiacre

Further to our recent submission of a full planning application as described above, we write to provide further information in respect of the implications of the proposals upon Stapleford. This correspondence is particularly focused therefore upon the implications of the proposals beyond Erewash, and is therefore copied into Broxtowe Borough Council and Nottinghamshire County Council, as well as Derbyshire County Council. For the sake of clarity, we confirm that this should be read in association with the submitted Planning and Retail Statement.

The submitted Planning and Retail Statement makes comment in terms of Stapleford as to its role in the wider retail hierarchy at district and RSS level, the existing composition and vitality of Stapleford centre, and concise discussion in terms of trading impacts.

In addition, reference is made to the previous Safeway appeal on and near the proposal site from 1998. Again, we take the opportunity to explore that decision in more detail with a focus on implications for Stapleford, taking into account subsequent changes in terms of shopping provision, role and function of centres, and existing and proposed allocations at district and RSS level. We deal with this below.

The Safeway Appeal

As is described at paragraph 3.3 of the Planning and Retail Statement,

"An outline planning application was submitted in May 1996 by Taylor Woodrow for the development of a 4,715m² food store, petrol filling station and associated works on a 3.6 hectare area of land south of Station Road between the Erewash Canal and Mark Street. This scheme covered a larger area than that proposed by this application, including the land now occupied by the Lidl foodstore. This scheme, proposed to be occupied by Safeway, was refused by the Secretary of State in 1998."

The context of this decision is important. Whilst the decision stands on its own merits, it is evident that the Inspector produced his decision on this proposal having due consideration of a further proposal located nearer to, but beyond Stapleford centre.

It is important to note that Review of the Inspector's conclusions, particularly the first part of paragraph 10.12, makes clear that the potential for adverse impact upon Sandiacre is not a cause for material concern. He states that,

"as it would be closely linked to the existing centre, an assessment of its impact is largely irrelevant."

He then goes on to state that there would be a boost to the strength of Sandiacre town centre and that common sense dictates that there would be some linkage.

However, review of paragraphs 10.13-10.16 suggests that the potential for adverse impact upon Stapleford was a greater cause for concern. Whilst it is accepted that the centre was not in serious decline at the time of the Inquiry (1997), there are suggestions that it was at the margins of decline and various indicator levels (including vacancy levels, market demand and the need to take forward regeneration funding bids) have been put forward to reinforce this view. With the concept of "impending decline" established, the Inspector comments that the retail impact (whether the 13% or 21% estimates made by the parties to the Inquiry) would be so significant as to lead to a conclusion that the adverse retail impact on the in-centre Co-Op would be serious. Given that the Co-Op acted as a cornerstone for Stapleford's retail structure, if the proposal might result in prejudice to this ongoing position this would represent a compelling objection. This concern is rehearsed at paragraph 10.67.

In terms of scale considerations, comment is made at paragraph 10.7 that Sandiacre is defined as a "major centre" within the adopted Erewash Local Plan. As is the case with the scheme subject of this proposal, the site straddled the boundary of the then-defined Town Centre.

However, paragraph 10.9 of the Inspector's Report compares the nature of the existing limited Sandiacre centre to the typologies which underpinned PPG6. The Inspector suggests that *"Sandiacre fits the description of a local centre"*. Into paragraph 10.10, the Inspector then seeks to judge the planning merits of the proposal on the basis of the PPG6 advice in respect of a local centre. However, the Inspector does make clear within 10.11 that the prospects for a food superstore within a local centre,

"...Should not be ruled out automatically. Its individual merits must be examined, including the benefits it would bring to Sandiacre itself".

As referred to above, the Inspector also determined a proposal for a foodstore serving Stapleford, but located beyond the defined centre. This proposal, promoted by Co-Op, would have resulted in linked re-formatting and contraction of the existing in-centre store. Comment is made at paragraphs 10.75-10.76 in respect of trade draw from Stapleford centre, much of which would fall upon the Co-Op. It was suggested that the Co-Op, at that time, performed a main-food role. At 10.76 the Inspector suggests that,

"...the re-formatting of the existing store would radically change its retail emphasis and effectively remove the centre's main food role."

The materiality of the Safeway appeal decision

The materiality of the Safeway decision is a product of multiple factors. These factors include:

- The changes in national and Development Plan retail policy since 1998;
- The composition of the two centres since the Appeal decision;
- The nature of retail impact resultant from the proposal; and
- The types of planning decisions pertinent to Sandiacre and Stapleford centres since 1998.

Policy position

The Safeway Appeal decision was made under the auspices of the 1994 Erewash Local Plan, and PPG6. In terms of broad principles, the tests set out at paragraph 3.4 of PPS6 (need, impact, sequential approach, accessibility and scale) and therefore material now, were also material in 1998. However, the weight of subsequent planning decisions and the detailed interpretation and reworking of PPG6 themes has led to material differences in the pertinent policy regime now, as compared to that in place at the time where the Safeway appeal decision was both submitted and latterly determined by the Secretary of State.

The Inspector's Report makes much comment about the comparative offer of Sandiacre and Stapleford, and suggests that the offer of Sandiacre centre is more analogous to a local centre rather than a centre with greater status. The proposed foodstore is then contrasted with the PPG6 typologies for a local centre.

The 1994 Local Plan defined Sandiacre as a major centre, one of four centres at the same tier of the district hierarchy. Other centres at this tier include Ilkeston, Long Eaton and Borrowash. The subsequent Local Plan was adopted in July 2005, shortly after the publication of PPS6 (March 2005). Policy S1 of the 2005 Local Plan is concerned with retail development in town centres and goes onto comment in terms of proposals in the four named centres (Ilkeston, Long Eaton, Borrowash and Sandiacre). For the purposes of further analysis, the Local Plan position therefore is that Sandiacre is a town centre.

Moving to the regional element of the adopted Development Plan, the East Midlands Regional Plan (March 2009) is relatively silent in terms of the retail hierarchy, other than to make comment in respect of the importance of sub-regional centres such as Nottingham and Derby. However, in terms of the broader settlement hierarchy, Sandiacre is referred to as part of the Nottingham Principal Urban Area on the same basis as Long Eaton and Stapleford. Put simply, Sandiacre was defined as a major centre in the 1994 Local Plan and it is now defined as a Town Centre in the 2005 Local Plan. Reference to the typologies which informed PPG6, or now PPS6, make clear that the foodstore proposed is consistent with such a centre.

Moving through to the emerging Development Plan, as set out the Regional Plan was adopted in March 2009 and does represent a relatively recent policy position. However, the Greater Nottingham Aligned Core Strategy is being prepared (including Broxtowe and Erewash) and has progressed through Issues and Options consultation which commenced in June 2009. Fifteen topic papers have been prepared, the most pertinent of which is "The Role of Nottingham and its City and Town Centres" which forms Topic Paper 5. It recommends a retail hierarchy across Greater Nottingham which allies the different allocations across district boundaries, where Nottingham provides the key focus and represents the Major Regional Centre.

In the context of Erewash, Ilkeston and Long Eaton fall into the second tier (Major District Centres) whilst Sandiacre and Borrowash fall into the third tier (District Centres). Beneath this third tier, a number of smaller and local centres will stand but are not specified. In the context of Broxtowe, Sandiacre is joined by Stapleford within the District Centre tier, alongside centres such as Bulwell.

Composition of Centres

Health checks have been completed for Sandiacre and Stapleford centres, and these are included as appendices to the submitted Planning and Retail Statement.

Sandiacre

Turning firstly to Sandiacre, this sets out that the offer is limited in terms of its overall extent (60 units), of which 8 units are vacant. It is also important to note that non-retail uses are present within the defined centre, including services as well as limited residential uses. In terms of retailing itself, two convenience stores are present (LIDL and Co-Op) but neither of these provide a main food shopping facility, and the majority of such trips are undertaken further afield.

Other than the two stores referred to above, the retail offer is comprised of independents. In general terms, the centre appears to trade relatively well, with the extent of vacancies similar to the national average. However, the lack of multiples or a main food offer does militate against the opportunity to create high levels of footfall and vitality.

Stapleford

In terms of Stapleford, the centre is larger in terms of its overall extent (125 units), of which 28 units are currently vacant. It is also important to note that non-retail uses are present within the defined centre, including services as well as limited residential uses. In terms of retailing itself, three convenience stores are present (Sainsbury, Iceland and Co-Op) but these fail to provide a main food shopping facility, and the majority of such trips are undertaken further afield. At this time, many of these trips are directed to stores within Erewash (Long Eaton and Toton) and these tend to be car-borne. It is inevitable that such trips place more pressure upon the key junction at Sandiacre Bridge.

Other than the stores referred to above, the retail offer is comprised of independents. Importantly, the new PCT centre has provided a new impetus to the centre in terms of footfall, as well as statements of investment and architectural interest along this predominantly linear centre. In general terms, the centre appears to be busy and trade relatively well, with the extent of vacancies similar to the national average (including the former health centre). Again, the lack of a main food offer does militate against the opportunity to create yet higher levels of footfall and vitality.

The Centres in Context

It is entirely evident that the town centre offer of Sandiacre is dwarfed by that of Stapleford. The key point is whether that this is appropriate in planning terms.

Whilst the Inspector's report rightly refers to the paucity of the retail offer serving Sandiacre, and the comparison with Stapleford's offer, the existing poor offer does not automatically lead to a conclusion that such an offer is appropriate or acceptable. In terms of retail floorspace and retail

offer, Stapleford outperformed Sandiacre at the time of the 1998 Appeal and continues to do so. In reality, the discord between the two centres is even more obvious now given that the improvements to Stapleford's town centre offer (shopping and other services) has moved on further than has been the case for Sandiacre.

Indeed, PPS6 sets out at paragraph 2.8 that local planning authorities should take the opportunity to strengthen existing centres which are in decline. In reality, had Erewash been minded to do so, there have been numerous opportunities to downgrade the centre (through the adoption of the 2005 Plan, or subsequent to that through the emerging LDF, or through the Aligned Core Strategy process)- but none have been taken. It is our contention that the prudent and proper approach is to strengthen Sandiacre Town Centre, rather than to let it continue to decline to a point where a subsequent LDF would be compelled to downgrade it.

The proposal at hand provides an opportunity to draw footfall to Sandiacre town centre, initially to the food store and the non-food units but also the remainder of the centre. The Inspector agreed that it was common sense that linkage would occur with the 1998 scheme, and it is our contention that linkage would be much more likely given the focus on public realm and the inclusion of commercial units to create a more vibrant and active frontage to the site.

Retail Impact

The customer must of course be drawn from existing stores rather than the ether, and the submitted impact assessment makes clear that the majority of this main food trade will be clawed back from other food superstores in Long Eaton and Toton, and particularly in terms of the section of the catchment to the east of the A52, those that would travel to the scheme permitted at Beeston. The scale of the food store is smaller than all of the stores referred to, but its offer will be sufficient to draw back trade that is currently lost from the existing localised catchment.

It follows that more limited trade will be drawn from stores serving Sandiacre and Stapleford, and the submitted retail assessment models such impacts on a robust basis, and concludes that the extent of impacts will be negligible and will not result in material adverse impacts upon ongoing viability. In terms of Stapleford, the estimated impact is considerably less than the 13% estimated by the Appellant during the 1998 Appeal.

In the context of the 1998 Appeal decision, these food superstores in Long Eaton and other centres did not exist. It is evident therefore that there was no opportunity to claw trade back, as is the case now. Whilst new stores have come forward since the 1998 decision (LIDL in Sandacre, Sainsbury in Stapleford) and others have been refurbished, they still fail to retain main food shopping trips. It follows that the trading of these superstores has served to reinforce and deepen the extent of trade leakage from Sandiacre further afield.

In addition, the Inspector's suggestion of Stapleford as a centre on the verge of decline seems to be out of place now. Whilst it still lacks a main food offer, tangible further private investment has been drawn to the centre since the 1998 Appeal in the form of the new Sainsbury store, refurbishment of other units and the introduction of the new PCT health centre. In terms of other vitality indicators, up until 2007 vacancy rates had dropped well below the 1998 rate of circa 15%. In 2009, in the face of a broader economic downturn, the vacancy rate is comparable to 1998.

Pertinent planning decisions

Clearly the Safeway Appeal has a degree of materiality. However, the policy position is much different in 2009, and the interpretation of these matters in planning decisions leads us to suggest that the Inspector's conclusions in 1998 would not represent sound judgment now.

The Inspector agreed that a main food shopping facility in this location would provide a boost to the strength of the centre, and that linked trips represented common sense. The scheme proposed by the Appeal provides a store and parking, but crucially incorporates more investment in public realm and the addition of commercial buildings and public transport facilities between the store and the remainder of the centre to promote ongoing active frontage maximising the opportunity for linked trips. The extent of boost to the strength of the centre, and the likelihood of linked trips represents even greater common sense now.

Subsequent to the 1998 Appeal, outline consent for a 2495m² foodstore was achieved in 2000. This was never built out, and a later application has resulted in the implementation of the existing LIDL store on a smaller application site. Subsequent to the introduction of the LIDL store, the centre boundary was extended to incorporate the site in recognition that it would form an important part of the linear shopping area. Whilst the proposed food store lies beyond the centre as now defined, its implementation will inevitably influence the gravity of the functional centre and should then form a key part of a redrawn centre when that opportunity arises.

Turning to the status of the centre itself, the Safeway Appeal clearly laid down a marker that Sandiacre should be re-designated as a local centre, from its designation in the 1994 Local Plan as a major centre on par with Long Eaton. However, at every turn, the designation has been retained above Local Centre. The 2005 Local Plan designates Sandiacre as a town centre under Policy S1.

The 2007 Retail Needs Study does suggest that Long Eaton and Ilkeston should continue to be designated as Town Centres, whilst Sandiacre and Borrowash should be designated as District Centres. The draft Greater Nottingham Aligned Core Strategy (June 2009) reinforces this advice and recommends a District Centre designation for Sandiacre.

Given the above, the clear policy position is that Sandiacre is not a Local Centre, defined as a Town Centre in the adopted Plan and proposed as a District Centre in the emerging plan. Reference to the typologies of PPS6, or PPG6 which preceded it, make clear that superstores are appropriate in district centres. PPS6 paragraph 2.8 makes clear that it is both appropriate and positive that planning authorities take the opportunity to redress inequalities and failings of existing centres. Within the Greater Nottingham area, examples of such an approach are numerous and include Beeston, Bulwell and Clay Cross. There is positive precedent for such an approach.

Summary

The Inspector's concerns in 1998 turned on the extent to which a proposed store would prejudice the ongoing vitality of Stapleford, and whether the proposed type of retail development would be out of character with the existing retail provision serving Sandiacre. Important to this analysis of course, is the context of retail provision more broadly and the information in front of the Inspector.

In the absence of excessive trade leakage to larger stores located further afield, it is inevitable that

trade would have to instead be drawn from the localised catchment leading to concerns on retail impact. The food superstores which are now provided in Long Eaton, and in the pipeline at Beeston, are the primary facilities from which the majority of trade will be drawn to the proposed store. It does not seek to compete directly with these larger stores (nor could it), but it does seek to reduce the extent of trade leaking from the localised catchment driving to these other stores (many of which are located beyond defined centres and therefore have no policy protection).

Whilst the Inspector had genuine concerns in terms of the vitality of Stapleford, the centre is now stronger than was then the case. In addition, the trade impact upon Stapleford is likely to be much less than was anticipated in 1998, given the retail provision as set out above. With these factors in play, the likelihood of material adverse impact is negligible.

In terms of the centre's status, the Inspector inferred that the centre should be downgraded to Local Centre and, at that level, a food superstore was a cause for concern. From 1998 to 2009, multiple opportunities to review the status of the centre have been had and all of them have maintained its status above that of Local Centre. The emerging position of District Centre, in the context of PPS6 typologies, is eminently suitable for a food superstore and none is present now.

The function of the centre does not mirror what one would expect to see in a district centre, but PPS6 makes clear at paragraph 2.8 that it is incumbent upon planning authorities to tackle failing centres. The same approach has been relied upon successfully on numerous occasions within Greater Nottinghamshire and further afield. None of these have been the subject of call-in, despite referral to GOEM on each occasion.

We trust that you agree that the above represents a comprehensive assessment of how the policy context has changed since the 1998 Appeal. The Inspector's original concerns are clear, but these are now much less likely to be grounds of sustainable objection. What remains the case, and is even stronger given the detail of the scheme, is the weight of the conclusion that the proposal will provide a boost to the strength of the centre, and that benefits to other traders through linked trips represents common sense.

We look forward to discussing the proposals further with you, but if you require any further information please do not hesitate to contact the undersigned.

Yours sincerely,

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