

South Kesteven District Council
Development Management
Council Offices
St Peters Hill
Grantham
Lincolnshire

Telephone: 01636 650000
Email: planning@nsdc.info
Your ref: S17/2155
Our ref: 17/02120/NPS

Sent via email to:

P.Jordan@southkesteven.gov.uk; and
planning@southkesteven.gov.uk

1st July 2021

Dear Mr Jordan,

**Grantham – Downtown Retail Site, Gonerby Moor, Grantham
Planning Application for Erection of a Designer Outlet Centre, Large Format Retail Units,
Leisure Use and Associated Development (Planning Application Ref: S17/2155)**

I refer to the above application, which I understand requires ratification by the Council's Planning Committee, following the resolution to grant planning consent in February 2019. Newark & Sherwood wish to take the opportunity to reiterate and add to its previous strong objection to the proposed development, lodged in May 2019. The position of the Authority remains as follows.

- (i) Strong objection to the proposed development at Downtown Garden Centre, which is supported further by the national agenda surrounding high street and town centre decline;**
- (ii) Formally request attendance by both an Officer and elected Member to speak at South Kesteven District Council's Planning Committee to set out the reasons Newark and Sherwood District Council are objecting to the scheme (due to the retail impact on Newark town centre).**

The District Council continues to set out strong evidence-based concerns that have now existed for some considerable time. Over the course of the application there has also been a material change in circumstance, through a further decline of Newark Town Centre (compounded by the pandemic), which means it is even more susceptible to proposed out-of-town development. Furthermore this should be considered against a backdrop of national Government concern over the decline of high streets – which has resulted in support and increased thinking around this policy area (e.g. the high streets task force). The question which occurs to this Authority, is what Centre could absorb an 8.1% - 14.94% impact and remain vital and viable?

Sequential Test

Through its previous comments the District Council has accepted that there is no single 'reasonably available' site within Newark & Sherwood which is both capable of accommodating the development as a whole, and sequentially preferable to that on which consent is sought. Notwithstanding this the District Council considered that it would be appropriate to disaggregate the uses for the purposes of applying the Sequential Test. Since the proposal was last considered the flexible role of the office space/hub has been amended, with that floorspace now intended to directly serve office and staff functions for the designer outlet and operator (Oldrids). It is accepted therefore that its separation from the outlet for the purposes of the Sequential Test would no longer remain appropriate. Notwithstanding this the previous concerns around the outlet, large format retail and leisure uses remain, and it considered that these uses should be disaggregated for the purposes of the Test. Without this the District Council continues to be of the view that the Sequential Test has not been demonstrated as passed.

Impact Test

Turning to impact, the original impact assessment by the applicant (October 2017) suggested that the proposed development would have a solus impact (i.e. that from the development alone) on Newark Town Centre of £5.1m (3.7%), rising to £7.5m (5.4%) when considered cumulatively (alongside other committed development). However the forecasting carried out by Carter Jonas for this District Council (February 2018) placed this at £7.4m (5.4%) on a solus basis, and £11.8m (8.6%) cumulatively. Consequently an objection was raised over the impact on the vitality and viability of Newark Town Centre, which was deemed as likely to be 'significant adverse'.

Following this, the applicant provided a revised position in November 2018, seeking to consider the cumulative impact of the proposal at Downtown and the Tollemache Road permission both being implemented. This was deemed as likely to have a £12.8m (6.79%) impact on Newark Town Centre, under its worst case scenario and below that previously modelled by Carter Jonas. Advice provided to this Authority, from Lambert Smith Hampton, advised that even if the applicants figure was to be accepted then the economic and retail climate at the time meant that an impact of 6.8% could be deemed to be 'significant adverse'. This position was reflected in the second objection made by the District Council.

The applicant has prepared new retail impact information (dated July 2020) to support the proposal. This now forecasts a solus impact on Newark Town Centre of £3.9m (3.6%) in 2025, falling below the level identified in the October 2017 assessment - and in percentage terms sitting above that modelled for the nearest centre of Grantham at 3.2% (£5.2m). Their assessment of the cumulative impact has sought to take account of the competition which would occur between the application proposal, and the consented scheme at Tollemache Road. Under the worst case scenario the applicant puts the cumulative impact on Newark Town Centre, at £11.2m (8.1%). Thus exceeding the level of impact this Authority has previously considered likely to have a significant adverse impact on Newark Town Centre. In this respect the contents of the NTR Planning Statement, prepared on behalf of Rioja Development, are noted with great concern. This highlights the highest percentage cumulative impact on Newark Town Centre as 14.94% (contributing towards a cumulative trade diversion of £19.39m), dropping to 11.98% (£15.56m) and 11.87% (£15.40m) respectively, under their 30% and 25% competition factor scenarios. The extent to which these outstrip those levels of impact modelled by the applicant causes this Authority very considerable concern, given the levels at which we have previously raised an objection to- on the

basis that they were likely to be significant adverse. Furthermore the disparity between the figures also leads us to strongly question the validity of the impact exercise undertaken by the applicant.

In considering the effect that their modelled impact will have on Newark Town Centre the applicant's updated Retail Impact Assessment, makes reference to the variation of a Condition attached to a retail consent (18/01137/OUTM) off Northgate, Newark – approved in June 2019. Considering that the application took account of both the Tollemache Road and Downtown schemes, with the conclusion being reached that cumulatively the proposed variation and schemes within South Kesteven District would not be detrimental to the vitality and viability of Newark Town Centre. This is however inaccurate. The Northgate applicant did not take account of any commitment, other than that of the original outline planning permission on the Northgate site – nor did it need to. The positive determination of that particular proposal therefore has no bearing on how impact should be considered in this instance.

Supplementing the applicant's case, is a health check of Newark Town Centre, which concludes that it remains an attractive and healthy town centre which is performing well. This work has however not been supported by site visits, instead those undertaken at earlier stages are relied upon alongside information from other data sources (GOAD reports from 2015 and 2019). Such an approach is inadequate. The Town Centre has faced a period of decline and increasing vacancies. This has been compounded given the material change in context provided by the Coronavirus pandemic, and its acceleration of these longstanding Town Centre trends. The applicant's assessment (drawing on the GOAD data), details there to be 54 vacant units (12.9% of the total units) within Newark Town Centre – stated as being above the national average of 11-12%. However the Council's most recent Retail Monitoring Report (2019/20) has the number of units as higher, at 61 (9.21%). The difference in percentage figures, suggests a disparity in what the two assessments have taken to represent the Town Centre. Nevertheless the number of units is higher within our own evidence base. Significantly, the vacancy rate in the Primary Shopping Area (the retail core of the Centre) has increased from 8.07% in 2018/19 to 17.39% in 2019/20, well above the national average. Consequently in reality the vacancy rate is worse than that taken account of by the applicant, both in numeric terms and with respect to its distribution. The challenge of the high street and town centres is recognised nationally. This is also the case locally, with the town centre identified as one of the key areas of decline and needed intervention with the Newark Towns Fund bid, announced in March 2020 as part of the chancellors budget.

Furthermore the applicant has sought to minimise the effect of the vacancies by suggesting that the majority are located on secondary shopping streets. This is however not a position reflected within the District Council's figures (to reiterate, based on fact and site visits) which show close to half the vacancies (28 units) as being located within the Primary Shopping Frontage, with lesser numbers found within the Secondary Shopping Frontage (17 units) and the remainder of the Town Centre (16 units). Again the District Council would make reference to the NTR Planning submission on behalf of Rioja Developments, which includes a more detailed and rigorous health check than that most recently undertaken by the applicant. The clear conclusion reached is that the health of Newark Town Centre has declined significantly. Demonstrating that the composition of Newark town centre has changed significantly between June 2015 and January 2021, with a decline in the number of comparison goods outlets and an increase in vacant outlets and retail service outlets. It also reflects the Council's own figures, showing that the vacancy rate for the Centre has exceeded the national average since 2017 and climbed at a faster rate. There are significant flaws with the health check which undermine its robustness.

The challenges which Newark Town Centre faces are reflected in its successful bid to receive £25m funding as part of the Government's Towns Fund initiative. Through which the aim is to drive the sustainable economic regeneration of the Town, and deliver long-term economic and productivity growth. The Town Investment Plan (TIP), which supports the bid, identified the Town Centre as continuing to suffer from retail decline – with visible and large footprint vacancies being accompanied by a trend for discount offers. Market confidence is demonstrably low, as reflected in the departure of national brands. The TIP also identifies out-of-centre retailing competition as a challenge. Newark Town Centre therefore forms an important part of the bid, including specific projects such as Newark cultural heart to drive footfall and event/experiences within the town and the repurposing of the former Marks & Spencer's unit.

Even before Newark was deemed to face sufficient challenges to be successful in its Towns Fund bid- and the further negative effects of the Coronavirus pandemic emerged – the Town Centre was found to be vulnerable to competition from higher order centres, investment in out-of-centre shopping/leisure destinations and the growth in internet shopping. This vulnerability is likely to have increased as a result of an acceleration in the trends which are undermining the vitality and viability of Town Centres. Should these vulnerabilities continue to grow unchecked, then there is the potential that the success of planned investments and policy objectives around the future of the Town Centre will be undermined.

Drawing on the above, it is not considered that the applicant has satisfactorily demonstrated Newark Town Centre to be both vital and viable to the extent that their cumulative trade diversion of £11.2m (8.1%) could be withstood, without this being likely to result in significant adverse impact. Indeed it is again worth underlining that even the latest figure remains considerably below that modelled on behalf of the District Council at the earlier stages of this application, and the more recent work carried out by Rioja Developments. Consequently the District Council maintains its previous position, that the level of likely impact warrants the refusal of the application in line with the approach detailed in Paragraph 90 of the NPPF.

Proposed Controls

A range of controls have been included within the Section 106 agreement, intended to limit the operation and trading of the proposed development. This includes a 'no poaching' clause, through which existing retailers in Grantham, Newark and Balderton are not permitted to occupy space within the development unless they commit to maintaining a town centre presence for at least five years. As well as restricting occupation of the 'Designer Outlet Centre' to 'Tier 1 retailers'. It was previously considered that 'Tier 1 retailer' represented a nebulous term - which could include mass market retailers found in Newark such as (at the time) Marks and Spencer and Next. The District Council also expressed concerns around the poaching clause, both with respect to its limiting to 5 years and the ability to properly enforce such an obligation. There would be a lack of clear definition to what retailing firms would be affected by the clause, given modern retailing practices. For example would the restriction relate to a fascia name over the shop, or to the identity of a group which may own multiple retailing brands? Consequently it was not considered that the proposed measures would be effective in mitigating the forecast cumulative impact, with objections being made on this basis.

It is now understood that the Section 106 lists a range of 'permitted Class A1 retailers', and although that use class has been subsumed into the new E use class this approach does give greater clarity over the type of retailer the scheme seeks to attract. Notwithstanding this, there are a number of prominent retailers on the list which do have a presence within the Town Centre. This

includes Pandora, White Stuff and Phase Eight, furthermore it is also the case that many of the independent stores within the Town Centre will stock a product range from other retailers included on the list (Oxygen and Masdings being two such examples). These independent retailers will in reality also find themselves in competition with elements of the proposal, given the overlap in offer. The independent sector within Newark Town Centre is a key component of its vitality and viability, a fact highlighted within both the Town Centre & Retail Study (2016) – but also the Towns Fund TIP. Consequently the District Council retains significant concerns over the impact from an overlap in offer (including in its broadest sense – not just confined to the presence of identical retailers).

Were the scheme prove unable to attract the type of retailers anticipated – which appears likely given the contents of the Rioja Developments objection - then the determining Authority would likely come under pressure to ease this control, and accept the presence of other retailers commonly found within a Town Centre such as Newark's. This further emphasises the previous concerns of the Authority over the effectiveness of the 'no poaching' condition. Notwithstanding these reservations, were the condition to prove effective, then it would still not prevent there being a competing store within the outlet village. Such a circumstance would only serve to increase the attractiveness of the outlet as a destination ahead of the Town Centre.

Accordingly the District Council strongly questions the effectiveness and enforceability of the controls within the Section 106 agreement. Enforcement will clearly fall outside the control of this District Council, so for instance we would ask the question over what the 'penalty' would be, were the control over poaching to be breached? It is not considered that, as proposed, they are capable of bringing the impact of the proposal to a level below that of significant adverse – and so our previous objections are maintained. Whilst these measures are insufficient to overcome the District Council's objections, were the determining Authority to ratify the approval and retain controls of the type proposed then the following will need to be addressed. There is a clear need to ensure that the implications from the removal of the A1 use class, and the much wider permitted development rights offered by the replacement E class are properly addressed. In this respect, both the permission and its associated conditions require tightening and the permitted uses more clearly defined. It will also be necessary to condition the offices in such a way, so that any change in their use directly serving the administrative and staff functions for the outlet and operator would require planning consent.

In summary, this Authority maintains robust evidence-based objections to the proposed development. With the material change in circumstance provided by the further decline of Newark Town Centre only strengthening this position. The future prospects of high streets are now of acute concern at a national-level, reflected in the actions of the current Government. Consequently, we would question whether any Centre could absorb an impact of 8.1% - 14.94% without this significantly adversely affecting its vitality and viability.

The District Council would wish to formally request attendance by both an Officer and elected Member to speak at South Kesteven District Council's Planning Committee, in order to set out the reasons Newark and Sherwood District Council continue to object to the scheme.

I trust that this sets out the position of Newark & Sherwood District Council, but should you wish to discuss these matters further then please do not hesitate to get in touch.

Yours sincerely,



Matt Lamb
Director of Planning and Growth



Roger Blaney
Chairman – Planning Committee