
Appeal Decision

Inquiry Held on 13, 14, 16, 20, 21 November 2018

Site visit made on 21 November 2018

by Phillip J G Ware BSc(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15th January 2019

Appeal Ref: APP/N1215/W/18/3195092

Land at Park Farm, Shaftesbury Road, Gillingham, Dorset

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by ALDI Stores Limited against the decision of North Dorset District Council.
 - The application Ref 2/2016/1899/FUL, dated 23 December 2016, was refused by notice dated 15 August 2017.
 - The development proposed is the erection of a Class A1 foodstore (1,786 sq.m gross) with associated access, car parking and landscaping.
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Decision

1. The appeal is allowed and planning permission is granted for the erection of a Class A1 foodstore (1,786 sq.m gross) with associated access, car parking and landscaping on land at Park Farm, Shaftesbury Road, Gillingham, Dorset in accordance with the terms of the application, Ref 2/2016/1899/FUL, dated 23 December 2016, subject to the conditions set out in the Schedule to this decision.

Main issues

2. The application was refused by the Council for seven reasons. By the time of the Inquiry two of these had been resolved and were no longer contested by the Council¹. These related to highways and protected trees.
3. On that basis, there are two main issues in this case:
 - Whether the proposal accords with development plan policy related to the provision of a local centre on the site and in the area
 - If the proposal does not accord with the development plan in relation to the first issue, then:

Whether there are sequentially preferable sites on which the development could be accommodated

The effect of the proposal on the vitality and viability of, and investment in, Gillingham town centre

¹ Statement of Common Ground paragraph 6.1

The effect of the proposal on the provision of employment land in the area

- The effect of the proposal on the significance of Park Farmhouse, a Grade II Listed Building

Reasons

The site, planning history and the proposal

4. The site is around 0.8 hectares in extent and is an undeveloped area of land forming part of the Kingsmead Business Park. The wider area includes commercial, residential and nursing home developments, along with the remainder of the Business Park to the east.
5. Immediately to the south of the site is a garden centre, which includes a florist, a café and a farm shop – this is accessed by a new roadway running past the appeal site. Park Farmhouse is on the opposite (east) side of this new roadway and is in use as offices. The site is bounded to the west by the B3081 (Shaftesbury Road), beyond which is an undeveloped area of land - to which reference will be made later.
6. The area is around 1.4 kms south of Gillingham town centre. The parties agree that the site is 'out of centre' in retail policy terms.
7. There is some planning history related to the site and the surrounding area². The most directly relevant matter is the grant of permission on appeal for the erection of a commercial garage/dealership on the appeal site in 2006³. The details of this scheme have been subsequently approved and the parties agree that the permission has been technically implemented and remains extant, although the building has not been constructed.
8. The proposal is a Class A1 foodstore. ALDI Stores Limited is the appellant although it has not been suggested that any permission would be restricted to their use. There would be a net sales area of 1,254 sq.m, with 1,003 sq.m net convenience and 251 sq.m net comparison floorspace. The car park would provide 102 spaces, including parent/child spaces and spaces for blue badge holders. 10 bicycle parking stands are proposed.

Planning policy context and agreed matters

9. The relevant parts of the development plan are:
 - The saved policies of the North Dorset District Wide Local Plan (2003) (DWLP)
 - The North Dorset Local Plan Part 1 (2016) (DLP)
 - The Gillingham Neighbourhood Plan (2018) (NP)⁴
10. The site is within the area defined in the DLP as the Gillingham Strategic Site Allocation (SSA) and is also identified as part of the Local Centre serving the SSA⁵.

² Statement of Common Ground paragraphs 3.7-3.13

³ APP/N1215/A/06/2010473

⁴ The NP was made after the Council's decision on the application. It is a full part of the development plan to which s38(6) applies

⁵ Local Plan Fig 9.3 and Neighbourhood Plan Fig 9.5

11. The Statement of Common Ground (SOCG) identifies a range of policies relevant to this appeal⁶. In particular there are policies related to retail issues, the SSA, employment in general and this site in particular, and the historic environment.
12. The SOCG notes that a number of other matters, aside from the withdrawn reasons for refusal, are agreed⁷. These include archaeology, environmental health matters, ecology/biodiversity and drainage. I have no reason to disagree with this position or that related to the reasons for refusal which are no longer being pursued.
13. In addition to the main SOCG, the parties have agreed various Retail Impact Assumptions⁸. These include the base and design years, existing commitments (which are agreed not to materially affect the impact assessment), convenience and comparison turnovers of the town centre, and sales densities. I have no reason to dispute this agreement.

Whether the proposal accords with the development plan

14. There is no suggestion that the site should remain vacant and all parties accept that, in principle, it should be developed. The background to this is that the land was allocated for Class B uses as long ago as the 2003 DWLP⁹, is currently identified for development in the DLP, and has an extant permission for a commercial garage/showroom.
15. The appeal site is identified in the DLP (policies 17 and 21) as part of a local centre which is intended to be formed on both sides of Shaftesbury Road, as part of the SSA. The DLP Concept Plan shows the centre extending to both sides of Shaftesbury Road, including the appeal site, with a key linkage across the road. I will return below to the policy approach towards employment development on the site, but it is appropriate to state at this stage that development of the local centre is a clear policy priority.
16. Before considering how the appeal proposal fits in with the local centre allocation, the policy approach towards master planning of the wider SSA should be considered. DLP Policy 21 provides that a Master Plan Framework will be prepared for the whole of the SSA, and that proposals will not be supported prior to the Master Plan being consulted upon and agreed.
17. However, as was clarified at the Inquiry, a number of proposals have come forward within the SSA in isolation and have been/are being considered by the Council. Planning applications have been submitted for other parts of the SSA and the Council confirmed at the Inquiry that the 'partial masterplans' which have been submitted as part of these schemes are fit for purpose. Two current applications for development in the area will be decided in early 2019, with recommendations for approval. One other proposal – for the details of a housing scheme, was approved the week before the Inquiry opened.
18. Given the partial nature of these proposals and masterplans, the Council is at the early stages of commissioning work to 'fill the gaps' between the separate proposals. The delay in preparing a complete Master Plan Framework since the

⁶ SOCG paragraphs 5.4 – 5.7

⁷ SOCG paragraphs 6.1 – 6.3

⁸ Additional Areas of Agreement paragraphs 3 and 4

⁹ CD 50

- adoption of the DLP in January 2016 has not been explained. Given the very early stage in the Council's intention to fill the gaps it would be unreasonable to delay development until a comprehensive framework has been produced.
19. The key question is whether a stand-alone foodstore of the size currently envisaged would accord with the DLP and NP policy related to the provision of a local centre to serve the southern extension of the town.
 20. DLP policy 21 refers to the local centre as including (amongst other matters) small scale convenience shops. The definition in the Glossary refers to a group of small-scale shops serving a small catchment. Small-scale retail development, to meet some of the day-to-day needs of residents and employees, is envisaged as being likely to involve a small A1 shop (i.e. under 280 sq. m) and a number of smaller supporting units for other complementary uses.
 21. The supporting text to NP policy 9 also supports development of the local centre, which should not be of a scale to serve a much wider catchment as this would undermine the vitality of the town centre. The text to the NP provides that retail proposals in the local centre should be no more than 280 sq.m, although the policy itself does not include this guidance. The appellant correctly noted that nowhere in policy is there a specific preclusion against larger shops.
 22. Examples of similar stores in local centres which have been put before me are not especially useful, as the positions in those cases appear to be different (from the limited information available) to the current situation. For example some of these appear to be local centres which have grown around an existing store, and others are not divided by a road, as would be the case here if the local centre were developed on both sides of Shaftesbury Road. The Council's witness on retail matters accepted that a local centre could be designed to include a store of this type – however no such overall local centre has been put before me. Rather I have to consider the current appeal scheme in isolation and similarly the Council has to separately consider the proposal including a local centre on the west side of the road.
 23. The appeal is opposed by those promoting the development on the west side of Shaftesbury Road, who have stated that the appeal scheme proposal has the potential to prejudice the proper planning of the strategic extension. However nor have they identified how their scheme would relate to the designation of the appeal site as part of the local centre. I am not persuaded by the evidence that the appeal scheme would prejudice the proposal on the west side of Shaftesbury Road.
 24. The Council also notes the lack of engagement by the current appellants with the promoter of the application on the west side of Shaftesbury Road, and asserts that there is no evidence as to how the appeal scheme would connect to the other side of the road in any meaningful way. The Council also advanced an objection that it would be inappropriate to have retail uses on both sides of the road. However that is what is proposed for the local centre in the Council's own plan and it is hard to distinguish between that allocation and a conventional high street with shops on either side of a road.
 25. Both the appeal scheme and the proposal west of the road clearly and independently show linkages across Shaftesbury Road, in line with the DLP/NP approach of identifying a local centre extending across the road.

26. Overall, although neither the DLP nor the NP define the scale of the retail development forming part of the local centre, every indication is that a scheme of the scale currently proposed is not what is envisaged. I am not persuaded that the appeal scheme would prejudice the satisfactory development of a local centre as identified in the DLP and the NP, but that is not to say that it accords with the approach of the development plan. Whilst a local centre could arguably be developed to include a store of this size as part of the overall mix, no such scheme is before me.
27. On that basis the proposal does not accord with development plan policy related to the provision of a local centre on the site and in the area, as set out most particularly in DLP policy 21 and NP policy 9.

Sequentially preferable sites

28. My conclusion above regarding non-compliance with policies related to the local centre is not the end of the matter, as national and local policy requires that, under such circumstances, the sequential and impact tests need to be considered. If they are satisfied, then there would be no retail policy objection to the proposal.
29. I first turn to the application of the sequential test. The question is whether any suggested alternative site is suitable and available for the broad type of development currently proposed in terms of size, type and range of goods, incorporating the requirement for flexibility. The appellant has tested the suggested sites based on the current proposal and a reduction of some 12% net floor area.
30. The parties agree that the area of search should be confined to Gillingham, and there are only two sites which, by the start of the Inquiry, could be potentially considered as sequentially preferable:

The Co-op site

The former Co-op store is a town centre site, with a net sales area of 776 sq.m and a car park for around 60-70 spaces. The premises are vacant. Given the location of the site virtually in the centre of the town, the site is clearly sequentially preferable to the appeal site. However, given the limited size of the existing building and its car park, even allowing for flexibility in the operation of the store and a reduction in car parking to reflect its central location, the existing building is clearly unsuitable for the development proposed.

If the site were to be redeveloped, I note that the site area is around half the size of the appeal site. The appellant has produced plans which clearly illustrate the difficulties of producing a store of the scale currently sought – even allowing for flexibility.

I appreciate the Council's concern that the appellant has not contacted the freeholder of the site to discuss options. However given the appellant's clear evidence of the limitations of the site, I am not sure what this would have achieved in terms of suitability, although availability may have been clarified. For the Council's part, the authority simply overlaid the current proposed footprint onto the Co-op site, but without any consideration of

servicing or car parking, and with an overlap into other ownerships. This evidence takes me little further.

Overall, the Co-op site is not suitable for the broad type of development currently proposed and cannot be considered sequentially preferable.

Station Road

The Station Road area is an edge of centre site and such is sequentially preferable to the appeal site.

The Council suggested that a store could be located in a number of positions on the site. Looked at purely in plan form, this is correct. However this ignores the fact that there are two buildings of local heritage importance, as identified by the Council itself, in a relatively central position on the land.

The Council's own policy seeks to secure the retention of heritage buildings, whereas the Council's witness suggested that the buildings could be demolished and that the policy would be met by the bricks being reused (in the light of the history of brickmaking in the area). However that approach ignores the aesthetic value of the buildings, the Council's own policy and the approach of national policy. It is entirely unpersuasive.

In addition to the issue related to the undesignated heritage assets, there is (as I saw on my site visit) a notable change in levels which could be problematic.

Overall on the basis of the evidence before me, the Station Road site is not suitable for the broad type of development currently proposed and cannot be considered sequentially preferable.

31. An area of land alongside the railway was also mooted by the Council at the Inquiry as a potential site. However there was virtually no evidence put forward as to its availability or suitability. From the appellant's response to the new suggestion and from what I saw on my site visit I am persuaded that the site is insufficiently visible to be commercially viable or represent a potential sequential site.
32. Reference was also made by the Council to the Harwood retail park, although it was accepted as now being too small to accommodate the appeal scheme. However the authority queried why the site was not considered earlier given the appellant's interest in Gillingham since 2012 – when apparently a larger area of land was available at the Harwood retail park. However this does not address the policy question as to what sites are available and suitable now. Accordingly reference to this site does not assist in my considerations.
33. DLP Policy 12 (Town Centre Uses Outside Town Centres) requires that the sequential test in national policy should be satisfied. On the basis of the evidence presented to me, I do not consider that there are any sequentially preferable sites on which the development could be accommodated, bearing in mind the need to demonstrate flexibility.

The vitality and viability of Gillingham town centre and investment

34. Dealing first with the effect on the town centre, the main area of dispute between the parties focuses on the approach to trade draw. This was accepted by the parties at the Inquiry to be the key difference.

35. The Council assumed that the draw to the proposed store would be essentially the same as to the existing stores in Gillingham, whereas the appellant assumed that the introduction of a new food store would change shopping patterns and attract new customers from a wider area. The consequences for the town centre would obviously differ between the two assumptions - which the parties agreed was a matter of professional opinion.
36. Although the proposal is in the name of a particular retailer, it is common ground that any permission would run with the land, and could be implemented by any retailer. That said, it is reasonable to assume that in all likelihood any permission would be implemented by the appellants. They are not well represented in the wider area and, given the location of the proposal in an edge of centre location with good road links, it seems reasonable to assume an element of trade draw from a wider area, as considered by the appellant. This has the effect of reducing the impact on Gillingham town centre.
37. In any event, whichever approach to trade draw is adopted, the question is whether the predicted impact on the town centre would be significantly adverse. The figures put forward by the parties are not widely different (Council 11.3% on the town centre, 12.9% on convenience. Appellant 7.67% on the town centre, 8.72% on convenience.) The appellant also undertook a sensitivity analysis based on the benchmark turnover for one of their stores, which demonstrated a lower figure for town centre impact (5.81%).
38. The Joint Retail and Commercial Leisure Study (2018)¹⁰ states that overall Gillingham is fulfilling the basic needs of its town centre role and has a good range of supermarkets. The Council accepted that, whatever the impact on the town centre as a whole, the shop most likely to be affected is the existing Lidl store. However this is trading well over benchmark and would be likely to withstand any impact caused by the proposal. Overall, even if the Council's approach to trade draw were adopted, the evidence does not demonstrate that the impact on the convenience goods provision in the town centre would be significant.
39. The Council placed some reliance on the October 2018 appeal decision at Cribbs Causeway¹¹, where a 6.4% impact on Bristol city centre was regarded as significantly adverse. However, leaving aside the very substantial difference in scale between that scheme and the current proposal, the Secretary of State at Cribbs Causeway identified certain vulnerabilities in the city centre which led, amongst other matters, to the conclusion of adverse impact. That is a very different position to the current appeal. In a similar vein, my attention has been drawn to other decisions where a much higher impact was regarded as not significant. Overall, each case must be considered on its merits and such 'comparable' decisions are of very limited value.
40. The Joint Retail and Commercial Leisure Study does identify that comparison retail provision in the centre is relatively weak and that this depends to an extent on linked trips from convenience stores. With this background, the Council was concerned that convenience trade diversion to the proposed store would reduce the numbers of those combining a town centre convenience visit with comparison shopping. However there was limited evidence as to the significance of this effect and, even if one took the Council's convenience

¹⁰ CD37

¹¹ CD44

impact figure, the number of combined trips which would be lost comes nowhere near to a significant impact.

41. Overall, whichever trade draw assumption is adopted, the predicted impact on the town centre would not be significantly adverse.
42. Turning to the effect on investment, the Council did not suggest that there would be a significant adverse impact on committed investment, but did argue an effect on planned investment. However in cross-examination the authority could not identify any planned investment aside from a general comment regarding the (self-evident) need for investment in the Co-op site.
43. However there is no evidence as to investment now or in the future at the Co-op site. The position is also made more opaque by the fact that the building has been considered for Class D use, and its future is not known. There is no indication of progress towards securing investment at that site or elsewhere in the town centre or how the current proposal would undermine any such investment.
44. Overall the proposal would not harm the vitality and viability of, or investment in, Gillingham town centre. It would therefore not conflict with DLP policies 12 and 17, which seek to maintain the town centre role in the light of vitality and viability.

The provision of employment land

45. The DLP is clear that Gillingham will be a focus for development during the period to 2031. The objective that sufficient employment land should be provided and retained in order to encourage a degree of self-sufficiency and achieve sustainability objectives is not in dispute.
46. However the policy position of the appeal site is not agreed, nor is the position related to the demand for or the supply of employment sites.
47. The DLP allocates the appeal site as part of the local centre, and it is clear that the use for employment purposes is a secondary objective if the local centre does not go ahead on this site. I have concluded that the proposal, in relation to its scale, is not what the DLP envisages for the site, but I have also noted that I am not persuaded that the appeal scheme would prejudice the satisfactory development of a local centre. In addition, given my conclusions above regarding retail policy, the overall position is that there is no retail objection to the appeal scheme.
48. Under those circumstances, the DLP employment option does not fall to be considered. However, even if a different approach were taken to that matter, it is far from clear that the appeal site is needed for employment use.
49. The key issue between the parties was largely distilled at the Inquiry to the possibility that the Brickfields site may not be available in the short term. This would arguably increase the importance of other allocated employment sites. However at the Inquiry the Council's witness agreed that (based on the Workplace Strategy) the Brickfields site was likely to be available from 2019 onwards and that there is an adequate supply of land.
50. Based either on the DLP to 2026, or other figures to 2033, the evidence is clear that there is a significant surplus of supply over demand. The evidence

submitted by the appellant, contrary to the Council's position, clearly sets out that there is a surplus of employment land over supply¹². The necessity of employment development on the appeal site has not been demonstrated. The Council's position was further substantially weakened by the fact that it was accepted that there was an important error in the evidence in comparing land availability and demand over different time periods.

51. In addition it was agreed that the supply and demand for land should more appropriately be considered in the wider functional economic area. Whilst there are sustainability disadvantages in relying on employment provision at a greater distance, this is an appropriate area for consideration – and is not the approach adopted by the Council.
52. Even if it were considered that greater weight should be given to the employment allocation, the appeal site has been identified for employment uses for many years. Aside from the car showroom permission (which, though implemented, has not been built), there is no evidence whatsoever of demand for employment uses. There is no reasonable prospect of an application coming forward for employment use.
53. The Council's position in closing was that the local centre, following the application on the opposite side of Shaftesbury Road, will no longer be needed on the appeal site and that it should be used for employment purposes. This is a remarkable assertion, unsupported by evidence, especially as no decision has been taken on the other application and the Council's own plan shows the local centre as straddling the road.
54. Overall, the proposal would not harm the provision of employment land in the area and would not conflict with DLP policy 11 or DWLP policy 3.2.

The effect on the significance of Park Farmhouse

55. Policies in the DLP and the DWLP (and the Gillingham Town Design Statement) reflect national policy in relation to the importance of heritage assets.
56. The only heritage asset to which I have been referred is Park Farmhouse, which probably dates from the early nineteenth century and is situated on the opposite side of the access road leading into the garden centre and other buildings. There is no doubt that, in terms of the definition in the National Planning Policy Framework, the appeal proposal has the potential to affect the setting of the heritage asset.
57. There is a clear difference between the expert evidence of the parties as to the significance of Park Farmhouse. The appellant's position is that the main source of significance is its evidential value along with some historic value, but that it has limited aesthetic/communal value. The Council's position is that the main significance is aesthetic and the suggestion was also put to me that it was developed as a model farm on an important local estate. However this latter point was not supported by substantial evidence.
58. It is clear to me that the significance of the asset is a mix of evidential and aesthetic. The proposal would not affect the evidential value to any appreciable extent, so I will focus on the aesthetic value. The setting, as it now exists, makes a contribution to its significance particularly in relation to

¹² CD49 Figure 6.1, CD41 and CD42

views towards the asset across the appeal site. The fact that this is not the closest view which can be obtained of the asset is of little relevance, and there is no doubt that the appeal site makes a contribution to the experience of the asset.

59. The proposal, which is for a building of significant scale, would have a harmful effect on the significance of the asset and the ability to appreciate it. Whilst I do not regard the view across the appeal site as being in any sense a key view, the scale of the appeal proposal would have consequences for the appreciation of the farmhouse. There was some discussion at the Inquiry as to the visual permeability of the proposal in comparison with the car showroom previously approved, but there is no doubt that the appreciation of the asset would be restricted.
60. The Council also raised issues related to the scheme's architectural design and materials. However this was not a freestanding reason for refusal and related only to the effect on the significance of the asset. The Design and Access Statement shows that the siting and design of the proposed building was carefully considered and, given the scale of the building and its end use, I am not persuaded that this matter is of great consequence in relation to the asset.
61. I am also conscious that the appeal site has been allocated for employment uses since 2003 and has the benefit of the extant planning permission for a commercial garage/car dealership. Although I appreciate that the outline permission was granted on appeal, the Council has since approved the details of a building which is similar in appearance to a retail development. I am not convinced by the Council's efforts to distinguish between the effect of the approved details of the car showroom/workshop and the current proposal – and indeed the likely consequence of any employment use on the land. The extent to which any development of the appeal site would harm the aesthetic significance of the asset would be similar.
62. Whilst it is important to consider the asset and its significance as matters stand at present, it is also important to consider the extent to which the farmhouse has been visible over the years. It is clear that the farmhouse used to have a farm courtyard in front of it in the past, which would have meant that only glimpses of the building would have been visible. In addition, historic maps show that the farmhouse was further screened by a woodland/orchard area.
63. The current view from Shaftesbury Road is not a designed view, but one which has come about comparatively recently (probably during the 1980's) by chance. However the best view of the asset is and will be from the new access road, and this would be unaffected.
64. Drawing these matters together, I agree with the Council that, although there would be no effect on the evidential value of the proposal, the proposal would cause less than substantial harm to the setting of the listed building and this attracts significant importance and weight in the balance.
65. The public benefit arising from the appeal proposal is both economic and social, but in particular I give weight to the importance of developing this vacant site for a beneficial use – in this case a retail proposal to which there is no objection in retail policy terms, and which has achieved a measure of local support. The public benefits of the proposal significantly outweigh the harm.

Conditions

66. A range of conditions was discussed and almost entirely agreed at the Inquiry. I have adopted these conditions with minor changes in the interests of precision and in the light of the advice in Planning Practice Guidance.
67. In the interests of clarity the approved plans need to be set out (2) and a range of details need to be submitted in the interests of the appearance of the development (3).
68. In the interests of providing sufficient parking and highway safety, parking and servicing arrangements need to be provided, and details of the access and a construction traffic management plan need to be submitted (6, 7, 8, 9).
69. Details of foul and surface water drainage, refuse and recycling, and ventilation systems need to be controlled in the interests of the amenity of the area (4, 5, 16).
70. In the interests of encouraging the use of sustainable means of transport, a Travel Plan needs to be submitted (10).
71. To protect the interests of existing and future occupiers of buildings in the area, noise levels need to be specified (11) and lighting details submitted (17).
72. The protection of existing trees needs to be ensured (12, 13), and landscaping submitted for approval and implemented (14, 15). In addition the Council wanted to additionally include a clause allowing the authority to conclusively determine when the development was completed. However this is unnecessary.
73. Measures to address any ground contamination need to be submitted and implemented (18).
74. The hours of operation of and delivery to the building need to be controlled in the interests of other occupiers of developments in the area (19, 20).
75. So as to ensure that the scheme as implemented is materially the same as has been assessed, details of the retail floorspace need to be restricted (21-24). A condition was put forward, only if I was minded to impose it and not advocated by any party, defining the range of goods and services to be sold. However I consider this to be unjustified and unnecessary.

Planning balance and conclusion

76. Overall, although I am not persuaded that the appeal scheme accords with the development plan in relation to the scale of the proposal, I do not consider that it would prejudice the satisfactory development of the local centre.
77. One consequence of this position is that the retail policy implications of the proposal need to be considered. In this case I have concluded that there are no sequentially preferable sites on which the development could be accommodated and that the proposal would not harm the vitality and viability of, and investment in, Gillingham town centre. There is therefore no in principle objection in retail policy terms. Nor would there be any harm related to the provision of employment land in the area. The less than substantial heritage harm is significantly outweighed by the public benefits of the proposal.

78. The public benefits have already been alluded to, but in particular they include the development of a hitherto vacant site which has been unused for many years, some employment benefit (albeit arguably partly offset by any limited reduction in employment in the town centre). Finally the proposal would bring forward a retail facility for the benefit of the area. In this context it is noteworthy that the local representations received emphasise the need for and desirability of further retail provision.
79. For the reasons given above I conclude that the appeal should be allowed.

P. J. G. Ware

Inspector

Schedule – conditions

1. The development hereby permitted shall begin not later than the expiration of three years from the date of this permission.
2. The development hereby permitted shall be carried out in accordance with the following plans: Location plan P(1) 01; Proposed site plan P(1) 03D; Proposed floor plan P(1) 04A; Proposed roof plan P(1) 05A; Proposed elevations P(1) 06A; Proposed site sections P(1) 08A; Context elevations P(1) 09A; Wider links plan P(1)10, Soft landscape proposals 1231-01D.
3. Notwithstanding the details shown on the plans hereby approved, no development above slab level shall take place until details (and samples in the case of masonry and render) of the materials, colour, and finish to be used in the construction of the external surfaces of the building hereby permitted have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details and retained as such thereafter.
4. Before any development commences on the site, a scheme detailing the means of disposing of foul/surface water and land drainage shall be submitted to and approved in writing by the local planning authority; and the approved scheme shall be implemented before use of the development commences.
5. Before the installation of extraction, ventilation and exhaust systems, a scheme detailing the systems shall be submitted to and approved in writing by the local planning authority; and the approved scheme shall be implemented before use of the development commences.
6. Prior to use or occupation of the retail unit hereby approved, the areas shown on Drawing Number P(1)03 Rev D for the manoeuvring, parking, loading and unloading of vehicles shall be surfaced, marked out, and made available for these purposes and thereafter maintained and kept free from obstruction.
7. Prior to use or occupation of the retail unit hereby approved, a scheme showing precise details of the cycle parking facilities shall be submitted to, and agreed in writing by, the local planning authority. The agreed scheme must be constructed before the use of the development is commenced and thereafter must be maintained, kept free from obstruction and made available for the purpose specified.
8. Prior to use or occupation of the retail unit hereby approved, the first 15.00 metres of the vehicle access, measured from the rear edge of the highway (excluding the vehicle crossing) must be laid out and constructed to a specification submitted to and agreed in writing by the local planning authority.
9. Prior to the commencement of any development on the site, a construction traffic management plan (CTMP) shall be submitted to and

agreed in writing by the local planning authority. The CTMP shall include details about the following:

- construction vehicle details (number, size, type and frequency of movement)
- a programme of construction works and anticipated deliveries
- timings of deliveries so as to avoid, where possible, peak traffic periods
- a framework for managing abnormal loads
- contractors' arrangements (compound, storage, parking, turning, surfacing and drainage)
- wheel cleaning facilities
- vehicle cleaning facilities
- Inspection of the highways serving the site (by the developer (or his contractor) and Dorset Highways prior to work commencing and at regular, agreed intervals during the construction phase
- a scheme of appropriate signing of vehicle route to the site
- a route plan for all contractors and suppliers
- temporary traffic management measures where necessary

the development must be carried out strictly in accordance with the agreed CTMP.

10. Prior to occupation or use of the retail development hereby approved, the submitted Travel Plan must be implemented and operational.
11. Before use of the development commences on the site, a scheme specifying noise levels of plant and machinery and the hours of operation shall be submitted to and approved in writing by the local planning authority. The development must be carried out in accordance with the approved scheme.
12. Prior to the commencement of any development on the site, the recommended tree works as set out in the Arboricultural Impact Assessment & Tree Protection Plan dated 30 January 2018 shall be carried out and notification of this work being completed submitted in writing to the local planning authority.
13. Prior to the commencement of any development on the site, tree protection shall be erected in accordance with the details of the Arboricultural Impact Assessment & Tree Protection Plan dated 30 January 2018 and Tree Protection Plan TPP-1C. Notification of this protection being in place shall be submitted in writing to the local planning authority. The tree protection shall remain in place until completion of the development hereby approved.
14. Planting shown on the Soft Landscaping Proposals plan 1231-01D shall be carried out before the end of the first available planting season following completion of the development. In the five year period following the said planting season any trees that are removed without the written consent of the local planning authority or which die or become (in the opinion of the local planning authority) seriously diseased or damaged, shall be replaced as soon as reasonably practical and not later than the end of the first available planting season, with specimens

of such size and species and in such positions as to be agreed in writing with the local planning authority..

15. The landscape management and maintenance for the site shall accord with the submitted 'Landscape maintenance and management plan dated February 2018 (Rev C).
16. Before use of the development commences on the site, a scheme detailing facilities for the storage and removal of refuse and recycling from the development (including any means of enclosure) shall be submitted to and approved in writing by the local planning authority; and the approved scheme shall be implemented before use of the development commences and retained thereafter.
17. Before the installation of external lighting, a scheme detailing the lighting shall be submitted to and approved in writing by the local planning authority; and the approved scheme shall be implemented before use of the development commences.
18. In the event that ground contamination is encountered during construction, development operations shall cease and specialist advice shall be brought onto the site to carry out appropriate tests. Operations should not recommence without the written consent of the local planning authority.
19. The development hereby permitted shall not be open for use by customers other than between the hours of 0800 and 2200 Mondays to Saturdays; and 1000 and 1700 on Sundays.
20. The retail business hereby approved shall not be open to receive deliveries other than between the hours of 0700 and 2300 Mondays to Saturdays, and 0900 and 1700 Sundays and Bank Holidays.
21. The total Class A1 (retail) floorspace hereby permitted shall not exceed 1,785 sq.m gross internal area and the net sales area (defined as all areas to which customers have access, including checkouts and lobbies) shall not exceed 1,254 sq.m.
22. Notwithstanding the provisions of the Town and Country Planning (Use Classes) Order 1987 (as amended), or any Order revoking or re-enacting that Order, the Class A1 (retail) floorspace hereby approved shall be used primarily for the sale of convenience goods, with a maximum 250 sq.m devoted to comparison goods.
23. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any Order revoking or re-enacting or amending that Order with or without modification), no mezzanine or other form of internal floor to create a first floor level shall be constructed in the unit.
24. The development hereby permitted shall be used as a single unit and shall not be sub-divided into two or more units, and no concessions shall be permitted within the store or car park.

APPEARANCES**FOR THE LOCAL PLANNING AUTHORITY:**

Mr P Wadsley of Counsel	Instructed by the Solicitor to the Council
He called	
Ms K Sankey BA(Hons) DIPArch AADipCons RIBA	Director, Angel Architecture Ltd
Ms C Reeves BSc(Hons) DipTP MRTPI	Director, Reeves Retail Planning Consultancy
Mr R Lennis BSc MSc MRTPI	Area Lead (Major applications – eastern)

FOR THE APPELLANT:

Mr N Cameron QC	Instructed by Mr D Templeton
He called	
Mr D Coe HND BA(Hons) MCIfA FSA	Principal heritage consultant, Cotswold Archaeology
Dr G Jones MA MSc PhD MIED	Director, Hardisty Jones Associates
Mr D Templeton BA BTP MRTPI	Director, Planning Potential

INTERESTED PERSONS:

Cllr D Walsh	District Councillor and Portfolio holder for Planning, Town Councillor
Cllr P Williams	Ward Councillor

DOCUMENTS

1	List of persons present at the Inquiry
2	Written submission by Mr M Gould
3	Notes of Cllr P William's presentation
4	Council's Closing submissions
5	Appellant's Closing submissions
6	Appellant's note regarding pre-commencement conditions

CORE DOCUMENTS

CD1	2/2016/1899/FUL Decision Notice dated 15 August 2017
CD2	2/2016/1899/FUL NDDC Officers Delegated Report
CD3	Site Location Plan
CD4	NDDC Pre-Application Response dated 3 October 2016
CD5	NDDC EIA Screening Opinion dated 11 January 2017
CD6	NDDC EIA Statement of Reason dated 26 January 2017
CD7	Appellant EIA Screening Direction Request dated 6 February 2017
CD8	Secretary of State EIA Screening Direction dated 8 May 2017
CD9	Email dated 6 March 2017 from NDDC to Applicant regarding comments on the submitted Planning and Retail Statement
CD10	Email dated 1 June 2017 from Appellant to NDDC with response to NDDC comments on the submitted Planning and Retail Statement

CD11	Email dated 7 June 2017 from NDDC to Appellant with further comments on the submitted Planning and Retail Statement
CD12	Email dated 20 June 2017 from NDDC to Appellant with Dorset County Council comments on Highways Matters and submitted Transport Statement
CD13	Email dated 12 July 2017 from Appellant to NDDC with response to Dorset County Council comments on Highways Matters and submitted Transport Statement
CD14	Email dated 27 June 2017 from NDDC to Appellant with NDDC Planning Policy Officer comments
CD15	Letter from MWA (NDDC appointed retail policy advisor) dated 3 July 2017
CD16	Gillingham Town Council comments dated 14 June 2017
CD17	Letter from Jigsaw Planning on behalf of Asda Stores Limited dated 7 July 2017
CD18	18 Letter from Montagu Evans on behalf of Welbeck Strategic Land dated 26 July 2017
CD19	Appellant's response dated 27/07/2018 on Determination Procedure, and Employment, Gillingham Strategic Site Allocation and Retail Policy matters
CD20	Various 2/2016/1899/FUL Statutory Consultation Responses
CD21	Email dated 20 June 2017 from Appellant to NDDC regarding an initial extension to the determination period
CD22	Email dated 20 June 2017 from NDDC to Appellant regarding an initial extension to the determination period
CD23	Email dated 7 August 2017 from Appellant to NDDC regarding a further extension to the determination period
CD24	Emails dated 21 June 2017 and 12 July 2017 from Cllr Peter Williams OBE to NDDC calling the planning application to NDDC Planning Committee
CD25	Transport Statement (December 2016) prepared by Entran Ltd
CD26	Correspondence between DCC and the Appellant regarding Highways matters
CD27	Additional correspondence between DCC and the Appellant regarding Highways matters
CD28	Highways Technical Note (January 2018) prepared by Entran Ltd
CD29	Email from DCC to the Appellant in relation to the Highways Technical Note (January 2018) prepared by Entran Ltd
CD30	Arboricultural Impact Assessment and Tree Protection Plan (December 2016) prepared by Bosky Trees, and Soft Landscape Proposals (November 2016) prepared by Cambium
CD31	Biodiversity Mitigation Plan Approval Confirmation and Biodiversity Mitigation Plan
CD32	Revised Proposed Site Layout Plan
CD33	Arboricultural Impact Assessment and Tree Protection Plan (January 2018) prepared by Bosky Trees, and Soft Landscape Proposals and Landscape Management Plan prepared by Cambium
CD34	Extant Planning Permission (refs: APP/N1215/A/06/2010473/NWF and 2/2009/0621/PLNG for Car Showroom)
CD35	Planning and Retail Statement (December 2016) prepared by Planning Potential
CD36	Settings Assessment (January 2018) prepared by Cotswold

	Archaeology
CD37	Joint Retail and Commercial Leisure Study – 2018 For North Dorset District Council, West Dorset District Council, and Weymouth & Portland Borough Council by Carter Jonas (2018)
CD38	Assessing the Growth Potential of Gillingham – ATKINS Report (2009)
CD39	Bournemouth, Dorset and Poole Workspace Strategy (2012 update)
CD40	Bournemouth, Dorset and Poole Workspace Strategy (2016)
CD41	Employment Land Completion data 2013 – 2017 (2018)
CD42	Employment Land Demand Projections 2016/17 (2018)
CD43	Mansfield Decision, Case No: [2016] EWHC 1670 (Admin)
CD44	Cribbs Causeway Decision, Ref: APP/P0119/V/17/3170627 (2018)
CD45	Exeter Decision, Ref: APP/Y1110/W/15/3005333 (2016)
CD46	Experian Retail Planner Briefing Note 15 (December 2017)
CD47	National Planning Policy Framework (2018)
CD48	Planning Practice Guidance – Ensuring the Vitality of Town Centres (2014)
CD49	North Dorset Local Plan Part 1 (2016)
CD50	Saved North Dorset District Wide Local Plan (2003)
CD51	The Gillingham - Dorset Neighbourhood Plan 2016 – 2031 (2018)
CD52	The Gillingham Town Design Statement (2012)
CD53	Gillingham Station Road Development Brief - Consultation Draft (2001)
CD54	Gillingham Station Road Development Brief - Report on consultation and proposed changes (2002)
CD55	Joint Retail Assessment (Nathaniel Lichfield & Partners, March 2008)
CD56	Bournemouth, Dorset & Poole – Modified Pre-Submission Draft Waste Plan (August 2018)
CD57	The Setting of Heritage Assets – Historic Environment Good Practice Advice in Planning Note 3 (2 nd Edition) (Historic England, December 2017)
CD58	Conservation Principles, Policies and Guidance (Historic England, 2008)
CD59	Managing Significance in Decision-taking in the Historic Environment (GPA2) (Historic England, 2015)