

Parish:	Downham Market	
Proposal:	Erection of a new Lidl food store (Use Class E) with associated car parking and landscaping	
Location:	Land E of 160 And W of Roundabout Bexwell Road Downham Market Norfolk	
Applicant:	Lidl Great Britain Limited	
Case No:	20/01893/FM (Full Application - Major Development)	
Case Officer:	Claire Dorgan	Date for Determination: 15 February 2021 Extension of Time Expiry Date: 20 May 2022

Reason for Referral to Planning Committee – At the April 2022 Planning Committee, Members were minded to approve the application, subject to discussions taking place about the financial contribution. It was requested that a package would come back to Committee.

Neighbourhood Plan: No

Members Update

Members will recall that this application went to Planning Committee on 4th April 2022. The Committee was minded to approve the application, subject to discussions taking place to identify both the scale of the financial contribution and what it would be used for. That package would come back to Planning Committee for ratification and formal confirmation of the Committee’s decision to approve. Any mitigation measures would need to be subject to a Section 106 and appropriate conditions imposed.

Discussions have taken place with the Town Council and applicant with respect to the scale of the financial contribution and for what it could be used for.

Case Summary

Full planning permission is sought for the construction of a Lidl food store with associated car parking and landscaping. The store would have a gross internal floorspace of 2175 square metres with a net sales area of 1414 square metres.

The site comprises of 0.93 hectares of land on the southern side of Bexwell Road and to the south-west of the roundabout junction with the A10. The site is in agricultural use. To the west and north of the site lies residential development and to the south and east agricultural fields.

Access is proposed off Bexwell Road via a new priority junction that links to the eastern side of the site. The scheme would provide 136 car parking spaces and space for 22 customer bicycles.

The site lies outside the development boundary for Downham Market and is classed as 'countryside' with respect to Local Plan policies. The western boundary of the site abuts the development boundary of Downham Market.

Key Issues

Principle of development;
Impact upon the Town centre;
Economic Benefits;
Form and character;
Neighbours living conditions;
Access and Highway Safety;
Air quality and contaminated land;
Drainage;
Ecology;
Trees;
Crime and disorder; and
Any other material considerations.

Recommendation

REFUSAL

THE APPLICATION

Full planning permission is sought for the construction of a Lidl food store with associated car parking and landscaping. The proposed store would have a floorspace of 2175 square metres (gross internal area) with a net sales area of 1414 square metres.

The site comprises of 0.93 hectares of land on the southern side of Bexwell Road and to the east of Downham Market. It is located to the south-west of the roundabout junction of the A10 and B1512 (Bexwell Road). The site is presently in agricultural use. To the west and north of the site lies residential development and to the south and east agricultural fields.

The building would measure up to 70m in length, 33m in width and between 5m and 7m in height. The building would be of contemporary design and features a single height glazed entrance and shopfront in blue. The windows would have powder coated aluminium frames and the doors powder coated steel. Both window frames and doors would be blue in colour. The majority of the roof incorporates a slope of 3 degree angle made of profiled composite metal in aluminium colour. 592 solar panels would be installed on the roof each has a maximum capacity of 340W and the total size of the proposed system would be 201.6kW. The delivery bay contains a mini dock leveller with steel steps and balustrade painted in grey leading up to the dock.

It would provide 136 car parking spaces (6 DDA compliant spaces, 8 parent and child spaces and 2 dedicated EV charging points). A loading bay is proposed to the eastern side of the site. Eleven Sheffield bicycle stands will be provided to the east of the building which would accommodate 22 bicycles.

Access is proposed off Bexwell Road via a new priority junction that links to the eastern side of the site. Footways would be provided on both sides of the new access. An additional pedestrian access would be provided from the main road linking to the store entrance.

Landscaping buffers are proposed along parts of the site boundaries. The landscape plan shows the existing trees and vegetation to be retained as well as the proposed planting of shrubberies.

A 45cm high timber rail would be installed along the perimeter of the site and a 2m Euroguard fence installed along the footpath that surrounds the store. An acoustic fence is also proposed along the south-west boundary.

The proposal would generate employment for the equivalent of 40 full time employees.

The site lies outside the development boundary for Downham Market and is classed as 'countryside' with respect to Local Plan policies. The western boundary of the site abuts the development boundary of Downham Market.

The site is within flood zone 1.

The application was accompanied by a Design and Access Statement, Travel Plan, Transport Assessment, Statement of Community Involvement, Preliminary Ecological Appraisal, Planning and Retail Statement, Phase 1 Investigation Report, Noise Assessment, Landscape and Visual Appraisal, Flood Risk Assessment, Air Quality Assessment, Covering Letter and Plans.

SUPPORTING CASE

A supporting statement has been requested.

PLANNING HISTORY

20/00074/PREAPP: Possibility of Approval: 02/09/2020 - Pre-application enquiry (Full with consultations and meeting): Construction of foodstore with associated car parking, servicing and landscaping arrangements

RESPONSE TO CONSULTATION

Town Council: SUPPORT Application, with the following observations:

- The traffic management plan needs adjusting and they feel that the entrance to the new store should come off the roundabout and not off the road.
- They would like to see landscaping around the building and ensure that the building is sympathetic and in keeping with the town, as was achieved in Heacham
- They feel there is land more appropriate for this development This side of the road was set aside for housing so the other side of the road would be preferable.
- Concerned about the light pollution particularly to a neighbouring property which will have a bright light in close proximity.

Latest comments:

We had a meeting of our Full Council last night and the Lidl development was discussed. The Town Councillors agreed that the 50k offer was not enough cover the impact on the Town Centre that the Lidl development will cause.

Highways Authority: NO OBJECTION

The indicative scheme of off site highways improvements and access are acceptable. We maintain that a more suitable access arrangement can be achieved however on balance accept that we can no longer substantiate an objection.

The off site works will be delivered by a Section 278 Agreement and the precise delivery mechanism will be determined as the works are brought forward. The applicant should be aware that there may be additional costs relating to the of-site works which will include a commuted maintenance amount as well as various fees including administration and supervision. The completed works will be subject to a Safety Audit and additional works may be required.

Recommends conditions.

NCC LLFA: NO OBJECTION

Subject to conditions being attached to any consent.

The FRA and DS is generally compliant with relevant national and local policy, frameworks, guidance and statutory/non-statutory standards. Where limitations may have occurred due to site constraints, these have generally been satisfactorily justified.

Environmental Quality: NO OBJECTION

Recommends a condition.

Planning Policy:

Planning Policy Team are broadly supportive. We understand from our development management colleagues there is currently an outstanding technical issue regarding the sequential test.

A review of the Local Plan is well underway but has not yet reached the pre-submission consultation stage. Downham Market Town Council and local community are in the process of preparing a Neighbourhood Plan for Downham Market.

The proposed site is located outside of the development boundary, however it is reasonably related to it and in fact is adjacent to it.

Internal Drainage Board: NO OBJECTION

FRA would appear appropriate and reasonable. The proposed discharge rate would appear reasonable. The site is outside the Stoke Ferry IDB district, however it outfalls into the district, therefore an application for discharge consent should be made to the IDB. The developer should obtain all necessary agreements with riparian owners of the receiving watercourse.

CSNN: Make the following comments:

Welcome the additional details and revised scheme regarding the surface water drainage. Unclear if a ditch will remain, be piped or removed. If retained how will it be accessed and maintained.

Welcome that waste will be stored internally and the installation of light shields.

Request conditions with respect to lighting and noise – opening and delivery hours.

Latest comments:

I note that following consultation with the applicant, the LLFA is satisfied with the proposed drainage arrangements for this development. The LLFA are the appropriate body in this application to determine suitability of the drainage proposals and as such the CSNN team have no further objection or comment to make in respect to this matter.

Arboricultural Officer: NO OBJECTION

Requests landscaping scheme and replacement plant conditions.

Natural England: NO OBJECTION

Based on the plans submitted, Natural England considers that the proposed development will not have significant adverse impacts on statutorily protected nature conservation sites or landscapes

Norfolk Fire and Rescue Service: NO OBJECTION

Providing the proposal meets the necessary requirements of the current Building Regulation 2010 – Approval Document B (V2, 2019).

Norfolk Constabulary: NO OBJECTION. Provides guidance of Secured by Design.

Anglian Water: NO OBJECTION

No assets owned by Anglian Water or subject to an adoption agreement within the development site boundary. The foul drainage is in the catchment of Downham Market Water Recycling Centre that will have available capacity. If the developer wishes to connect to our sewerage network they should serve notice under Section 106 of the Water Industry Act 1991. Informatives are requested. The preferred method of surface water disposal would be a SuDs with connection to sewer as the last option.

Environment Agency: NO OBJECTION

No issues with the drainage as submitted.

Cllr Ryves:

Has there been any discussion with Lidl perhaps funding a local bus service so that the town centre gets additional shoppers, especially on market days and also that the issue of sustainability is addressed as it seems that is incumbent to encourage non car based customers to be able to access a new Lidl? In Swaffham, there is a frequent service to and from Tesco which is of great assistance to those without cars. It is not obvious that a £50,000 payment by the applicant towards public realm improvements is really going to assist footfall in Downham Market. Please provide details of the projected increase in traffic on the A1122 with existing levels, extra traffic created as a result of McDonalds/Starbucks and then extra traffic likely to be generated by Lidl.

Cllr Howland:

The Planning Committee should consider the volume of traffic accessing both McDonalds and Lidl because the Lidl car park is nowhere large enough to accommodate the vehicle movements. I can envisage a gridlock situation and an accident hot spot and don't forget the lorry movements.

On average shoppers take 36 minutes to park and shop and shoppers who want a coffee or burger will leave their cars in the Lidl car park and simply walk across the road taking up space for incoming shoppers. Feel a bigger site with more car parking would be more acceptable.

REPRESENTATIONS 310 SUPPORT, 22 OBJECTION and 5 NETURAL. Comments summarised as follows (new comments in **bold**):

SUPPORT:

- Will provide much needed jobs to the town and boost the economy.
- Lidl will be a huge asset to the community. Greatly needed for Downham Market.
- Will bring more people into the town from surrounding areas.
- Lidl offer value for money and choice.
- Living outside of the town and currently have no reason to go to Downham as the current stores (Tesco and Morrisons) are worse compared to the store in King's Lynn due to their size and lack of investment in the store due to lack of competition.
- Town is in need of modernisation.
- More convenient – less travelling for 'discount' stores being within walking distance.
- Ideal location for this part of the town – parking in the town centre is stretched to capacity at busy times.
- Welcome competition to the existing supermarkets in town.
- Better for the environment so people do not have to travel further for this kind of shop.
- Lidl would offer greater variety of shops and give consumers more choice.
- Will entice other businesses to come to Downham Market.
- Opportunity to revise the bus service in/around town, which would alleviate congestion on Bexwell Road.
- Will provide close amenity within walking distance to new housing developments happening in town.
- **Disagree there's an impact on town and countryside as opposite Starbucks and McDonalds. These were given permission.**
- **Doesn't detract from the High Street as it is open after most people finish work whereas the High Street isn't.**
- **Needed as fuel, energy and food prices are going up.**
- **There has to be a place like Lidl offering food choices from a European source as there is a mixed European representation in Downham Market and the villages.**
- **Retail Assessment by Alder King seems to be based on the Council's recommendation on refusing the application. The assessment fails to provide independent reference data to back up their conclusions and ignore the wider implications to BCKLWN's climate strategy.**
- **Aging population needs local stores.**
- **Would not impact wildlife, as the land was used for farming.**
- **Hope that a safe pedestrian crossing will be provided.**
- **Convenient parking.**
- **People will still visit town centre for other shops and facilities**
- **Lidl prepared to pay money into the town centre upkeep is a good thing**
- **Increase footfall in town as people visiting Lidl from surrounding villages may also visit town centre.**

Planning Committee
9 May 2022

- **Councillor's focus on impact on town centre must stop. A supermarket on the edge of town is much better for people in the surrounding area.**
- **Seems the hold up is a question of £50k. Would be appalling if development was rejected if Lidl didn't pay enough to the Council.**

OBJECTION:

- Increase traffic – proposed traffic management plan is poor. There is already planning permission for McDonalds/[Starbucks] on the opposite of the road and amount of traffic at peak times will lead to road incidents.
- Car park serving Lidl runs up the boundary of surrounding neighbours. As the store is open until 11pm, it will impact the standard of living of surrounding properties. Higher exhaust emissions, noise at night and light pollution impact from car park to surrounding neighbours.
- Impact on visual amenity and character – loss of green which does not enhance the Town.
- Site is not suitable.
- Plans suggest further retail development which will result in loss of trade to the centre of town.
- Submission documents do not provide an evaluation of the net jobs effected. Public consultation report submitted is incomplete – applicants have cut off the responses.
- Object to the plan and how it impacts the future of Downham Market as a historic town, the hazards it creates and the negative effects on sustainability (not to having a Lidl in Downham Market)
- Could impact town centre, leading to loss of shops and jobs.
- Location would increase accident risk. The risk needs to be assessed with the addition of other outside units.
- Concern with the ecological disturbance this development will bring. There is currently a large habitat suitable for endangered hedgehogs and development on this site will cause their destruction.
- Use of agricultural land as opposed to brownfield.
- Lidl is not convenient for people in town with no transport.
- As it is in an out of town location, it will not bring more people into the town.
- With McDonalds and Starbucks in that area, it is not a great place to have another business where there will be traffic in and out of the town.
- Downham Market already has supermarkets in the town which brings people in and helps those who do not have access to transport.
- Proposal would be contrary to policies DM2 and DM110 and policy CS11. DM2 as it is located in the open countryside; DM10 for adversely impacting town centre by diverting from stores in the centre; and CS11 as the proposal would be car dependent.
- Fails to comply with paragraph 110 of the NPPF which requires development to give priority to pedestrians and cycle movements, both within the scheme and with neighbouring areas and create places that are safe, secure and attractive – minimising the scope for conflict between pedestrians, cyclists and vehicles. The development gives no priority to cycle movement, mixing them with motor vehicle movements.
- **Another supermarket isn't needed**
- **Large multinational outlets reduce individuality from our lovely town centre.**
- **Morrisons is vulnerable to the impact of this development.**
- **Lidl refers to 2008 competition commission report and 2017 health check data. This is out of date information.**
- **Insufficient information has been given to shopping patterns and how these might change.**
- **Lidl have extended their product range since 2008 and should not be considered a 'limited assortment discounter'.**

- Lidl refer to a case in Leeds which is not relevant given the Downham Market proposal is much further from the town centre.
- There are no other retail outlets out of centre.
- Development is car dependant, contrary to CS11.
- Development would ruin gateway to the town.
- Carrstone cladding and a tiled roof could be insisted with little extra cost.
- Situated on land earmarked for new homes.
- Negative impact on historic market and open countryside.
- 2008 Competition Commission report which the applicant relies on is 14 years out of date. Lidl are increasing their market share and have extended their product range since 2008. No longer seen as a limited assortment discounter.
- Planning and Retail Settlement Statement (Jan 2022) claims that other discount retailers (King's Lynn, Chatteris, Ely) have a higher proportion of linked shopping to other retailers when compared eg. To Tesco/Morrisons. This is misleading because there are no other retail outlets with the exception of fast food provider multinationals.

NETURAL:

- It will be good for the town and job opportunities
- More choice for weekly shop.
- Highway:
- Drivers will not be able to come from the roundabout at 50mph like they do now.
- Will increase traffic on Bexwell Road and will make the roundabout very congested.
- Would like to see cycle path along Bexwell Road continuing along the Howdale so traffic free cycle route from and to the town centre and adjacent housing estates established.
- Would like NCC to establish 20mph speed limit along Bexwell Road.
- Would like Lidl to provide proper cycle parking areas near the entrance to the store than at the back of the car park.
- Welcome Lidl in Downham but the site is too far away from the town centre to be of benefit to other trades in town.
- **Lovely to have a choice**
- **Do not think the local roads of Downham Market will be suitable to sustain additional traffic.**
- **Natural beauty of the area is already spoiled by the approval of McDonalds.**
- **Will impact the town centre; people shop for convenience, out of town people will stay out of town.**
- **Design of the site may be detrimental to the aesthetics of the entrance to the town. Therefore could any money paid by Lidl be used to improve entrances to the town.**

LDF CORE STRATEGY POLICIES

Policy F1.1 - Downham Market Town Centre Area and Retailing

CS01 - Spatial Strategy

CS02 - The Settlement Hierarchy

CS04 - Downham Market

CS08 - Sustainable Development

CS10 - The Economy

CS11 – Transport

CS06 - Development in Rural Areas

SITE ALLOCATIONS AND DEVELOPMENT MANAGEMENT POLICIES PLAN 2016

DM9 - Community Facilities

DM1 – Presumption in Favour of Sustainable Development

DM2 – Development Boundaries

DM10 – Retail Development

DM15 – Environment, Design and Amenity

DM17 - Parking Provision in New Development

NATIONAL GUIDANCE

National Planning Policy Framework (NPPF)

Planning Practice Guidance (PPG)

National Design Guide 2019

PLANNING CONSIDERATIONS

Principle of development

Although the site borders Downham Market's development to the west, it lies outside the development boundary and is therefore classed as 'countryside' for the purposes of the Local Plan. The site is currently in agricultural use.

Paragraph 81 of the NPPF states that 'significant weight should be placed on the need to support economic growth and productivity, taking into account both local business needs and wider opportunities for development'.

Policy CS10 of the Core Strategy 2011 (CS) also supports economic growth and it states that:

'The local economy will be developed sustainably: to facilitate job growth in the local economy, ... Job growth will be achieved through the provision of employment land as well as policies for tourism, leisure, retail and the rural economy;' This policy also refers to rural employment sites and development in the countryside. It explains 'permission may be granted on land which would not otherwise be appropriate for development for an employment generating use which meets a local business need. Any development must satisfy the following criteria:

- It should be appropriate in size and scale to the local area;
- It should be adjacent to the settlement;
- The proposed development and use will not be detrimental to the local environment or local residents.'

Policy CS02 of the CS makes it clear that decisions on new development will be taken based on the settlement hierarchy. Policy CS04 relates to development in Downham Market and

Planning Committee
9 May 2022

explains how ‘the role of Downham Market will continue as a main town providing and supporting employment and essential services for the southern part of the borough.’

However, both national and local policies also seek to protect the viability and vitality of town centres by ensuring that careful consideration is given to retail development outside of town centres. Furthermore, the impact of development within the countryside also needs to be considered.

Policy DM2 of the SADMPP explains how areas outside development boundaries will be more restricted and limited to that identified as suitable in rural areas. Policy CS06 of the CS explains how in the countryside, the strategy will be to protect the countryside for its intrinsic character and beauty, the diversity of its landscapes, heritage and wildlife, and its natural resources to be enjoyed by all. Development of greenfield sites will be resisted unless essential for agricultural or forestry needs.

The proposal would not comply with Policies DM2 and CS06 as the site is within the countryside. However, the site is adjacent to the settlement boundary of a town in a sustainable location. Furthermore, the applicant has undertaken a sequential test. It focused on suitable sites or vacant units in Downham Market Town Centre and in edge of centre locations within 300m of the Primary Shopping Area/Frontage. They also considered relevant criteria such as site size, access and space for vehicle manoeuvring for instance. Tetra Tech Planning reviewed the information on behalf of the Council. They considered that the sequential approach to site selection has been met; there is no site available or suitable to accommodate the development proposed. Consequently, the principle of the development in terms of passing the sequential test is considered acceptable.

Section 7 of the NPPF relates to ensuring the vitality of town centres. Paragraph 86 explains how ‘planning policies and decisions should support the role that town centres play at the heart of local communities, by taking a positive approach to their growth, management and adaptation’.

Policy CS04 of the CS relates to Downham Market. It explains how the focus in the town centre will be on:

- Maintaining and enhancing a strong local convenience and service offer;
- Accommodating a balanced diversity of uses to strengthen the evening economy;
- Improving the local arts and culture offer;
- Promoting the town’s role as a wider visitor centre

Policy DM10 of the Site Allocations and Development Management Policies Plan 2016 (SADMPP) refers to King’s Lynn, Downham Market and Hunstanton as major retail centres. New retail uses will be expected to be located in these town centres unless an alternative location is demonstrated to be necessary. If there are no suitable sites in the town centre, an edge of centre location will be expected. It goes on to say ‘the Council will strongly resist proposals for out of town retail uses that either individually or cumulatively would undermine the attractiveness and viability of the town centres.’ Retail impact assessments are required for schemes with a floorspace of greater than 2500 square metres. Although the scheme would have a floorspace of 2175 square metres which is just below the threshold, a Retail Impact Assessment has been provided to identify whether there would be an adverse impact on the town centre. Clearly impact on the town centre is a significant material consideration in this case.

Impact upon the Town Centre

The latest Market Retail Assessment to accompany the application is titled 'Updated Retail Statement' dated January 2022 by Rapleys. In response the council has employed Alder King planning consultants to scrutinise and assess the information submitted, and has considered the impact upon the town centre. Alder King's conclusion to this latest document is detailed below:

- Overall, on the balance of evidence, we remain of the opinion that the applicant has failed to demonstrate that the proposal would not result in significant adverse impact on Downham Market Town Centre.
- This is a more finely balanced conclusion, but on the balance of the evidence presented, is concluded that the proposed Lidl store is likely to give rise to a direct impact on the town centre at 9.6% (13% on the convenience sector) and when coupled with the indirect effects, given the role of the existing supermarket in Downham Market, it will give rise to significant adverse impact on the town centre.
- Therefore, on the basis of the evidence available, it would be reasonable for the Council to conclude the applicant has failed to demonstrate the proposal will not give rise to significant adverse impact in the absence of any mitigation.
- The failure will need to be weighed in the planning balance in determining the subject application; it is a material consideration given the floorspace being brought forward is below the local development plan threshold.
- Should the Council wish to grant planning permission, the three conditions suggested by Rapleys should be attached, as amended with the limitation on product lines as outlined above to ensure the store trades as assessed.

The applicant responded and does not agree with Alder King Planning Consultant's conclusion. However, they state that if the Council reaches the conclusion it would give rise to significant adverse impacts on Downham Market Town Centre and the application would be recommended for refusal on that basis, they propose a financial contribution which in their view meets CIL Regulation 122, specifically that it is necessary to make the scheme acceptable, directly related to the development and fairly and reasonably related in scale and kind. They would be willing to offer up to £50,000 financial contribution to deliver improvements to the public realm and town centre environment in Downham Market Town Centre, with a view of mitigating impacts from the new Lidl store on the town centre. The applicant suggested the money could go towards street furniture which was discussed at a Town Council meeting on 15th March.

The street furniture mentioned at the Town Council meeting is a small initiative for chairs and tables for use on market days.

Alder King Planning Consultants responded to the applicant's offer of financial mitigation. Their response is summarised below:

- On the balance of the evidence available, we have concluded that the new Lidl store will give rise to significant adverse impact on the town centre owing to the direct and indirect effects, the health of the centre, the role and performance of the existing supermarkets in the centre. This is a material consideration to be weighed in the planning balance, rather than a direct development plan policy conflict.
- In the light of this conclusion, it is appropriate for the council to consider whether planning obligations might assist in mitigating this impact in order to reduce the identified impacts to below significant adverse levels. A financial contribution towards furthering town centre strategies, programmes or initiatives could fit this objective.
- I note that the applicant makes reference to improving the town centre environment, specifically the purchase of street furniture. This is a low key initiative to purchase some

Planning Committee
9 May 2022

chairs and tables to put outside the Town Hall on market days. This alone is unlikely to make a sufficient difference to the public realm and town centre environment to bring about the benefits identified by the applicant to off-set impacts identified in terms of improving the perception of the centre and dwelling time to the benefit of retailers.

- Should the Council be minded to approve the application, it would be worthwhile allowing time for a suitable financial contribution to be negotiated to deliver benefits to the town centre through specific initiatives or programmes in order to appropriately mitigate the identified impacts to below significant adverse levels. These will need to be defined and the benefits arising identified to ensure that the obligations are necessary to make the scheme acceptable, directly related to the development and fairly and reasonably related in scale and kind. At present, this information is not available.

At present there is a lack of information about what potential initiatives and public realm improvements are required, which the £50,000 offered by the applicants would mitigate against, given the identified significant adverse impact of the proposal on Downham Market Town Centre. Without this, on balance, it has not been satisfactorily demonstrated that the proposal would not have a significant adverse impact on the town centre. The proposal would therefore conflict with Policy DM10 of the SADMPP which states 'the Council will strongly resist proposals for out of town retail uses that either individually or cumulatively would undermine the attractiveness and viability of the town centres'. It is also at odds with the overarching principles of Section 7 of the NPPF as the proposal would have a significant adverse impact on the town centre and Policy CS04 of the Core Strategy.

Economic benefits

The scheme would offer the equivalent of 40 full time jobs and provide a CIL contribution of £252,474. A sum of up to £50,000 has also been offered for public realm and town centre improvements. However, given that insufficient town centre improvement projects have been identified, it has not been demonstrated that the proposal would not have a significant adverse impact on the town centre. On balance, it is considered that this harm would negatively impact trade and economic viability of Downham Market Town Centre and this harm is unlikely to outweigh the economic benefits of the proposal.

Form and character

The NPPF, National Design Guide, National Model Design Code and the Local Plan refer to design. This includes reference to layout, form, scale, appearance, landscape, materials and detailing.

Policy CS04 of the CS 'Seeks to respect and enhance the built, historic and natural environment in the town. Maintain the landscape and the quality of open space in Downham Market.' Policy DM15 of the SADMPP explains how 'the scale, height, massing, materials and layout of a development should respond sensitively and sympathetically to the local setting and pattern of adjacent streets including spaces between buildings through high quality design and use of materials.'

As the site is considered countryside then Policy CS06 of the CS protects the countryside for its intrinsic character and beauty, the diversity of its landscapes, heritage and wildlife, and its natural resources to be enjoyed by all.

Policy CS12 states that development proposals should demonstrate their location, scale, design and materials will protect and enhance the special qualities and distinctiveness of the area.

The site is an open agricultural field with sporadic trees and vegetation by the north-western and south-western boundaries. The surrounding area contains a mix of residential uses and agricultural fields with the A10 to the east. The site borders the built up area of Downham Market to the west.

Consequently, the proposal would clearly alter the current open, rural character of the site through the introduction of a large food store and associated car parking. It would be visible from both Bexwell Road and the nearby A10.

The Council's Landscape Character Assessment includes landscape planning guidelines for H1, which covers the site. It seeks to conserve the mostly rural character of the area; ensure that any new appropriate development responds to historic settlement pattern and is well integrated into the surrounding landscape; conserve and enhance the landscape setting of Downham Market and Bexwell and seek to screen (where possible) harsh urban edges; seek to conserve the largely undisturbed and tranquil nature of the area.

A Landscape and Visual Appraisal (LVA) was submitted as part of the planning application. It states that:

- Very limited local landscape and visual effects would occur with the development. Construction effects would be at most moderate adverse short-term and would be experienced at the scale of the Site and local area.
- Operational landscape effects have been assessed as moderate adverse at the scale of the Site and immediate local area through to negligible in the wider LCT H1 as the changes resulting from the proposed development would be barely perceptible in the wider landscape.
- Operational visual effects have been assessed as a most moderate adverse for seven properties along Bexwell Road to the north of the Site and these predominantly in the winter months following autumn leaf fall.
- No other effects would be greater than slight adverse for occupiers of residential properties and users of the local PRow and highway network within 500m of the Site.
- It is therefore considered that the proposed development will result in only prominent adverse effects within the Site and immediate local landscape and for a small number of properties within the immediate vicinity of the site.

The site is located near to modern residential development to the west and north and A10 further to the east. The site is not in or adjacent to the historic part of Downham Market or heritage assets. Furthermore, planning permission has recently been granted for development on the north side of Bexwell Road, opposite the site; at 157 and 159 Bexwell Road, outline permission was granted for a 72 bedroom care home with associated parking and development (reference 21/01069/OM). The site is also close to where a Starbucks coffee shop and drive thru and McDonald's restaurant with drive-thru (ref 19/02216/F) was approved by the A10 roundabout junction. These schemes have yet to be built but are under construction. However, the proposal would change the open verdant character of the site through the introduction of a large supermarket with car parking. Together with the loss of street trees this would harm the intrinsic character and beauty of the countryside which also provides an attractive entrance to Downham Market. It is acknowledged that Policy CS10 of the CS does support economic development within the countryside. **Furthermore, the 4th April Planning Committee considered the impacts and benefits of the proposal. Committee were minded to approve the planning application subject to receipt of an acceptable financial mitigation package.**

The proposal involves the loss of 7 trees and vegetation, however replacement tree planting would be provided. The proposal includes a mixture of ground cover ornamental shrub, wetland wildflower grass and tree planting towards the borders of the site. This would help

to soften the proposed car parking and development from Bexwell Road and parts of the A10. The Town Council has asked for landscaping to be provided around the building. Landscaping is not proposed along the rear of the building given the proximity of the building to the site boundary. Although additional landscaping would help the building blend into the landscaping it is noted that there is existing landscaping along the A10 which would soften views of the rear of the building. Therefore, additional landscaping is not being sought.

Lighting is proposed to illuminate roads and pedestrian routes, designed to reduce upward light to minimise sky glow. Although there is currently no lighting immediately outside the site, lighting is present at the Bexwell Road/A10 junction and past the site soon after entering Downham Market and given the site's proximity to the built up area of Downham Market it would be acceptable providing it is suitably conditioned.

Although the proposal would not be fully consistent with Policies CS04, CS06 of the CS and DM15 of the SADMPP, it is noted that at the 4th April 2022 Planning Committee, Members considered that the benefits of the scheme could outweigh the harm, subject to an acceptable financial mitigation package.

Neighbours living conditions

The site is bordered to the south-west by 160 Bexwell Road (No.160) which is a one and a half storey property. This neighbouring property is between 1.7m and 5m from the site boundary. At its closest it would be 5m away from a car parking space within the site. This property would be 40m from the retail store and over 69m from the delivery area. Given the position of this neighbour in relation to the store, the proposal would not cause harm with respect to loss of light or be overbearing. No.160 has windows that overlook the application site at ground and roof level. The Landscape Plan indicates a 1.8m high timber acoustic fence would be located along the shared boundary by this neighbour, this would assist with providing both privacy and noise mitigation to the ground floor windows and garden area. Given it would replace existing vegetation and trees and due to its scale and position it would not adversely harm ground floor windows or outlook from the garden. This vegetation would be replaced by an acoustic fence and car parking. New ground cover ornamental shrubs would be located by this fence within the application site. No.160 would have views into the site from their upper floor flank windows. Therefore, there is potential overlooking and perceived overlooking from people within the car park. However, given the distance and height of the window it is not considered to be so significant to warrant refusal of the application. The delivery area is located to the north-east side of the building away from this neighbour.

Opposite the site on the northern side of the street is 2 Landseer Drive. This property is 29m away from the site. Houses 155, 157 and 159 Bexwell Road are set back on their plots and are at least 48m away from the site boundaries. Given the orientation, layout and distance the proposal would not harm these nearby residents with respect to loss of light, outlook or privacy.

Planning permission has been granted for a care home opposite the site. However, this has not yet been built. However, this is set back in its plot with car parking located at the front. It is not envisaged that the proposal would harm the amenities of the local care home residents given its scale and position.

A noise report was provided. External plant would be installed in a compound to the south-east of the store. The noise report assessed this to have a low impact both day and night time. It also considers deliveries which would have a low impact during daytime and a significant adverse impact during the night time. The unloading operations would be low levels at the closest residential properties. It recommends restricting delivery times and a

1.8m high acoustic barrier is recommended along the west site boundary in response to car park noise, which would result in low noise impact from car movements.

The Travel Plan anticipates there would be one to two dedicated deliveries per average day and up to three deliveries during seasonal peak periods, such as Easter and Christmas. Recycling and waste will be taken away by the same delivery vehicles, reducing the number of vehicles visiting the store per day. Deliveries typically take place during store opening hours but outside usual highway peak hours.

CSNN has considered the information submitted and has requested the site layout and swept path drawings be conditioned. They also request that deliveries be conditioned to: Monday to Saturday (including Bank/Public Holidays, and 10:00-16:00 and Sundays. Furthermore, they request opening hours be conditioned to 07:00-23:00 Monday to Saturday (including Bank/Public Holidays) and 10:00-16:00 on Sundays. They also highlight that measures would need to be in place to control noise disturbance from audible reversing warning alarms from delivery vehicles. White noise alarms are preferred where reversing manoeuvres are required, automatic voice warnings or other alarm types can impact on residential amenity.

Given the proximity of nearby properties a construction management plan is recommended by way of condition.

CSNN have asked that lighting shields be conditioned on the three western lighting comments and the remaining lighting to be provided as per the Lighting Plan. This would avoid the proposal from harming nearby residents with respect to light pollution.

Consequently, the proposal is not found to adversely harm nearby residents living conditions.

Access and Highway Safety;

Policy DM15 of the SADMPP notes development proposals should demonstrate that safe access can be provided and adequate parking facilities are available. Policy DM17 highlights parking provision will be negotiated having regard to the NCC standards. Policy CS11 of the CS also relates to transportation and promotion of sustainable forms of transport and use of contributions for necessary transport improvements.

Paragraph 113 of the NPPF requires development that will generate significant amounts of movement should be required to provide a travel plan, and the application should be supported by a transport statement or transport assessment so that the likely impacts of the proposal can be assessed.

The Travel Plan identifies opportunities for the promotion and delivery of sustainable transport initiatives such as walking, cycling and public transport.

The site would be accessed via a ghost island junction from Bexwell Road. Located approximately 90m west of the A10 roundabout. The Travel Plan has considered the improvements associated with application 19/02216/F which includes the widening of Bexwell Road and pedestrian provision to the bus stop located off the A10 roundabout on the southern side of Bexwell Road.

Bexwell Road has a 30mph speed limit outside the site. Around 500m west of the site it reduces to 20mph and there is a zebra crossing around this location. Bexwell Road is served by public transport and has street lighting, there is a footway along the northern side. A bus stop is around 50m from the site. The application proposes linking the site to the

existing footway on the southern side of Bexwell Road and providing a pedestrian refuge near to the site to allow pedestrians crossing. A bus stop is around 50m from the site, however services are infrequent through the day, more frequent services are a further walk from the site (approximately 20 minute walk time away). Downham Market is also served by a train station that runs between King's Lynn and London.

22 cycle parking spaces would be provided on site for customers. Additional secure cycle parking for staff would be provided within the building. National Cycle Route 11 runs through the centre of Downham Market, which provides links through to King's Lynn and Ely. Although there is no cycle route along Bexwell Road, given the speed limit of the road it is a potential option to reach the site.

The applicant would cover the costs of the Travel Plan to allow its operation for a minimum of 5 years. Measures to promote sustainable transport options are covered within the Travel Plan.

A total of 136 car parking spaces would be provided (6 DDA compliant spaces, 8 parent and child spaces and 2 dedicated EV charging points).

The Transport Assessment noted three slight incidents had occurred over a 5 year period but did not consider this to lead to any significant concerns or demonstrate any discernible pattern along the highway network/junctions that could affect the proposed development. It also noted that additional traffic generated by Lidl has a negligible effect on network operation and the level of service currently provided. It concludes no residual impact arising from the proposals that could be considered severe in the context of the NPPF, such that it would lead to planning permission being refused on highways grounds.

NCC Highway Authority find the indicative scheme of off-site highway improvements and access to be acceptable. They do note that a more suitable access arrangement can be achieved but accept that they cannot substantiate an objection. The off-site works would be delivered through a Section 278 Agreement. They request relevant conditions if the scheme is minded for approval.

The Town Council feel that the entrance of the store should come off the roundabout. However, as the Highway Authority has not objected to the proposed access arrangement, it is considered acceptable with respect to highway safety.

In response to the Councillor queries relating to projected traffic numbers, details are provided within the Transport Assessment and the Travel Plan submitted by the applicant and the responses from the Local Highway Authority which are available online.

Accordingly, the proposal is considered acceptable on highway safety grounds.

Air quality and contaminated land;

Environmental Quality considers it is highly unlikely, that the proposal would result in an exceedance of the air quality standards at nearby receptors. However, a Construction Environmental Management Plan is recommended to be conditioned to mitigate residents from construction dust.

The information does not indicate the presence of significant land contamination. However, land quality request a contaminated land condition given the former use of the adjacent land as Downham Market Airfield.

Drainage;

The site is within Flood Zone 1. The Flood Risk Assessment (FRA) concludes that the site to be at low overall risk of flooding provided that surface water flooding risks are appropriately managed. It recommends finished floor levels are at least 150mm above external ground levels to protect against localised pooling of surface water during heavy prolonged rainfall. It states that the risk of flooding elsewhere should not be increased as a result of the development. The nearest surface watercourse is proposed to discharge surface water flows from the site at an attenuated rate. Permeable paving is proposed for the car parking spaces. The Drainage Strategy indicates the location of proposed surface water and foul water sewers piping and water collection areas such as the rainwater harvesting tank and surface water storage tank at the rear of the site.

The Lead Local Flood Authority (LLFA) does not object, subject to the Flood Risk Assessment, revised drainage area plan drawing (February 2022), and relevant drainage drawings be conditioned. They also request an informative.

The Environment Agency finds the drainage to be acceptable. They provide advice on Sustainable Drainage Systems which can be included as an informative if the application were approved.

According to Anglian Water there is capacity for the foul drainage in the catchment of Downham Market Water Recycling Centre. They recommend informatives with respect to sewerage. They do not object to the proposal.

Additionally, the IDB does not object to the proposal but highlights the need for a discharge consent to be made to the IDB and highlights all necessary agreements with riparian owners of the receiving watercourse are obtained.

CSNN has raised queries about a ditch. Further information is being sought and will be reported in Late Correspondence.

The scheme is therefore considered likely to be acceptable with respect to flooding and drainage.

Ecology;

No impacts on Statutory Designated Sites were recorded within the Preliminary Ecological Appraisal. As the ecological impact is considered restricted to a site level, it concludes no impacts on non-Statutory Designated Sites. Three non-Statutory Designated Sites were located within the search radius with the nearest around 1.2km away.

Natural England has no objection to the proposal and considers that the development would not have significant adverse impacts on statutorily protected nature conservation sites or landscapes.

Changes have been made to the Conservation of Habitats and Species Regulations 2017 (as amended) (2017 Regulations). The changes are made by the Conservation of Habitats and Species (Amendment) (EU Exit) Regulations 2019 (2019 Regulations).

The 2017 Regulations are one of the pieces of domestic law that transposed the land and marine aspects of the Habitats Directive (Council Directive 92/43/EEC) and certain elements of the Wild Birds Directive (Directive 2009/147/EC) (known as the Nature Directives).

Protected Species (PS) have full protection 2017 Regulations. It's an offence to deliberately capture, injure or kill, or deliberately disturb PS. These requirements are enforced in the 2017 Regulations and any derogation is regulated and overseen by a system of licensing administered by Natural England (NE).

A Preliminary Ecological Appraisal was submitted as part of the application. No protected or notable species were recorded during the survey. There was no evidence of badgers. The site would be suitable for breeding birds within scattered trees and hedgerows along the site boundaries. Therefore, site clearance should be undertaken outside the bird breeding season. No impacts on bat roosts or foraging grounds/commuting lines or flora or invertebrate assemblages are predicted. No evidence of western European hedgehogs was apparent although the site is suitable. Therefore precautionary measures in respect to site clearance is recommended.

In the Preliminary Ecological Appraisal it recorded sub-optimal habitat for amphibians and no impacts are predicted. The site is suitable for reptile species and the report recommends further surveys to ascertain presence/likely absence are taken. However, an email update on 24th March 2022 says the site has recently been revisited and that due to the presence of development near to the site and the A10 providing a barrier to dispersal, it is recommended that the site is stripped under a working method statement to include a finger tip search of the ditch and habitat manipulation of the site. This can be conditioned.

UK Priority Habitats within the site consist of hedgerows forming part of the site boundaries. The applicant's Ecologist however has confirmed the defunct nature and lack of connectivity does not meet the initial criteria for important hedgerows in relation to bats and that no further bat surveys are needed.

The Preliminary Ecological Appraisal and email update (received 24.3.22) should be conditioned to ensure appropriate mitigation measures are incorporated. This also includes planting native species.

Trees

The landscape plan illustrates the planting scheme for the site. There will be some loss of trees and vegetation by the south-western boundary and By Bexwell Road. Three trees would be removed from inside the site and four further trees to accommodate the footpath. However replacement planting of 9 trees is included within the site.

It would involve the loss of some street trees which are of aesthetic value when entering Downham Market.

The Council's Arboricultural Officer has no objections but requests a landscaping scheme and replacement planting conditions.

Given the proposed planting scheme and replacement tree planting (9 trees) proposed, it is considered the planting would assist with softening the edges of the development and would be acceptable.

Crime and disorder;

The Designing Out Crime Officer has not objected but has offered advice to the applicant. They highlight clearly signposting the site including areas not open to the public. Lockable waste containers located in a secure position. Co-ordinating lighting and CCTV systems. To use certified roller shutters if needed. It also recommends an intruder alarm system. This advice can be included within an informative if the application were to be approved.

Planning Committee
9 May 2022

Any other material considerations

Norfolk Fire and Rescue Service do not object to the proposal. However, they highlight the need to meet necessary Building Regulations such as arrangements for emergency vehicles and the use of sprinklers. It is recommended their advice be included as an informative if the application is approved.

The Town Council considers the opposite side of the road would be a preferable location for the store. However, the application has to be assessed as submitted. Therefore, the location of the building cannot be amended as part of this application.

Downham Market Neighbourhood Plan and the emerging Local Plan are yet to be adopted so are given very limited weight at this stage.

If planning permission were to be granted then the development would be liable for a CIL payment. This would amount to approximately £252,474. This is a material consideration. Section 70(2) of the Town and Country Planning Act 1990 provides that a LPA must have regard to a local finance consideration as far as it is material. This includes any Community Infrastructure Levy (CIL). Members will need to consider the weight to be attached to the provision of a CIL payment of £252,474.

Separate advertisement consent would be required for signage including on the store.

Financial contribution

Following on from the April 2022 Planning Committee, the Local Authority had discussions with the Town Council and applicant with respect to the scale of the financial contribution and for what it could be used for.

The Town Council considers that £50,000 is insufficient to mitigate the impacts of the proposal on the town centre. However, Lidl have confirmed that £50,000 is the maximum amount they would offer.

Potential projects could include:

- **Environment – including street furniture, maintenance, cleaning, landscape improvements (hard and soft), flowers and other similar ideas.**
- **Access – including signage, public transport, parking, road/cycleway infrastructure and other similar ideas.**
- **Safety/Security – including CCTV cameras, improved lighting, improvements to policing and other similar ideas.**
- **Marketing/Promotion – including new events, publicity, community events, local business website and other similar ideas.**

If the Committee are satisfied with the sum of £50,000 and the potential projects it could be used towards, and that it is still considered to be suitable and adequate mitigation to offset any harm identified, then this can be secured through a S106 legal agreement.

Conclusion/Planning balance

This is an application for a new retail store in an out of town location. As such its impact upon Downham Market town centre will need to be carefully considered. A thorough assessment of the impact has been undertaken by consultants acting on behalf of the council. The assessment is that, on balance, there will be a significant adverse impact upon the town centre.

The scheme would offer the equivalent of 40 full time jobs and provide a CIL contribution of £252,474. However, there are concerns over the impact of the proposal on the economic viability of Downham Market Town Centre.

Whilst the site is outside of the development boundary and therefore in an area of countryside, it is adjacent to it, and there are new facilities being provided on the opposite side of the road (care home, take-away and restaurant facilities), which are also outside of the development boundary.

The Committee was minded to approve the application at the 4 April 2022 Planning Committee meeting, subject to further discussions taking place with the applicant to identify both the scale of the financial contribution and what it would be used for. That package needs to come back to Planning Committee for ratification and formal confirmation of the Committee's previous resolution to approve in principle. Any mitigation measures would need to be subject to a Section 106 and appropriate conditions imposed.

Lidl have reiterated that they will offer up to £50,000 financial contribution for Downham Market Town Centre improvements. The Town Council considers that this amount is insufficient to mitigate the impacts of the proposal on the town centre. As stated above, this money could be used towards Environmental, Access, Safety/Security and Marketing/Promotion mitigation projects in Downham Market and can be secured through a S106 agreement. However at this stage we have no firm decision on which precise projects the £50,000 can be spent on. The Committee therefore need to weigh up the further information presented, and decide whether or not to confirm their initial resolution of 4 April 2022.

RECOMMENDATION:

In light of the resolution by the Committee at the meeting on 4 April, and the further negotiation and information outlined above, Members instructions are sought on whether or not to confirm their initial resolution of 4 April 2022.