

DECISION DATE 25 March 2005	APPLICATION NO. 05/00047/OUT A13	PLANNING COMMITTEE: 27 June 2005
DEVELOPMENT PROPOSED OUTLINE APPLICATION FOR MIXED USE DEVELOPMENT INCORPORATING INDUSTRIAL (B1-B8) USES, A DIY RETAIL WAREHOUSE WITH ANCILLARY GARDEN CENTRE, BUILDERS YARD AND ASSOCIATED WORKS		SITE ADDRESS LAND NORTH OF MELLISHAW LANE, HEATON WITH OXCLIFFE.
APPLICANT: Prime Site UK and Consolidated Property C/o Agents.		AGENT: Savills Commercial Planning.

REASONS FOR DELAY

Complexity of application.

PARISH NOTIFICATION

No objection.

LAND USE ALLOCATION / DEPARTURE.

The site is allocated as an existing employment area in the Lancaster District Local Plan. The application has been advertised as a departure from the Development Plan.

STATUTORY CONSULTATIONS.

Strategic Planning Authority - Considers that the proposed development conforms to strategic planning policy subject to this Council being satisfied that there are not any sequentially preferable sites for this development in Lancaster City Centre and Morecambe Town Centre; and that this Council is satisfied that land allocated for business uses is now considered suitable for retail development, whilst still enabling this business and industrial land requirement of 35 hectares to be met. It is also considered essential that public transport provision is improved if the development is to go ahead in order to enhance the accessibility of the site.

Members should note here that the County Council do not feel that the issue has strategic significance in the County so do not raise a strategic objection. They do, however, note that the issue of whether the scheme can comply with the Structure Plan policy is a matter for local determination. It is possible, therefore, that the scheme could conflict with the Structure Plan.

South Lakeland District Council - no objection subject to compliance with Development Plan.

Head of Engineering - County highways will comment on transport assessment. Internal layout will need to comply with recommendations of Freight Transport Association. Parking levels need to meet adopted standards for DIY development.

No objection in principle on drainage grounds subject to strict design criteria.

Highway Authority - There are several concerns over the detail of this application and the traffic assessment should be looked at again. The main concerns which are not expected to be overcome relate to the impact of additional traffic on the bridge crossings, and the potential impact of more trips through the network if the DIY store to the south of the river were to close. Whilst no objections are raised to the applicants proposals for contributions to public transport, there is a strong objection to the proposal to create a second access point to Mellishaw Lane. The DIY store, if acceptable, would have to take its access off a single main access into the site, and not from a second access to Mellishaw Lane. A reduction or removal of the larger trip generator (the DIY store) would go along way to reduce numbers of vehicles at the River Lune crossing. As the application now stands, it would warrant a recommendation for refusal.

United Utilities - No objection provided the development is drained on a separate system; and subject to conditions.

Environmental Health - Recommends conditions to protect noise sensitive uses nearby. Conditions to cover, construction hours, no burning of waste on site, noise and vibration from industrial plant, delivery hours, odour control from A3 use, and contaminated land monitoring.

Economic Development - Mellishaw North is considered to be a good employment site in terms of its location adjacent to the districts principal employment area, White Lund Industrial Estate. Furthermore it is the largest remaining vacant site in the White Lund area. At the same time, sites capable of short term development are in short supply within the district at a time when demand is relatively buoyant from both industrial and commercial users. Our general presumption would be in favour of retaining the whole of the site for employment use. However, the specific circumstances of this site, especially with regard to the high development costs, would suggest that some relaxation of this presumption could be considered if it leads to the site being brought forward in the short term for partial employment use, and provided it does not set a precedent for additional retail use on other employment sites within the White Lund area. We would nevertheless wish to see some mechanism in place, such as a Section 106 agreement, to ensure that employment use is maximised and that the employment land is brought forward and actively marketed as plots for sale to individual end users within the shortest possible timescales.

Environment Agency - Original objection withdrawn following receipt of flood risk assessment. Now recommends conditions.

OTHER OBSERVATIONS

Consultants on behalf of Edinburgh House Estates Ltd, who are the owners of the Morecambe Arndale Centre and Marketgate Centre in Lancaster are concerned that any developments for sites outside the defined centres of Lancaster and Morecambe should not have a harmful effect on the centres or in any way undermine their role. They ask that all the relevant planning policy tests are applied, and that if approved, the store is restricted to DIY goods only.

REPORT

This application is for a major out of centre retail development to be sited on a vacant industrial site in the White Lund Industrial Estate.

The application seeks permission to develop a DIY store of 6,038sq m with an ancillary 1,393 sq m of garden centre and a 929 sq m builders yard. In addition to this 6,968 sq m of offices and 14,400 sq m of industrial units are proposed. A service road would be completed a part of the development to access the employment land to the rear of the retail development.

There is previous history in terms of considering retail uses on this site. Representations in favour of retail development were rejected by the Inspector in the Local Plan Inquiry. A subsequent outline application was refused.

There are previous outline permissions on the site for mixed use which included motor dealerships a fast food outlet, and a tyre and exhaust outlet.

In support of the application a draft unilateral undertaking has been submitted which would compel the applicants to carry out road widening works, raise the levels of part of the site, build 1,394 sq m of employment floorspace and pay £ 300,000 in contributions to improve bus services, before the retail use begins trading. The agreement also includes marketing arrangements to provide for the raising of the remainder of the land, constructing the residue of the estate road and infrastructure, and marketing of speculative plots. Land which remains unsold by a given timescale could be purchased by the Council at a cost, within a 12 month period after that date.

RELEVANT PLANNING POLICIES.

There are a range of national, strategic, and local planning policies which apply to this case.

Planning Policy Guidance Statement 6 and Planning Policy Guidance Note 13

These documents form the basis of national planning policy in relation to retail developments, and the means by which they influence society's desire to travel. They introduce the test of need for retail development and that of the sequential approach to siting such developments placing the greatest importance on considering town centre locations first. Where out of town development is proposed the policy documents give precise guidance on the means that must be used to justify the choice of location. PPS 6 now introduces further requirements to ensure that new stores relate to the function of existing centres and compliment them. It also clarifies that if out of centre development is found to be necessary, those sites closest to centres are more favourable. Perhaps the most significant new addition is for consideration to be given to social inclusion by making sure that new developments are accessible to all sectors of the community. Developers are told that they must be more flexible in their approach to format of stores in order to adapt them to the needs of existing centres rather than their corporate standard.

Regional Spatial Strategy for the North West - Issued as Regional Planning Guidance -March 2003, confirmed as Regional Spatial Strategy with Development Plan weight September 2004.

Policy SD3 Identifies Lancaster/Morecambe as a `Key Town or City within which development will be concentrated and identifies Morecambe as part of the Lancashire Coastal Towns Regeneration Priority Area;

Policy EC8 Development plans, town centre management initiatives and other strategies should recognise the continued need to protect, sustain and improve town and city centres in the Region, in line with the Spatial Development Framework, by:-

- Encouraging new retail, leisure and/or mixed-use developments within existing defined town and city centre boundaries (retail development should be directed particularly to primary shopping areas)
- A sequential approach to retail and leisure development must be adopted, in accordance with national planning policy guidance (PPG 6: Town Centres and Retail Developments) and the Core Development Principles.
- Where a need is established for retail and leisure development, and where the application of the sequential approach has indicated that no suitable town centre sites are available, new or expanded developments in urban areas will be considered where their function forms the core of a mix of uses, including housing and only then when public transport is accessible.

Joint Lancashire Structure Plan Pre-Adoption Edition.

Policies 1,2 Direct development to principal urban areas.

Policy 7. Aims to reduce parking by complementary measures to reduce travel.

Policy 14. Provision of 35 ha business and industrial land required between 2001-2016.

Policy 16. Requires sequential approach for retail development with Lancaster as Tier 1 Centre and Morecambe as Tier 2.

Lancaster District Local Plan-Adopted April 2004.

Policy EC5 Identifies site as an Employment Area allocated for B1,B2 & B8 use;

Policy EC8 States that retail development on land allocated for employment use will not be permitted;

Policy S1 Sets out shopping hierarchy and identifies Lancaster, Morecambe and Carnforth Town Centres and Torrisholme, Bare, Morecambe West End, Heysham, Bolton-le-Sands and Caton local centres.

Policy S2 Sets out criteria for out-of-centre retail development. These are:-

- That need must be demonstrated;
- Need cannot be met within or on the edge of an existing centre;
- That the proposal is served by public transport;
- That the proposal would not have a significant adverse effect on existing centres;

Policy S19 Sets out criteria for A3 uses;

Policy T5 Identifies Morecambe Road as the Primary Bus Corridor;

Policy T9 Requires all development likely to significantly increase the demand for travel To be designed to maximise opportunities for using public transport, to located as close as possible to existing or proposed bus services and to provide appropriate pedestrian links to bus stops;

Policy T16 Seeks to ensure that development proposals satisfy LCC maximum car parking standards;

Policy T17 Requires major development proposals to be accompanied by a Green Travel Plan;

Policy T24 Identifies Lancaster-Morecambe path as part of Strategic Cycle Network and seeks to ensure that development adjacent to the Strategic Cycle Network provides links and improvements to the network;

Policy E7 Sets criteria for development affecting watercourses;

Policy E8 Requires that development on or near contaminated land only be permitted where contamination, including landfill gas migration, has been investigated and safeguards are in place;

Policy E30 Identifies the Salt Ayre Landfill site as part of the River Lune Green Corridor to be strengthened with woodland, landscaping and access improvements;

Policy R9 Identifies the Salt Ayre Landfill site as part of the Lune Riverside Park Informal Recreation Area.

MATERIAL MAIN CONSIDERATIONS.

Having carefully considered the relevant policies and applied them to the development for which permission is sought, the material considerations in the determination of this application are:

- 1) Whether there is a need for the development in Lancaster District.
- 2) Is the development of an appropriate scale.
- 3) If a need exists, are there no more central sites for the development selected.
- 4) Is there unacceptable impacts on nearby centres.
- 5) Is the site accessible by a choice of transport.
- 6) Will the development impact on car use, traffic and congestion in the District.
- 7) Is the loss of employment land justified as a Departure from the Local Plan.
- 8) Is the physical form of the development, its parking and its means of access acceptable in all other respects.

1) Need

The applicants have focused their assessment of need for a further DIY store on potential for growth in comparison spending in the District. From this they have also judged that the availability of more spending power will also bring with it a potential for increased levels of leakage by spending leaving the District. It is for these reasons that they calculate that additional provision needs to be made for comparison shopping within Lancaster District.

Breaking this down to spending on DIY goods, they say that all the existing DIY outlets over trade when compared to national averages, and customers suffer from poor ranges of service, goods and queuing at checkouts.

It is their case that the new store will offer a wider range of goods, will cater for larger one stop project shopping trips, and will reduce the potential for trade loss from the District in the future.

The applicants retail study has been assessed by the City Council's appointed retail analyst.

The applicants own evidence accepts that the level of spending on DIY goods which is retained within Lancaster District is high at 71%. The applicants study includes significant areas in Wyre District, including Garstang within the study. It is noted that residents in these areas will find the Preston and Blackpools DIY stores just as easily accessible, accordingly expenditure lost from those areas cannot be regarded as true leakage and for this reason the assumption that trade loss to Lancaster actually occurs, and will continue cannot be relied on.

The applicants assumptions about a massive growth in DIY goods expenditure is challenged by the Council's consultants and may be overstated. Assumptions about spending in sub categories should not be made. Nationally for example DIY goods only account for about 10% of the wider comparisons goods figures. It is considered that there is insufficient growth in expenditure to support the proposal based on the applicants current case.

Whilst a wider range of goods available from a larger format store may provide more choice, it must be remembered that the proposal is a smaller warehouse format with a lesser range of goods. In addition little has been made of the wide choice of goods presently available to shoppers from specialist shops trade outlets in the district. Accordingly the overall conclusion is that there is no evidence of an overriding need based on an inability to access an acceptable range of goods within this category in the district.

2) Scale

This new test requires that local planning authorities should ensure that the scale of development should be directly related to the role and function of the centre and its catchment. The aim is to locate the right scale of development in the right type of centre to compliment its role and function.

In this case a single larger format store is proposed. The applicants argue that a centre such as Lancaster should have such a large format store to meet the needs of its whole catchment. The store will, however, serve the domestic market of the City, the Coast and the Countryside. This comprises of a number of settlements all with different roles and functions within the shopping hierarchy of Lancaster District.

It is a well-known fact that movement around the urban area of the district, by private car and public transport is difficult. These problems have a high profile recognition in the Community Strategy and Corporate Plan. The new Local Development Framework will address the emerging needs for the current shopping hierarchy to develop. It is known at this stage that there are benefits in the current distribution of convenience shopping around district centres, by reducing the need to travel through the congested links. There are also benefits in the distribution of DIY stores being evenly spaced to serve all the communities in the main urban areas, without excluding those who find it difficult to access a central location. The applicants case that the district will significantly benefit from one large format, centrally based store is not accepted. If a need were to be proven for additional DIY floorspace the role and function of the urban areas shopping centres would be better served by smaller developments centred in accessible locations close to existing centres, avoiding the need for customers to travel between centres through the congested network which exists locally.

3) Availability of more central sites

Even if need were established for the provision of additional DIY store floorspace, the applicants are required to demonstrate that they have chosen an acceptable site by applying a sequential approach to the search for locating the store.

They have considered whether their development could be accommodated within or adjacent to the existing town centres of Lancaster or Morecambe. Whilst there are no sites within either town centre which are capable of accommodating a store, the applicants have considered three sites closer to the edge of centres in Lancaster and Morecambe. These sites are the Kingsway and Brewery sites in Lancaster, and Frontierland in Morecambe. Those sites are required to be tested against the criteria of suitability, availability and viability. Additionally national guidance requires developers to demonstrate an appropriate degree of flexibility.

The Brewery site is discounted on the basis that it should not be considered to be presently available. That is because of the City Council's wish for mixed use development and your officers advice that box warehouse retailing would be physically out of character with this area. This site has now been chosen by a major retail developer to master plan for potential city centre expansion. Kingsway is dismissed because of difficulties with site ownership and alleged conflicts with the development brief, although your officers have consistently expressed the opinion that a DIY store would be acceptable on the remaining portion of the site. Another operator has already had discussions informally about the potential for a smaller format DIY store on this site.

Frontierland is dismissed because of the potential conflict with the aspirations in the West End Master Plan. Here again the plan requires a mix of uses, but does not entirely rule out the addition of retailing adjoining the existing Morrisons Store, and detailed discussions have been taking place with another operator for a smaller format DIY store on land at the rear of this site.

In terms of the sequential test for more central locations the conclusion leads on from that of the need argument. It is not accepted that a need for additional DIY shopping of this scale has been established. There is still a possibility that some of the sites dismissed by the applicants could give potential for accommodating new floorspace in the future and both Kingsway and Frontierland have land owners wanting to discuss redevelopment options with the City Council. It would be wrong at this time, therefore, to rule out the possibility that there are sites more centrally located, and better related to the role and function of the two centres, which will meet the need for further DIY provision, should that need be proven.

4) Impact on nearby centres

In their retail study the applicants claim that the greatest impact from the opening of the proposed store will be upon the existing out of centre retail provision. (80%). In the case of the existing DIY stores it is their case that all are over trading and that the opening of the new store would not endanger the continued viability of the stores. A further 6% is anticipated to be diverted from Lancaster City centre, and 4% from Morecambe Town centre.

Whilst those figures, compared with the overall trading strengths of both centres, might not appear significant, their effects will be concentrated on a smaller number of existing outlets which currently give local residents a choice of visiting town centre, or out of town DIY shops. The Councils retail advisor remains concerned about the methodology of this part of the assessment, and feels that a reduction of that choice in Morecambe, which is highly vulnerable, should be resisted, especially in this district where the ability to travel around the urban area is constrained.

5) Accessibility by choice of transport

The applicants transport assessment rather briefly considers the accessibility of the application site by a choice of means of transport. It examines walk in distances and existing bus services in the area but in very little detail. There is no assessment of how the impact of trade diversion on travel patterns might be quantified or mitigated against.

Unless a DIY store is located in walking distance of a town centre, one can expect the majority of customer visits to be made by car. Where a choice of alternative modes of travel is available a development such as a large DIY facility should at least be sited to enable the significant number of staff employed on the premises to make journeys to work by means other than the private car.

To encourage wider use of cycling as a means to access the site the applicants suggest constructing cycle parking and shower facilities on site.

The existing 6A bus service passes the site with services running hourly, although at the peak period they run more frequently. There are also other stops made by the 40/41/42 services. The applicants acknowledge that at the current time the level of bus accessibility for customers is low and suggest a financial contribution to improvements.

Pedestrian access improvements into the site are also proposed, but very little can be done to encourage pedestrians to walk to the site when it sits remote from residential areas on the far edge of an industrial estate.

Whilst there are means by which accessibility to the site by means other than the private car can be improved there has to be a realistic assessment of how those modes compare with the private car, given the distance involved and time taken. Because the site is remote from most residential neighbourhoods most staff will have to travel to work by car. The level of car parking associated with the White Lund Industrial areas at present demonstrates the choices made by the majority of employees on the estate given the current levels of accessibility.

Whatever improvements are made to buses and cycleways, most DIY store shoppers will not travel to the site, and expect to carry away bulky goods by these means. That said it is inescapable that a substantial proportion of the trade of such a store does not amount to 'bulky goods'. Even if employees were to be encouraged to make a modal shift, against the trends on the estate, this would not counterbalance the effects of changing the travel pattern by shoppers which is described under the next heading.

6) The potential impact on car use, traffic and congestion

The section addressing scale has shown that the distribution of medium format DIY stores is currently spread evenly across the urban areas of Lancaster and Morecambe. They conveniently follow the pattern that exists for convenience (food) shopping, which favours travel patterns by avoiding the need for difficult cross-district trips, although this could also be argued to restrict choice. What this means is that residents of Morecambe, the central area of Torrisholme and north west Lancaster, and Lancaster east and south of the river, all have independent access to modern format DIY stores without the need to enter the well recorded traffic congestion black spots around the river crossings.

If the current distribution of DIY stores to areas of concentrated residential population were interrupted, there would have to be an effect on the travel patterns of shoppers seeking DIY goods.

It is the applicant's case that the new store would prevent future spending leaking out of the District, and would also consume overspending at the current range of stores. That position is not accepted and it is believed that the new store will also transfer the existing level of spend to a less favourable location in terms of the road network and population distribution. It is likely that the trade diversion, to a more modern store, with a wider range of goods, will attract more car borne trips into the most congested part of the local network. This could occur even if the existing distribution of existing stores is not interrupted.

It is concluded that the proposal would alter current travel patterns in a manner which adds further to the disruption cause in the local network from congestion. This disadvantages both local consumers and users of the highway network, and would probably have the effect of excluding some social groups from access to modern format DIY facilities at all.

7) The loss of employment land

White Lund Industrial Estate is a prime location in the District for new business and commercial development. Its popularity arises from the same locational advantages admired by the applicants in this case, it lies equal distance between the workforces and customers of Lancaster and Morecambe.

It is acknowledged that the employment allocation in the Local Plan has been difficult to bring forward as a real development on the ground. The cost of servicing the site, notwithstanding the availability of grant aid, has not encouraged the private sector to bring the site forward.

There would, undoubtedly, be an advantage in securing at least some employment development on the site and it is part of this application to propose that. Whilst there is a shortfall of serviced employment land in the District, the loss of part of this site to another use, would be difficult to argue against at appeal given the inability to bring it forward for employment uses over a number of years.

Having said that the promise of delivering employment development facilitated by a new retail use should be treated with caution given the experiences that this, and other Councils have had with retail led enabling development on other sites in the past. Notwithstanding legal agreements and the like, new sites provided with infrastructure enabled by new retail development raises expectations. Vacant sites in these scenarios have a habit of being very difficult to bring forward with lower value employment schemes when there is hope value of further retail uses.

Experiences with other similar proposals has shown that employment users do not come forward and that such schemes can prompt ongoing difficulties with trying to resist retail or quasi retail and mixed uses for a number of years to come.

Whilst it might not be possible to sustain an objection to the proposal on the grounds of loss of employment land, the promise of supplying the district with new employment sites and premises, facilitated by the retail scheme, is not considered to have sufficient weight to outbalance other policy objections raised in this instance.

8) The physical form of development

In its main physical form the development will be acceptable in the locality which is already characterised by industrial buildings. In urban design terms it would be preferable for the building to form a frontage with the principle highway containing the extensive car park to the rear. It would, however, be difficult to substantiate a strong objection to the scheme on these grounds given that most developments in this vicinity are dominated by forecourt parking.

Means of access is not reserved for subsequent approval, so the highway authority's objection to a second access on to Mellishaw Lane ranks as a detailed reason for refusal.

CONCLUSIONS

In order to justify a departure from the Development Plan there have to be material considerations which are so compelling that the policies in the Development Plan should not prevail.

The applicants case is that there is a clear need for the development and that there is no other, more sustainable site to accommodate it. They argue that approval of the scheme would claw back retail spending which is, or will in the future be lost to other centres. Having evaluated that case it is considered that these arguments are not compelling. There is little evidence to show that DIY shoppers in the District are under provided with choice and are as a result travelling long distances to shop elsewhere.

The construction of a significant new DIY store in the White Lund area is agreed by the applicants to have the greatest effect on the existing DIY providers, which at present are logically located in spatial terms to compensate for the known difficulties of moving between the two halves of the urban areas of Lancaster and Morecambe. The high profile problems of traffic movement around the District are not even acknowledged by the applicants.

The loss of some of the existing providers, which could occur if one of the existing operators relocates to this site, would most probably lead to less choice, and social exclusion for some customers and have a clear potential for altering travel patterns in an adverse manner in clear conflict with both national and local planning policy.

The argument that this scheme would release new land for employment development serviced by enabling funds generated by the retail scheme is not sufficient by itself, to warrant a departure from the development plan, especially given doubts about delivery of new employment floor space from past experiences.

RECOMMENDATION.

THAT THE APPLICATION BE REFUSED for the following reasons:-

1. The Local Planning Authority does not consider that the need for the development to meet a current demand for additional retail floorspace in this category has been proven. There is also concern that the impact on Morecambe Town Centre would undermine the efforts being made

to regenerate this district centre. The location of the development outside one of the districts town or district centres does not, therefore, comply with the provisions of Policy EC8 of the Regional Spatial Strategy, Policy 16 of the Joint Lancashire Structure Plan (pre-adoption composite edition) and Policy S2 of the Lancaster District Local Plan.

2. The development would be sited in an out of centre location which would encourage shoppers and employees to make a greater number of journeys by private car to an area which is not well served by alternative means of access. The siting of a store of this form, with the potential to encourage shoppers away from the existing range of stores in this sector, would also adversely affect travel patterns in the urban areas of the district which has an acknowledged problem with the free movement of traffic between Lancaster and Morecambe. The proposal would, therefore be in conflict with Policy 1 of the Joint Lancashire Structure Plan (pre adoption composite edition) and Policies S2 and T9 of the Lancaster District Local Plan.
3. Creation of two access points to Mellishaw Lane represents a danger to highway safety.