

## PLANNING COMMITTEE – 5 JUNE 2018

<b>Application No:</b>	<b>17/01616/FUL</b>
<b>Proposal:</b>	<b>Proposed change of use of existing car workshop/showroom and outdoor sales to local convenience store (Retail A1) incorporating relocation of Gonalston Farm Shop (Retail A1), ancillary coffee shop franchise and new local allotment provision</b>
<b>Location:</b>	<b>J Harrison Ltd, Southwell Road, Lowdham, NG14 7DS</b>
<b>Applicant:</b>	<b>Mr D Betts</b>
<b>Registered:</b>	<b>7 September 2017</b>
	<b>Target Date: 2 November 2017</b> <b>Extension of Time Agreed until 4 April 2018</b>

This application is being presented to the Planning Committee in line with the Council's Scheme of Delegation as Lowdham Parish Council has written in support of the application which differs to the professional officer recommendation.

### Update to Planning Committee

Members at the April Planning Committee agreed to defer the application pending the submission of Retail Impact Assessment (RIA). The RIA has now been submitted. Officers are in the process of reviewing document which includes the commissioning of independent retail advice which takes time. Therefore Officers reserve the right to withdraw this application from the agenda should the review of RIA not be possible in this timeframe.

For the avoidance of doubt, the report remains the same as previously presented at April Planning Committee other than the addition of neighbour comments received subsequent to this Committee in the Consultations section below (shown is bold and italic text).

### The Site

The application site lies on land to the south of Southwell Road within the parish of Lowdham and comprises c0.65 hectares of land. The majority of the existing site contains a car workshop/showroom (a Peugeot franchise) with ancillary car parking and circulation areas. The workshop/showroom is single storey and industrial in appearance with a part brick and part grey clad construction. The south east corner of the site contains part of an agricultural field which is separated from the application site by a hedgerow which includes a number of trees and a 1 metre high (approx.) fence.

Immediately to the west of the site is the rest of the existing J Harrison site which contains a petrol station, shop, car workshop and ancillary car parking and storage areas. Immediately to the north east of the site is Sunnyside, a two storey residential property. This property is separated from the application site by a 2 metre high (approx.) close boarded fence. Agricultural fields surround the site on all remaining sides.

Access to the site is via an existing access of Southwell Road to the west of the application site (shared with the remainder of the J Harrison site).

The topography of the application site is relatively flat albeit gently sloping towards the south (away from Southwell Road). Land to the north of Southwell Road rises more steeply towards the north.

The site is located outside of the village envelope of Lowdham (as defined by the Allocations and Development Plan Document (DPD)) and is located within the Green Belt.

The majority of the site lies within Flood Zone 2, with a very small part along the frontage located in Flood Zone 3.

### Relevant Planning History

16/00248/FUL Conversion of existing workshop to create additional car showroom and small extension to replace existing canopy – permission 22.04.2016

15/02092/FUL Change of Use of Land to Form Extension of Existing Site (*land relating to the south east corner of the site which contains part of an agricultural field*) – refused 12.05.2016 for the following reason:

*'In the opinion of the District Council the proposed change of use of land to form an extension of the existing site will result in encroachment into the Green Belt detracting from its openness and permanence. The NPPF attaches great importance to Green Belts and the Council considers there are no material considerations in this instance sufficient to constitute the very special circumstances required to outweigh the harm identified. The proposed development would therefore be contrary to Spatial Policy 4b of the Newark and Sherwood Core Strategy (2011) and the National Planning Policy Framework (2012) a material consideration.'*

12/00293/ADV Replacement of old signage with new corporate image signage, 3 no. fascia signs internally illuminated halo illumination, 2 no sets of corner lights – consent 27.04.2012

09/00220/FUL Erection of front extension to car showroom – permission 14.04.2009

09/01758/FUL Erection of temporary car showroom for a period of 2 years (retrospective) – permission 25.01.2010 (*NB this building is not present on site*).

04/02523/ADV Display 6.5m single leg pole sign – refused 15.12.2004

04/02541/ADV Display various signs – consent 12.12.2004

03/00838/FUL Renewal of permission for the extension to the car showroom – permission 16.06.2003

99/50899/ADV Fascia signs and export sign – consent 10.06.1999

98/50998/FUL Extension to showroom and offices – permission 11.05.1998

94/50871/ADV Fascia signs and export sign – consent 26.04.1994

91900046 Removal of conditions 4 and 5 on 91891121 relating to external car sales and external lighting – permission 05.06.1990

91891121 Body shop – permission 28.11.1989

91891087 Extension to showroom and office – permission 03.10.1989

91890469 Erection of sales building canopy islands and install 2 no. U/G storage tanks – permission 06.07.1989

91880571 Demolish existing workshop and construct new body shop – permission 02.08.1988

91860879 First floor office extension – permission 24.10.1986

91850974 Use building (*the car showroom/workshop subject of this current application*) for car repair workshop and land for staff and stock – permission 11.02.1986

91830675AD Illuminated fascia sign – consent 16.08.1983

9180506 New tank and pump installation – permission 05.06.1980

9177470AD Erect illuminated pole sign and other advertisements – consent 12.07.1977

9176421 Re-positioning of pavement crossing to give access to field – refused 27.07.1976

### The Proposal

The application seeks full planning permission for the change of use of the existing car workshop/showroom and outdoor sales to local convenience store (Retail A1) incorporating relocation of Gonalston Farm Shop (Retail A1), ancillary coffee shop franchise and new local allotment provision. The local convenience store building would contain the following:

- Spar Market 259sqm
- Café 81sqm
- Gonalston Farm Shop 108sqm
- Communal entrance 36sqm
- Preparation/Storage/Office Area 117sqm

The proposed hours of opening would be between 07:00 – 23:00 Monday to Saturday and between 10:00 – 16:00 on Sundays and Bank Holidays.

In relation to proposed staff numbers, Gonalston Farm Shop has confirmed that 5 staff would work at the new premises at any one time – these being butchery and fish manager, supervisor and three staff working the counters. Sales would go through the Spar Market's tills. Spar Market has confirmed a staff of 5 at any one time (two on the tills, two behind the scenes and a shelf-stacker). The ancillary coffee franchise would employ between 2 and 3 staff at any one time.

A covered area for external sales is also proposed with a canopy measuring 12.3 metres by 3.6 metres to replace an existing canopy on this position. Four sets of full height aluminium framed windows/doors are proposed within the front and side elevation of the building.

Allotments are proposed on the triangular shaped field to the rear of the existing J Harrison site. A 4 metre wide gap in the existing boundary is proposed for access from the allotments from the existing parking area.

No amendments to the main vehicular access to the site are proposed. The existing car park areas would be reconfigured with existing car sales parking areas to become customer parking. 54 car parking spaces are proposed in total.

The application is supported by the following documents:

- Flood Risk Statement
- Retail Sequential Assessment including a Supplementary Sequential Assessment
- Design and Access Statement

#### Departure/Public Advertisement Procedure

A site notice was displayed near to the site on 26/09/2018.

#### **Planning Policy Framework**

##### **The Development Plan**

##### **Newark and Sherwood Core Strategy DPD (adopted March 2011)**

- Spatial Policy 1 - Settlement Hierarchy
- Spatial Policy 2 - Spatial Distribution of Growth
- Spatial Policy 4A – Extent of the Green Belt
- Spatial Policy 4B – Green Belt Development
- Spatial Policy 7 - Sustainable Transport
- Spatial Policy 8 – Protecting and Promoting Leisure and Community Facilities
- Core Policy 6 – Shaping our Employment Profile
- Core Policy 8 – Retail Hierarchy
- Core Policy 9 - Sustainable Design
- Core Policy 10 – Climate Change
- Core Policy 12 – Biodiversity and Green Infrastructure
- Core Policy 13 – Landscape Character

##### **Allocations & Development Management DPD**

- Policy DM1 - Development within Settlements Central to Delivering the Spatial Strategy
- Policy DM5 - Design
- Policy DM11 – Retail and Town Centre Uses
- Policy DM12 - Presumption in Favour of Sustainable Development

##### **Other Material Planning Considerations**

- National Planning Policy Framework 2012
- National Planning Practice Guidance PPG
- The Newark and Sherwood Landscape Character Assessment SPD
- Newark and Sherwood Amended Core Strategy DPD 2017

## Consultations

**Lowdham Parish Council** – Lowdham Parish Council meeting was attended by members of the public and local retailers who expressed their concerns at the proposed change of use application. Also representatives from Harrisons and Gonalston Farm Shop who put forward their plans for the new business proposals. Following a long debate the Parish Council voted 5 councillors in favour and 2 councillors against the application for change of use therefore in support of the proposal.

### **NCC Highways Authority –**

Comments received 13.03.2018:

The Agent has confirmed that up to 13 employees are expected on the overall site at one time and 53 parking spaces are shown on dwg. No. 2102/6 Rev. A which also includes a provision for the allotment users. The parking facilities are acceptable to the Highway Authority. A further 8 employees are on site for the workshop use, which will use the existing parking facilities at the rear of the site.

There are no alterations proposed to the existing access arrangements. Therefore, there are no highway objections to this proposal.

*Comments received 01.11.2017:*

This application is for the change of use of part of the existing car showroom/workshop to a convenience store including farm shop, café and local allotment provision. There are no alterations proposed to the existing site access, which also serves a petrol filling station. Could the applicant/agent clarify the number of vehicles expected for repair and for sale at any one time for the showroom/workshop. Also, the number of employees on site at any one time is required for each site.

**Trent Valley Internal Drainage Board** – The site is within the Trent Valley Internal Drainage Board district. The Board maintained Car Dyke, an open watercourse, exists in close proximity of the site and to which Byelaws and the Land Drainage Act 1991 applies.

The Board's consent is required to erect any building or structure (including walls and fences), whether temporary or permanent, or plant any tree, shrub, willow or other similar growth within 9 metres of the top edge of any Board maintained watercourse or the edge of any Board maintained culvert.

Surface water run-off rates to receiving watercourses must not be increased as a result of the development.

The design, operation and future maintenance of site drainage systems must be agreed with the Lead Local Flood Authority and Local Planning Authority.

### **NSDC Policy Officer –**

*Comments received 14.02.2018:*

## Sequential Test

Whilst I welcome the additional 'supplementary sequential assessment' I still retain some significant concerns over the methodology and conclusions.

### *Methodology*

Firstly I don't agree with the view (para 2.2) that to represent a realistic alternative the site must be 'more accessible and better connected to the town centre than the application site'. The paragraph within the PPG referred to merely states that 'preference should be given to accessible sites that are well connected to the town centre'. The purpose of the test should not be lost here, which is to guide main town centre uses towards town centre locations first, then, if no town centre locations are available to edge of centre locations, and, if neither town centre locations nor edge of centre locations are available, to out of town centre locations, with preference for accessible sites which are well connected to the town centre. Viability and vitality of town centres is supported by the test through its placing of existing town centres foremost in both plan-making and decision-taking. The inference being that the better the physical relationship to the centre, then the more likely its viability and vitality will be supported through the generation of footfall and making of linked trips etc.

Accordingly there is no need for accessibility and connection to be better than the application site per se, just for the alternative site to be accessible and well connected to the centre in question. Where these two features are met and the alternative site is deemed suitable and available then its sequential superiority would, in my view, principally derive from its better relationship to the centre. Having said this I would accept that in most cases a site which is closer to the Town Centre is likely to perform better on most measures relevant to the test.

The method followed (para 2.5) seeks to establish equal or superior proximity to bus routes and service provision as valid parameters for the assessment of alternative edge or out-of-centre sites, which I see as problematic. Whilst I would not question the potential relevance of these considerations, in their broadest sense, to accessibility there is no need for alternative sites to perform better in the way that is suggested. Notably the 3 parameters listed below para 2.5 are joined by 'and', suggesting that any alternative site would need to perform better on all 3 measures to be sequentially preferable. On this basis there could be a scenario where there is a site located in an edge-of-centre position but which is deemed to be sequentially worse due to being marginally further from a bus stop than an out-of-centre site, this is clearly not the intention of the test. The method also applies a single distance threshold of 669m, but this is a fairly blunt assessment and does not appear to place any greater weight on a site being edge-of-centre as opposed to out-of-centre. The NPPF provides a clear definition of edge-of-centre, which is a location within 300m of the Primary Shopping Area (PSA). No PSA's are defined in the District beyond that for Newark Town Centre, but in this case I would view the centre boundaries as providing a reasonable proxy.

I have further issues with some of the sources of potential sites ruled out at para 2.7. Within the District most of these would be covered by Spatial Policy 8, and as referred to in my earlier comments the policy allows for their release for development under certain circumstances. I do not consider that they can be as readily ruled out as is suggested. On this point it may be helpful to clarify my earlier suggestion that the open space at Old Tannery Drive should be explored through the application of the test. The open space is located within the village envelope and not the Green Belt as has been suggested. The site is in turn larger than the application site, and so has the

potential for any replacement of the existing built facilities to be kept within the settlement boundary and the open space elements relocated to the Green Belt. Notwithstanding this the provision of appropriate facilities for outdoor sport and outdoor recreation are listed as exceptions to the definition of inappropriate development within the Green Belt (para 89, NPPF). The successful combination of recreational open space convenience retail provision can be seen elsewhere through the enlarged Co-op scheme in Collingham. I would however accept that in this instance the open space cannot be considered suitable due to flood risk issues, and so can be discounted as a reasonable alternative.

In terms of locational requirements I am mindful that the reasoning for the granting of the original farm shop consent would have been to support the diversification of an existing rural business. To have been acceptable there would need to have been some form of geographic tie to the existing business. Clearly such a tie would start to disappear the further the store is located from the wider business. Notwithstanding this it may be reasonable, as per my earlier comments, to have some regard to the desire for the farm shop to retain its existing customer base, but whether this should determine the application of the test as a whole is debatable. The relocation of the farm shop is argued as being the 'primary driver' of the proposal, but in floorspace terms the Spar would be by far the dominant element. It would therefore not be unreasonable to expect the locational and operational requirements of this element of the proposal to be reflected in the parameters for the test.

Even were the ten-minute drive time to be accepted I remain unconvinced that it represents a reasonable geographic parameter. This would actually represent a fairly-wide catchment for what is a modestly sized operation, and suggests willingness on behalf of its clientele to travel some distance to use the store. On this basis why would a slight extension of the ten minute measure (11, 12 or 13 minutes for instance) suddenly render the model of the farm shop unviable? No justification has been provided, such as data over customer location etc. Greater pragmatism could be exercised if the imposition of the measure didn't feel so arbitrary in nature, particularly in line with my earlier comments when this rules out Radcliffe-on-Trent, Calverton and Southwell. Though I would accept that some sites in Southwell and a site in Calverton have been assessed for completeness, but Radcliffe remains disregarded.

Turning to whether sufficient flexibility has been shown, the line advanced is that the proposed store represents the minimum space which the end users could be reasonably accommodated within. However no information has been provided to better understand the space requirements and trading profile of a Spar Market. This is a format I am unfamiliar with and represents by the single largest element of the proposed development. Without this I am unable to fully gauge whether there could be room for greater flexibility on the part of the applicant. Furthermore I am still of the view that it would be reasonable to expect a lesser level of car parking provision to have been considered, and I would defer back to my earlier comments on this aspect.

#### *Application of the Test*

I would accept the discounting of undeveloped sites within the Green Belt and/or areas of risk of flooding (Appendix 2). In terms of the sites identified in Appendix 3 I would disagree with their discounting purely for being further than 100 or 188m from a bus stop. Nevertheless it is clear that the majority of those included would in all likelihood be unsuitable for retail development, for reasons not outlined in the assessment.

In terms of the alternative sites considered in detail, I am comfortable with the discounting of sites 1 and 2 in Southwell. Though it is unclear whether the District Centre was surveyed to establish whether there were any vacant units, the 2017 Retail Monitoring Report identified 3. Turning to Lowdham I am content that on the basis of the parameters used there would be no alternative sites, though as already discussed I do have some issues with this approach.

Clearly it is difficult to comment with any certainty over those sites identified within the administrative boundaries of neighbouring Authorities, particularly over whether other sites may exist and if the reasons for the discounting of those identified is valid or not. The onus is on the applicant to demonstrate satisfaction of the test, with assistance from the relevant LPA, and no demonstration has been provided detailing whether adjoining Authorities have been approached to identify a source of potential reasonable alternative sites. Nonetheless I would accept, on the basis of the information provided, the discounting of those sites identified in Gedling and Rushcliffe Borough's.

Whilst not necessarily disagreeing with the reasoning behind the discounting of the identified sites I do retain some concern over the methodological approach, and whether sufficient flexibility has been shown. It is not clear that the test has been applied in a robust and comprehensive manner and so it cannot be confidently concluded that there are no sequentially preferable alternative sites.

In line with paragraph 26 of the National Planning Policy Framework, where a proposal fails to satisfy the sequential test, it should be refused.

### Impact Test

In respect of the impact test I would defer to your expertise on the matter of the 'fall-back position'. Notwithstanding this my position has not changed from my earlier comments, indeed I would suggest that matters have moved even further in the direction of the request for a formal impact assessment being valid. To summarise, the applicant will be familiar with the tests outlined at para 216 of the NPPF (stage of preparation, extent of unresolved objection and degree of consistency with national policy) which determine the weight that can be given to relevant policies in an emerging plan. The hearings stage of the Examination has now been concluded and those areas where modifications will be requested from the Inspector have been identified. Details can be viewed in Post-Hearing Note 2. It should be noted that in respect of Core Policy 8 (Matter 15) the issue relates to precise details around the approach to future convenience retail provision at Land South of Newark, and agreement has now been reached between the Council and objector over the necessary content.

With respect to the first test a submitted Development Plan on which modifications are being drafted clearly represents an advanced stage of preparation. Unresolved objections have been the subject of discussion at the hearing sessions, and where appropriate the drafting of modifications is intended to address those which are necessary to make the plan sound. It is acknowledged that these modifications are still being drafted and yet to be consulted upon. Nevertheless in the cases where no modifications are proposed (including to content within a policy) then it can, in my view, be reasonably taken that no objections remain which require addressing to make the plan sound. Clearly the modifications will in some circumstances also be intended to ensure consistency with national policy.



Taking account of the above it is reasonable in my view to attach meaningful weight to policies, and content within policies, which are not proposed to be the subject of modification. Importantly with respect to this application this includes the local impact thresholds, which the proposed development exceeds. Notwithstanding this the Council is entitled to determine the planning application on what we judge to be material planning considerations. Lowdham's Local Centre is small in scale and anchored by its Co-op store, which generates footfall and linked trips/expenditure. Given its nature the proposal would clearly compete with the existing Co-op store, and so the potential impact on the vitality and viability of Lowdham's Local Centre is evidently material. On this basis it is reasonable to request that the applicant provide a proportionate assessment of the likely impact of the proposal. Without such input it is not possible to appropriately weigh the matter of impact in the balance, and so justifies refusal of the application on this basis alone. This position is consistent with that adopted on the proposed change of use of the Manvers public house in Edwinstowe.

*Comments received 23.10.2017:*

### Retail & Main Town Centre Uses

#### *Sequential Test*

My main concerns are focused around the retail and main town centre uses. The necessary first step is the application of the sequential approach - as required by national policy and reflected in Core Policy 8 (as amended) and Policy DM11. Application of the test should be proportionate and appropriate to the given proposal. Nevertheless I have severe reservations over the methodological approach followed, particularly bearing in mind the need for reasonable flexibility to be shown on the part of the applicant. As per the checklist at Paragraph 10 (Reference ID: 2b-010-20140306) of the Planning Practice Guidance (PPG) the scope for flexibility in the format and/or scale of the proposal should be considered. In this regard it is not necessary to demonstrate that a potential town centre or edge of centre site can accommodate precisely the scale and form of development being proposed, but rather to consider what contribution more central sites are able to make individually to accommodate the proposal.

On my reading it doesn't appear that any flexibility has been shown at all, with the parameters applied by the applicant being the ability to accommodate the precise scale of floorspace and number of car parking spaces proposed. I'm unsure of any reasoning as to why flexibility can't be provided, and I struggle to see how this could be convincingly argued in any event. The proposed development constitutes the change of use of a specific existing building, whereas a new build or change of use of a different unit may be able to make more efficient use of the space available. I am unfamiliar with the 'Spar Market' format and the scale of store commonly required to meet their business model, and no information has been provided to allow this to be better understood. The average Spar store size is 142 sq m according to their UK website<sup>1</sup>, and whilst I do not doubt that a Spar Market store is a different proposition I am not currently convinced why a site or unit offering a lesser scale of floorspace could not be considered.

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<sup>1</sup><https://spar-international.com/country/united-kingdom/> (accessed 18<sup>th</sup> October 2017)

Similarly the level of parking (44 spaces) deemed to be necessary appears to be more led by the specific characteristics of the application site (i.e. the availability and scale of existing hard surfacing and parking provision) than any reasoned functional requirements of the proposal. The need for this to be located directly adjacent to the retail premises is also questioned. Many convenience stores operate successfully from town centre locations without parking provision of the scale and type referred to. It may be that a combination of a lesser scale of directly adjacent parking provision (or maybe even none at all) when taken alongside additional provision elsewhere in the centre and the availability of public transport linkages compensates for this perceived deficiency. By way of comparison the Spar store (incorporating a Subway concession), petrol filling station and car wash on Farndon Road, Newark has 33 parking spaces. The potential contribution that more central sites can make is critical to how the test should be applied, and the benefits to the vitality and viability of existing centres from development taking place there is clear.

Whilst I appreciate the need to establish geographic parameters within which to conduct the site search, my view is that this area should be objectively defined and clearly related to the functional requirements of the proposed development (for example a particular market the proposal is responding to etc.), and not unduly led by the availability of the application site. The purpose of the exercise is to establish whether there are sequentially preferable sites able to meet the requirements. Given their nature the Spar Market and café elements of the scheme could presumably be located in many in-centre, edge-of-centre or sequentially preferable out-of-centre locations and still meet operator requirements. Nonetheless I am mindful that there is no need to disaggregate the proposed uses for the purposes of the test, and the proposal does facilitate the relocation of the Gonalston Farm Shop. I am sympathetic to the argument that the shop will have an existing catchment and customer base within an established geographic area. However this has not been articulated in any way that allows this to be understood. The limiting of the area of search's extent to a ten minute off-peak drive from the application site, setting aside my concerns over the principle of this, could also be seen as fairly arbitrary. I'm unsure why that particular threshold has been applied, particularly when it excludes potentially suitable centres located marginally beyond this (e.g. Radcliffe-on-Trent, Calverton and Southwell – though I note that sites in Southwell and a site in Calverton have been assessed for completeness).

My final issue with the methodological approach is a fairly fundamental one. Para 3.07 of the applicant's assessment outlines that only in-centre and edge-of-centre locations have been considered. National policy is however very clear that if neither town centre locations nor edge of centre locations are available then preference should be given to accessible out-of-centre sites which are well connected to centres. This aspect of the test appears to have been entirely disregarded, and on this basis alone I'm not convinced that the methodological approach is robust. In some circumstances this lack of robustness could be overlooked in seeking to apply the test in a proportionate and reasonable way, however this would be dependent on there being access to sufficient information elsewhere to guide the consideration of sequential matters.

Most of the alternative sites identified by the applicant would be too small to be considered appropriate, even allowing for some degree of flexibility. Although I don't agree with the suggestion that they can all be readily dismissed except for 'land east of Chapel Lane, Bingham'. The Old Railway Yard, Bingham at 2,340 sq m is only 16% smaller than the application site (2,794 sq m) and no appraisal has been provided of its relative merits, there may be benefit from doing so. Aside from this I am comfortable with the dismissal of the remaining sites, but

there still remains the significant flaw that no out-of-centre sites appear to have been considered. This could include for instance the open space located off Old Tannery Drive, Lowdham. Whilst the land is covered by Spatial Policy 8 the policy does allow for loss to occur where sufficient provision exists, or replacement provision is made elsewhere. An innovative approach to the sequential test could examine the potential for land to be released to accommodate the retail and café use, with replacement open space provision being made within the Green Belt adjacent to the site. The catchment defined by the applicant includes areas beyond Newark & Sherwood's administrative area and so naturally I am unable to comment on the potential existence of unconsidered alternative sites in these locations, including sequentially preferable out-of-centre sites.

Taken as a whole I have severe concerns over the sequential exercise undertaken, and question whether it can be considered robust enough to confidently conclude that there are no sequentially preferable suitable and available sites. As it stands the proposal therefore fails to satisfy the sequential test, and as outlined at para 27 of the NPPF where this is the case it should be refused. You may however wish to go back to the applicant and allow for further input to be provided on this matter.

### *Impact Test*

Turning now to the impact test, the applicant concludes that the consideration of impact is not necessary due to the proposal falling below the 2,500 sq m threshold in national policy and Core Policy 8. However, as referred to above, amendments to Core Policy 8 seek the introduction of a local threshold of 350 sq m (gross) or greater outside of the Newark Urban Area, which the proposal exceeds. In my view the emerging policy is consistent with the tests outlined in national policy to the extent whereby meaningful weight can be afforded to it for the purposes of our decision-making. Notwithstanding this the NPPF doesn't say that a local planning authority (LPA) cannot take account of retail impact as a material planning consideration for schemes below the default threshold. Not only are retail impact assessments (RIA) frequently requested for smaller schemes, but we are also entitled to determine a planning application on what we judge to be material planning considerations. Lowdham's Local Centre is small in scale and anchored by its Co-op store, which generates footfall and linked trips/expenditure. Given its nature the proposal would clearly compete with the existing Co-op store, and so the potential impact on the vitality and viability of Lowdham's Local Centre is evidently material.

There would be some recycling of existing floorspace from the farmshop, and the applicant has offered to enter into a unilateral undertaking to relinquish the A1 consent from the existing farmshop premises. Nonetheless without adequate demonstration to the contrary it is not unreasonable to assume that the potential impact from a diversion of trade to additional out-of-centre floorspace could have serious consequences, potentially stretching to those of a significant adverse nature, for the trading performance and overall vitality and viability of the Local Centre. On this basis I would consider it reasonable to expect the application to be supported by a proportional retail impact assessment. Given the nature and scale of the proposal and the centre most likely to be affected I would suggest that a proportionate approach would be one which fully applies the checklist outlined at Paragraph 017 (Reference ID: 2b-017-20140306) of the PPG.

As per para 27 of the NPPF where a proposal is likely to have a significant adverse impact on one or more of the factors identified then it should be refused. The PPG advises that it is for the applicant to demonstrate compliance with the impact test, and as also outlined the failure to undertake an impact test could in itself constitute a reason for refusing permission. As far as I can establish the applicant did not approach the Authority prior to submitting the proposal where there would have been the opportunity to discuss the Authorities view on impact and the scope, key impacts for assessment and level of detail required could have been agreed (as per the advice in the PPG). Whilst the applicant has pointed to other benefits which would occur, promotion of economic growth and the retention of two local businesses, the PPG advises that it is when the impacts are unlikely to be significant adverse that the positive and negative effects should be considered alongside all other material considerations. As it stands we are in a position where we cannot come to a view over the likely extent of impact, and so if appropriate allow this balancing exercise to be undertaken. Again you may wish to allow the applicant the opportunity to come back to us on the matter of impact.

### Conclusion

I am comfortable with the proposed development from a Green Belt and flood risk perspective. However I have severe concerns regarding satisfaction of the sequential test, and whether the exercise can be considered sufficiently robust to allow us to conclude there are no sequentially preferable suitable and available sites. The application is not supported by an impact assessment, in line with the emerging requirements of Core Policy 8 and which I would consider to be necessary in any regard given the scale and format of development proposed relative to the Centre most likely to be affected (Lowdham). We are therefore in a position where we cannot currently come to a view over the proposals likely impact. On this basis I am, at the present time, unable to provide support for the positive determination of the proposal.

**NSDC Environmental Health (Reactive)** - Were the application to succeed you may wish to look at some control over trading hours and I would ask for full details of any external plant, such as chillers etc. to be submitted in due course as appropriate.

**NSDC Environmental Health (Contamination)** - This application includes the conversion of vehicle workshop to commercial use and there is potential for contamination to be present from this former use. As it appears that no desktop study/preliminary risk assessment has been submitted prior to, or with the planning application, then I would request that our standard phased contamination conditions are attached to the planning consent.

**NSDC Access Officer** – As part of the developer's consideration of access to and use of the proposal, with particular reference to access and facilities for all people including those with disabilities, it is recommended that the developer's attention be drawn to BS8300: 2009 Design of Buildings and their approaches to meet the needs of disabled people – Code of Practice – as well as Approved Document M and K of the Building Regulations which contains further useful information in this regard.

Access to, into and around the proposals together with provision of suitable accessible facilities and features should be carefully considered to ensure these are available and equally convenient to access and use. Easy access and manoeuvre for all, including wheelchair users, should be considered to allow access for all and users to turn and manoeuvre without restriction, barriers or obstructions. Externally inclusive access to and around the site should be considered together with access to available facilities and features together with safe pedestrian access from the edge of

the site and from car parking where carefully laid out provision for disabled motorists should be available. BS8300:2009 provided information in respect of design and proportion of car parking spaces.

It is recommended that the developer make separate enquiry regarding Building Regulations matters. It is further recommended that the developer be mindful of the provisions of the Equality Act.

### **Neighbours/Interested Parties –**

A total of ~~14~~ **18** letters of representation have been received.

~~One~~ **Two** letters writes in support for reasons including:

- The proposal would be appropriate in the green belt;
- The proposal would allow two established businesses to continue and maintain local employment particularly given impending loss of Peugeot franchise;
- ***The Applicant now seems to address the main retail impact assessment issue; concerns are overstated especially when referring to the Co-Op; the Co-op is rarely used due to poor accessibility; access to the site is better than the farmshop site; Rushcliffe Council dealt with the new Aldi and Lidl units in Bingham differently and didn't seem to share the same views about the likely impact on existings stores;***

~~13~~ **16** letters raise concerns including:

#### *Retail impact:*

- Whilst I support any proposal for Gonalston farm shop to relocate and expand, I hold serious reservations about the impact of another supermarket in the locality;
- The addition of a Spar could be detrimental to the shops in the village which are more central to village life and would be sorely missed if they were unable to continue trading due to lack of revenue;
- The coffee shop would effect Johannas on Main Street;
- Concern about the branding and look of a Spar to the village;
- Impact to the existing business in the village which already has two corner shops, and a co-op as well as a recently opened coffee shop. Allowing the new development would damage these businesses and detrimentally affect their employees.
- Next there would be a burger bar and 24 hour opening.
- A 'Review of Implications for Retail Planning Policy' prepared by a planning consultant on behalf of an objector concludes that the relocation of Gonalston Farm Shop 'cannot be used to justify the development of an out-of-centre retail complex three times the size of Lowdham Village Local Centre, outside the village, in a Green Belt location. The SPAR market, in particular, is not an appropriate use in this location'.
- ***In response to the submission of an impact assessment from the Applicant, further comments recived from the planning consultant on behalf of the objector state the following:***

***'The proposed development seeks consent for a total of 641 sq m gross retail floorspace. Paragraphs 1.5 and 4.4 and the associated tables state that the total gross floor area proposed is 601 sq m, but that excludes the covered area for external sales shown in the Proposed Floor Plan (Drawing No. 2012/7) which we estimate to be about 40 sq m.***

*The RIA deducts the floor area of the existing shop (298 sq m) to suggest that the proposals should be considered on the basis of an uplift in floorspace of only 303 sq m gross (343 sq m if the outdoor covered sales area is included).*

*We do not agree with that approach. The application is not for an extension of the existing farm shop (which operates out of old, converted agricultural buildings) but for a new out-of-town retail complex in a new location, comprising specialist fresh meat and fish counters operated by the current owners of Gonalston Farm Shop together with a Spar Market outlet and an Insomnia Coffee Shop offering a range of pastries, cakes, sandwiches, breakfasts, salads and soups.*

*There are a number of contradictions and inconsistencies in the RIA. Paragraph 2.4 describes the Gonalston Farm Shop in the following terms:*

*“The customer base of the business is largely local, although some customers are likely to travel from further afield to visit the farm shop, particularly given the unique product range that it offers. From experience of farm shop customer bases, it is likely that the shop is not providing for every-day shopping requirements or even a weekly shop for many of its customers but is providing a more specialised range of goods that supplement normal shopping trips to more traditional shops.”*

*However, the proposed co-location with the Spar ‘Market’ outlet suggests a significant change in function (in paragraph 4.2) with implications for trading impacts on the centre of Lowdham:*

*“Together, the two businesses will be able to offer a wider-range of products to customers, allowing a larger shop to be carried out in a single visit. This is more convenient for the customers and more environmentally friendly as it reduces the need to travel for other shopping requirements, with each benefitting from each other in terms of footfall.”*

*Chapter 6 of the RIA, Retail Impact Assessment Methodology and Analysis, suggests that the proposed retail complex will serve a very wide catchment area. A Primary Catchment Area (PCA), based on a 10-minute drive time, and a Secondary Catchment Area (SCA), based on a 15-minute drive time are defined. In 2023, the PCA population is estimated at 58,766 and the SCA population 172,123.*

*The RIA states in paragraphs 6.1 and 6.2:*

*“The catchment area of the proposed development has been plotted using information obtained from the end users of the retail and café elements of the proposal, a knowledge of the application site’s geographical location, and general assumptions widely used in the retail sector.*

*‘This information demonstrates that, because of the combination of the specialist offer provided by Gonalston Farm Shop and Spar Market, the catchment area is more extensive than for a mainstream national multiple retailer for the same floor area.’*

*There is no explanation of the ‘information obtained from the end users’ or the ‘general assumptions widely used in the retail sector’ and no evidence is provided in support of these assertions.*

***Normally, a PCA is defined as an area that is expected to attract 80% of turnover. But in this case the RIA expects the PCA to account for only 50% of turnover with 30% from the SCA and 20% from even further afield. These assumptions are extremely optimistic and are not supported by any evidence. They are not realistic and they lead directly to the conclusion that there will be only very limited trade diversion from the nearby local centre of Lowdham.***

***The RIA uses Pitney Bowes Local Area Population and Expenditure Estimates and forecasts drawn from the Pitney Bowes Retail Expenditure Guide 2017/18. We recognise this source as an accepted industry standard. The problem with the RIA's catchment area analysis is the pattern of trade draw that it assumes: only 50% of turnover from a PCA which has a population of 59,000 in 2023 and total available expenditure of £126m on convenience goods, with a further 30% of turnover from the SCA with a population of 172,000 and total available expenditure of £351m on convenience goods.***

***The estimated turnover of the proposed retail outlets is also unrealistic, based on a sales density of £4,000 per sq m in 2015 and £4,032 per sq m in 2023, including the Spar Market outlet. A report of the first Spar Market store at Pwllheli describes the Spar Market concept as a new format for stores with a retail floor area of more than 3,000 sq ft targeting customers with higher basket spend than typical convenience shoppers. The store was already performing like a supermarket and reported nearly a 10% increase in sales in the opening week.***

***The assumed sales density for the proposed outlets is only just over half the published average sales density for SPAR stores of £7,650 per sq m. The sales density of the upmarket Spar Market concept with 'higher basket spend than typical convenience shoppers' is likely to be well over £8,000 per sq m and probably closer to £10,000 per sq m.***

***The comparison of available expenditure within an unrealistically large catchment area with an unrealistically low estimate of turnover for the proposed stores does not provide the basis for a reasonable assessment of the likely impacts of the proposed out-of-town retail complex on the local centre of Lowdham.***

***The RIA seeks to paint a picture of the proposed retail outlets drawing a very low turnover from a very large market area and therefore making an insignificant penetration of an enormous volume of available expenditure. That picture is misleading and irrelevant. It does not present any evidence about the expected pattern of trade diversion from shops in Lowdham and does not fulfil the requirements of a retail impact assessment as set out in Planning Practice Guidance, Paragraph 017 (Reference ID: 2b-017-20140306).***

***For guidance on the potential impacts of the proposed out-of-town retail complex on the local centre of Lowdham, it is more relevant to refer to the independent analysis and advice of Carter Jonas on the role of Lowdham and the capacity for additional convenience foods in paragraphs 11.62 and 11.63 of their Town Centre and Retail Study of 2016:***

***"There is forecast capacity for 218 sq m net of new convenience goods floorspace across all the District's Local Centres in 2026, and this is forecast to increase to 384 sq m net by 2033. This could also support smaller convenience store formats in some of the centres where the demand exists and where suitable sites/buildings are available to accommodate the forecast need.***

***‘There is limited forecast capacity for new out-of-centre convenience goods floorspace in the District as it has been assumed that any capacity generated by the District’s main out-of-centre foodstores (namely Waitrose and Aldi) should be directed to Newark Town Centre first in accordance with the NPPF and Local Plan policy.’***

***As we commented in our earlier submission, it is obvious that any potential for additional convenience goods floorspace will be in or adjoining settlements where significant growth in retail expenditure is expected as a result of housing development. That situation does not apply in Lowdham where Green Belt and drainage constraints have severely limited the scope for housing allocations.***

***No reliance should be placed on the RIA by Airedon for the reasons given above. The application should be refused on the basis of local plan policies. If the Council has any reservations about refusing the application in the absence of a compliant retail impact assessment it could, of course, commission independent advice. However, we believe that a proportional approach can be taken on the basis of information and advice in the Town Centre and Retail Study.***

***We confirm the conclusion of our previous representations on this application that a new, separate application for relocation of the Gonalston Farm Shop would not necessarily be contrary to local plan policies and could be acceptable in principle, but it would be difficult to amend the current application to separate the Farm Shop relocation from the other retail uses currently proposed.***

***The appropriate course of action is therefore for the Council to refuse permission for the current planning application on the basis that it is contrary to Core Policy 8 of the adopted Core Strategy and Core Policy 8 of the Amended Core Strategy or to advise the applicant to withdraw and re-submit an amended application for the relocation of the Farm Shop.’***

***Amenity:***

- Impact of longer working hours for a shop including early morning deliveries and extra noise and activity from customers to neighbours and the rest of the local community;
- Poor street lighting;
- Light pollution from late opening affecting residents and wildlife;
- Impact on scenic rural location.

***Flooding:***

- The field to the right of the garage if extended into is prone to flooding and could make matters worse.

***Highways:***

- The road is very busy with lots of accidents which would be made worse by the increases numbers of cars, larger vans/lorries and pedestrians turning into the site;
- The right turn onto the site is unsafe and close to the bend;
- Creation of unnecessary traffic through the village.
- The access to the site is not sufficient and too narrow;
- Insufficient parking provision;
- A road traffic assessment should be carried out due to the amount of vehicles that travel at high speeds on this stretch of road;
- **There should be no parking on the grass verge in front of the site boundary.**



Other:

- The proposal would leave a car sales unit with seemingly very little space to display sales stock;
- The consultation period is too short and should be extended due to the large no. of potential issues raised;
- No consultation with local people or an assessment of need;
- ***The field is wet all year around and won't grow veg;***
- ***Proposal will encourage young people to hang around later at night.***

Comments of the Business Manager

### **The Principle of Development**

#### Green Belt

The application site falls within the Green Belt and Core Policy 4B defers to the definition of appropriate development provided in national Green Belt policy. The NPPF states that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristic of Green Belts are their openness and their permanence. The re-use of buildings is not considered inappropriate in Green Belt provided they preserve openness and do not conflict with the purposes of including land within it.

The proposal would constitute the partial redevelopment of previously developed land through the re-use of an existing building of permanent and substantial construction, with the extent of alteration appearing to be modest. No overall increase to the footprint of the building is proposed for redevelopment to occur, and whilst there would be a slight increase to the area of the site covered by hard surfacing, to service the retail unit and café, this is marginal and would have no materially greater impact on the openness of the Green Belt or the purposes of including land within it than the existing development. Whilst the level of activity associated with the proposed use could differ from the existing use (particularly in relation to hours of opening), it is not considered that any increase would have a materially greater impact on the openness of the Green Belt when taking into account the existing use of the site and the limited physical intervention required to accommodate the anticipated change.

Allotments are defined as an agricultural use and do not ordinarily require planning permission. On this basis, I am comfortable that this use would not result in any impact on the openness of the Green Belt. No sheds or other ancillary structures are proposed as part of this application and I am satisfied that the erection of such buildings could be controlled through the need for a separate application for planning permission. A note advising the Applicant of this requirement is advised.

#### Retail

##### *Policy*

It is established that the starting point in assessing a development rests with the Development Plan and that the NPPF should form an important material consideration in the decision making process.

Core Policy 8 of the Core Strategy sets out the retail hierarchy within the District and seeks to protect vitality and viability of existing centres and also provide for new centres within strategic sites across the district. The hierarchy includes Lowdham Local Centre which has been defined on the basis that it is primarily concerned with the sale of food and other convenience goods to the local community in which they are located. The policy further states that retail development in out of centre locations will be strictly controlled and that proposals would need to demonstrate their suitability through the sequential site approach and provide a robust assessment of the impact on nearby centres. Notwithstanding the above adopted policy, a review of both the Core Strategy and the Allocations and Development Managements Plan Documents is currently in progress and in the case of the Core Strategy review is well advanced. The Amended Core Strategy, which contains a revised Core Policy 8, was examined by the appointed Inspector in February 2018.

The revised Core Policy 8 follows the recommendations of the December 2016 Town Centres and Retail Study (TC&RS) and seeks to require retail development over 350 GIA outside of the Newark Urban Area to be “robustly assessed, through the undertaking of an impact assessment proportionate to the scale and type of retail floorspace proposed.”

I note that Core Policy 8, as revised, differs from the adopted Policy DM11 of the Allocation and Development Management DPD in terms of the threshold at which detailed retail justification will be required. DM11 states that “Retail development in all out-of-centre locations will be strictly controlled. Retail proposals creating more than 2500 sq m of floor space outside of town, district and local centre locations will require justification through the sequential test and robust assessment of the impact on nearby centres and the following:

- The impact on the range and quality of the comparison and convenience retail offer; and
- The impact of the proposal on allocated sites outside town centres being developed in accordance with the Development Plan.”

In this case, whilst I note the emerging Core Policy 8, I also note the adopted DM11. At a national level Paragraph 26 of the NPPF provides guidance on national retail policy and states that *when assessing applications for retail, leisure and office development outside of town centres, which are not in accordance with an up-to-date Local Plan, local planning authorities should require an impact assessment if the development is over a proportionate, locally set floorspace threshold (if there is no locally set threshold, the default threshold is 2,500 sq m).*

Irrespective of stated thresholds I note that the primary issue is assessing the impact of the proposals upon the vitality and viability of centres. In this case there is evidence available from the LPA’s evidence base work on retail.

For the purposes of paragraph 216 of the NPPF (stage of preparation, extent of unresolved objection and degree of consistency with national policy), it is considered that the emerging Core Policy 8 content satisfies the tests to the extent that 1) it is at an advanced stage, with the Examination taken place in February 2018 and only the modifications to be finalised and consulted upon and 2) there are no unresolved objections to the local thresholds set within the emerging policy. Accordingly, I consider that significant weight can be attached to the policy, and even more importantly the impacts on vitality and viability, on an overall planning balance.

Paragraph 23 of the NPPF provides guidance on the application of the sequential test and states that 'Local planning authorities should apply a sequential test to planning applications for main town centre uses that are not in an existing centre and are not in accordance with an up-to-date Local Plan. They should require application for main town centre uses to be located in town centre, then in edge of centre locations and only if suitable sites are not available should out of centre sites be considered. When considering edge of centre and out of centre proposals, preference should be given to accessible sites that are well connected to the town centre. Applicants and local planning authorities should demonstrate flexibility on issues such as format and scale. Paragraph 8 of the PPG concurs, stating 'The sequential test guides main town centre uses towards town centre locations first, then, if no town centre locations area available, to edge of centre locations, and, if neither town centre locations nor edge of centre locations are available, to out of town centre locations, with preference for accessible sites which are well connected to the town centre. It supports the viability and vitality of town centres by placing existing town centres foremost in both plan-making and decision-taking. The NPPF at para 27 states 'Where an application fails to satisfy the sequential test or is likely to have a significant adverse impact on one or more of the above factors, it should be refused.

### *Sequential Test*

The site is not located within the defined Local Centre of Lowdham being situated more than 500 metres to the west (as the crow flies), outside of the village envelope and located with the Green Belt. The site is therefore located out-of-centre. The Sequential Test submitted with the application agrees that the site is located out of centre. However, concern was raised by Officer's during the course of the application in relation to the robustness of the submitted Sequential Test and the possible harm (impact) the proposed store could have on the vitality and viability of Lowdham Local Centre. This concern was communicated to the applicant and a Supplementary Sequential Test and letter from the Agent (dated 29.01.2018) was submitted.

The full comments of the NSDC Policy Officer in relation to the submitted Sequential Test is set out in the Consultations section above. In summary, whilst they do not necessarily disagree with the reasoning behind the discounting of the identified alternative sites, that they do retain some concern over the methodological approach, and whether sufficient flexibility has been shown. It is not clear that the test has been applied in a robust and comprehensive manner and so it cannot be confidently concluded that there are no sequentially preferable alternative sites. In line with paragraph 26 of the National Planning Policy Framework, where a proposal fails to satisfy the sequential test, it should be refused.

### *Fall Back Position*

A 'fall back' position is something that either has the benefit of planning permission or would not require planning permission that could be carried out without any further consent and which can be considered against a current proposal and which has a likelihood of coming forward.

The applicant considers that in this case there is a 'fall back' in which the current proposal should be considered against. The Agent asserts that the relocation of the farm shop is the 'primary driver' of the proposal rather than the Spar Market element. The supporting information confirms that the existing retail consent at the current Gonalston Farm Shop (which has 298 sq m of A1 retail floorspace at their existing site) would be formally relinquished by legal agreement should planning permission be approved.

In floorspace terms the Spar would be by far the dominant element with Gonalston Farm Shop significantly downsizing to 108 sq m. The farm shop element would concentrate on its butchery, fishmongery and delicatessen component and it is proposed that the new Spar shop would takeover the sale if the A1 retail offer currently provided at the existing farm shop. However, I do not accept this as an acceptable fall-back position for the following reasons.

The planning history for the farmshop is as follows:

- 01/01716/FUL Proposed farm shop (linked to Mason Bros Livestock) – approved 11.12.2001 subject to conditions including Condition 9 which restricted use for the purposes of a farm shop, in accordance with the agents' letter of 20th September 2001. This letter states that the farm shop would sell a mixture of locally produced foods and meat from the Mason Brothers farm.
- 04/02889/FUL Extend farmshop (and storage) into remainder of empty farm building (NB approximate doubling in floorspace) approved 27.01.2005 subject to conditions including Condition 6 which restricted the use for the purposes of a farm shop, in accordance with the agent's letter of 30th November 2004 and the applicant's letter dated 28th December 2004. The Agents letter referred to stated that the farm shop would sell a mixture of locally produced foods and meat from the Mason Brothers farm confirms that one third of the turnover would be from beef and lamb coupled with pork from Bankwood Farm in Oxton. The rest of produce is sourced within a 50 mile radius with only the mustards from Herefordshire and dried herbs from Norfolk from further afield.

The current application states that Gonalston farmshop has a floorspace of 298m<sup>2</sup> albeit the floorspace info submitted with 04/02889/FUL implies that only 138m<sup>2</sup> would be retail floorspace (the remainder would be storage albeit the overall figures available do not seem to tally). The proposed retail floorspace in current application would be 367m<sup>2</sup> with a coffee shop at 81m<sup>2</sup> which seems significantly more than the planning history for the farmshop indicates. The reason for the granting of the original farm shop consent was to support the diversification of an existing rural business and it is not considered that the proposed store would be compatible with these aims or comply with the conditions which restrict the current farmshop business.

In addition, if the 'fall back' position represents a real prospect of implementation and is deliverable then it should constitute a comparison for which the current application can be considered against. The correct tests (as established by case law) for determining the fall back position are whether there is a lawful ability to undertake the fall back position (i.e. is there an implementable consent) and whether there is a likelihood or real prospect of such a consent occurring. Notwithstanding the conditions imposed on the existing farmshop consent, I consider it unlikely that this site would be capable of accommodating the application currently proposed without significant rebuilding and extension (which notwithstanding any retail impact issues may not be acceptable in principle in any event due to the sites Green Belt location).

As such, I do not consider the use of the existing Gonalston farmshop to represent a realistic fall back position. I therefore attach little weight to the Applicants offer for a Unilateral Undertaking securing the relinquishment of the existing (farm shop) A1 retail consent from the existing premises within six months of taking occupation at the new site.

### *Impact on the Vitality and Viability of Lowdham Local Centre*

In relation to the impact test, the applicant concludes that the consideration of impact is not necessary due to the proposal falling below the 2,500 sqm threshold in national policy and Core Policy 8. However, the amendments to Core Policy 8 seek the introduction of a local threshold of 350 sqm (gross) or greater outside of the Newark Urban Area, which the proposal exceeds (and it is considered that significant weight can be attached to this emerging policy for the reasons set out in the 'Retail Policy' section above).

In Officer's opinion the impact on the vitality and viability of nearby centres is a clear material planning consideration. The full comments of the NSDC Policy Officer in relation to the requirement for an Impact Test are set out in the Consultations section above. In summary, these comments state that Lowdham's Local Centre is small in scale and anchored by its Co-op store, which generates footfall and linked trips/expenditure. Given its nature the proposal would clearly compete with the existing Co-op store, and so the potential impact on the vitality and viability of Lowdham's Local Centre is evidently material. Without adequate demonstration to the contrary it is not unreasonable to assume that the potential impact from a diversion of trade to additional out-of-centre floorspace could have serious consequences, potentially stretching to those of a significant adverse nature, for the trading performance and overall vitality and viability of the Local Centre.

On this basis it is reasonable to expect the applicant to provide a proportionate assessment of the likely impact of the proposal. The Applicant has not submitted this assessment and has refused to provide one. Without such input it is not possible to appropriately weigh the matter of impact in the balance. As per para 27 of the NPPF where a proposal is likely to have a significant adverse impact on one or more of the factors identified then it should be refused. The PPG advises that it is for the applicant to demonstrate compliance with the impact test, and as also outlined the failure to undertake an impact test could in itself constitute a reason for refusing permission.

### *Other Positive Effects*

The PPG advises that it is when the impacts are unlikely to be significant adverse that the positive and negative effects should be considered alongside all other material considerations. As it stands we are in a position where we cannot come to a view over the likely extent of impact given the clear failure of the applicant to demonstrate this.

However, for completeness, the applicant has pointed to other benefits which would occur including promotion of economic growth and the retention of two local businesses albeit both at a smaller scale (Gonalston Farmshop and J Harrison as an independent car retailer, garage and petrol filling station.). The submitted Design and Access Statement states that Peugeot have formally given notice to J Harrison that its franchise will be withdrawn shortly which places the existing business and all of its workforce at significant risk. The Statement also states that the proposal would secure a rental income to enable J Harrison to remain on site and also implies that Gonalston Farm Shop Ltd may be at risk over the coming years. However, this information is anecdotal and I can therefore give this limited weight particularly when the impact upon the Local Centre of Lowdham is unknown. In summary, I do not find that there is an overwhelming benefit to proposal that would outweigh the lack of any demonstration or considerations of retail impact.

### **Impact upon Visual Amenity**

Core Policy 9 requires a high standard of sustainable design that protects and enhances the natural environment and contributes to the distinctiveness of the locality and requires development that is appropriate in form and scale to the context. Policy DM5 requires the local distinctiveness of the District's landscape and character of built form to be reflected in the scale, form, mass, layout, design, materials and detailing of proposals for new development.

In relation to landscape impacts, the proposed site is within the Trent Washlands Policy Zone (TW PZ 27) 'Caythorpe and Gonalston River Meadowlands' character area as defined within the Council's Landscape Character Supplementary Planning Document (SPD). The landscape generally within the zone is unified and has few detracting features including the A612. The policy action for the zone is to 'Conserve' with policy actions to conserve the rural character of the landscape.

Overall, I am satisfied that the proposal would not result in a development which would be detrimental to the visual amenity of the rural landscape in accordance with Core Policy 9 and 13 of the Core Strategy and Policy DM5 of the DPD.

### **Impact on Highway Safety**

Spatial Policy 7 of the Core Strategy amongst other things requires proposals to minimize the need for travel through measures such as travel plans or the provision or enhancement of local services and facilities; provide safe, convenient and attractive accesses for all; be appropriate for the highway network in terms of volumes and nature of traffic generated and avoid highway improvements which harm the environment and character of the area. DM5 mirrors this.

There are no changes to the existing access proposed by the current application according to the application form, 36 additional car parking spaces would be provided (I assume that sales parking would be given over to customer parking to achieve this number). Despite the request for further clarification of parking and staff numbers, I note that the latest position of the Highways Authority is to raise no objection to the scheme in terms of highway safety. As such, the proposal is not considered likely to result in any adverse impact upon highway safety.

### **Impact on Ecology**

Core Policy 12 of the Core Strategy seeks to secure development that maximises the opportunities to conserve, enhance and restore biodiversity. Policy DM5 of the DPD states that natural features of importance within or adjacent to development sites should, wherever possible, be protected and enhanced. No ecology survey has been submitted with the application. However, as no demolition of buildings/limited removal of natural vegetation is proposed, it is considered likely that the site has low ecology potential. As such, the lack of information submitted in relation to ecology would not warrant refusal of the application in this instance.

### **Impact upon Residential Amenity**

Policy DM5 requires development to be acceptable in terms of not having a detrimental impact on residential amenity both in terms of existing and future occupiers. Indeed 'always seeking to secure a good standard of amenity for existing and future occupants of land and buildings' is one of the 12 core planning principles set out in the NPPF.

A residential property is located immediately to the east of the site with the next nearest neighbour located on the opposite side of Southwell Road, just over 50 metre away. The Environmental Health Officer raises no objection to the proposal subject to conditions relating to trading hours and the submission and approval of any external plant details such as chillers etc. As the proposal is already in use for commercial purposes, it is not considered that the proposal would give rise to any material increase in any adverse impact upon neighbouring properties by virtue of any noise or disturbance issues. Whilst, operating hours may be longer and later than the current use, it is not considered that the limited amount of noise to be generated from the use would be so significant to warrant refusal of the application, particularly when taking into account the background noise levels generated from traffic along Southwell Road.

Subject to conditions, I am therefore satisfied that proposal would comply with the objectives of Policy DM5.

### **Flood Risk**

Core Policy 9 (Sustainable Design) provides that development should 'through its design, pro-actively manage surface water, where feasible, the use of Sustainable Drainage Systems.' CP10 seeks to mitigate the impacts of climate change whilst Policy DM5 also seeks to ensure development is safe for the intended users without increasing flood risk elsewhere. This broadly reflects the advice in the NPPF.

The majority of the site lies within Flood Zone 2, with part located in Flood Zone 2. The proposed development is not a more vulnerable use than the use of the existing site. In line with para 104 of the NPPF proposals for change of use should not be required to undertake the sequential and exceptions tests, but should still meet the requirements for site specific flood risk assessments. A flood risk assessment has been submitted with the application which confirms that the proposal would incorporate measures for flood resilience including setting appropriate finished floor levels, electric circuitry etc. coming from above rather than the ground etc., raising utility inlet points and locating boilers at a high level. Subject to conditions, I am therefore satisfied that the proposal would comply with the requirements of Core Policy 9 and Policy DM5.

### **Planning Balance and Conclusion**

The proposal would be acceptable in terms of its location within the Green Belt, Flood Zones 2 and 3, impact on visual amenity, impact on neighbouring properties and highway safety.

The Council is of the view that retail impact forms a material consideration in relation to the determination of this applications and that revised Core Policy 8 should have due weight attached to it. It is not considered that the submitted Sequential Test has been applied in a robust and comprehensive manner and so it cannot be confidently concluded that there are no sequentially preferable alternative sites. In line with paragraph 26 of the National Planning Policy Framework, where a proposal fails to satisfy the sequential test, it should be refused. In addition, it has not been demonstrated through the submission of a retail impact test that the proposal would not result in a significant adverse impact upon the vitality and viability of the Local Centre of Lowdham.

Accordingly, in the overall planning balance I must conclude that the proposals are unacceptable and planning permission should be refused on retail grounds.

## **RECOMMENDATION**

**That full planning permission is refused for the following reason:**

### **Reasons for Refusal**

01

The application site is located out of centre outside of both the defined Local Centre and village envelope of Lowdham. Core Policy 8 (Retail Hierarchy) of the Core Strategy (Adopted 2011 and Emerging 2018) sets out the retail hierarchy within the District and seeks to protect vitality and viability of existing centres and demonstrate the suitability of retail development outside of a defined town centre through a sequential site approach and an assessment of impact on nearby centres.

The National Planning Policy Framework (NPPF) supports this approach and states that applications for main town centre uses should be located in town centres, then in edge of centre locations and only if suitable sites are not available should out of centre sites be considered. In the opinion of the Local Planning Authority (LPA) the Applicant has not applied the sequential site approach in a robust and comprehensive manner and the LPA fail to be convinced that there are no alternative suitable sites available. As such, the application fails to satisfy the sequential test.

The NPPF also states that where an application is likely to have significant adverse impact on town centre vitality and viability and on investment in a centre or centres in the catchment area of the proposal, it should be refused. A retail impact assessment of any type has not been submitted with the application, despite request. As such, the application fails to demonstrate that the proposal would not result in a significant adverse impact upon the vitality and viability of the Local Centre of Lowdham.

The proposal is therefore contrary to Core Policy 8 as well as being contrary to the National Planning Policy Framework (NPPF) and NPPG which are material planning considerations. There are no other material planning considerations that would outweigh harm by reason of sequential inappropriateness or potential harm to Lowdham Local Centre.

### **Notes to Applicant**

01

The application is clearly contrary to the Development Plan and other material planning considerations, as detailed in the above reason(s) for refusal. Working positively and proactively with the applicants would not have afforded the opportunity to overcome these problems, giving a false sense of hope and potentially incurring the applicants further unnecessary time and/or expense.

02

You are advised that as of 1st December 2011, the Newark and Sherwood Community Infrastructure Levy (CIL) Charging Schedule came into effect. Whilst the above application has been refused by the Local Planning Authority you are advised that CIL applies to all planning permissions granted on or after this date. Thus any successful appeal against this decision may therefore be subject to CIL (depending on the location and type of development proposed). Full details are available on the Council's website [www.newark-sherwooddc.gov.uk/cil/](http://www.newark-sherwooddc.gov.uk/cil/)



Background Papers

Application Case File.

For further information, please contact Helen Marriott on ext 5793.

All submission documents relating to this planning application can be found on the following website [www.newark-sherwooddc.gov.uk](http://www.newark-sherwooddc.gov.uk).

**Matt Lamb**

**Business Manager - Growth & Regeneration**

Committee Plan - 17/01616/FUL

