

Erection of two storey and single storey retail food store with resturant (A1 and A3) (2830 sqm gross external), Erection of petrol filling station with single storey kiosk, erection of single storey retail terrace (538 sqm gross external) and erection of two storey nursery (D1) (604 sqm gross external)

Report Item No
A4

Land At Station Road Castle Donington Derby

Application Reference
13/00702/FULM

Applicant:
Mr Gary Barber

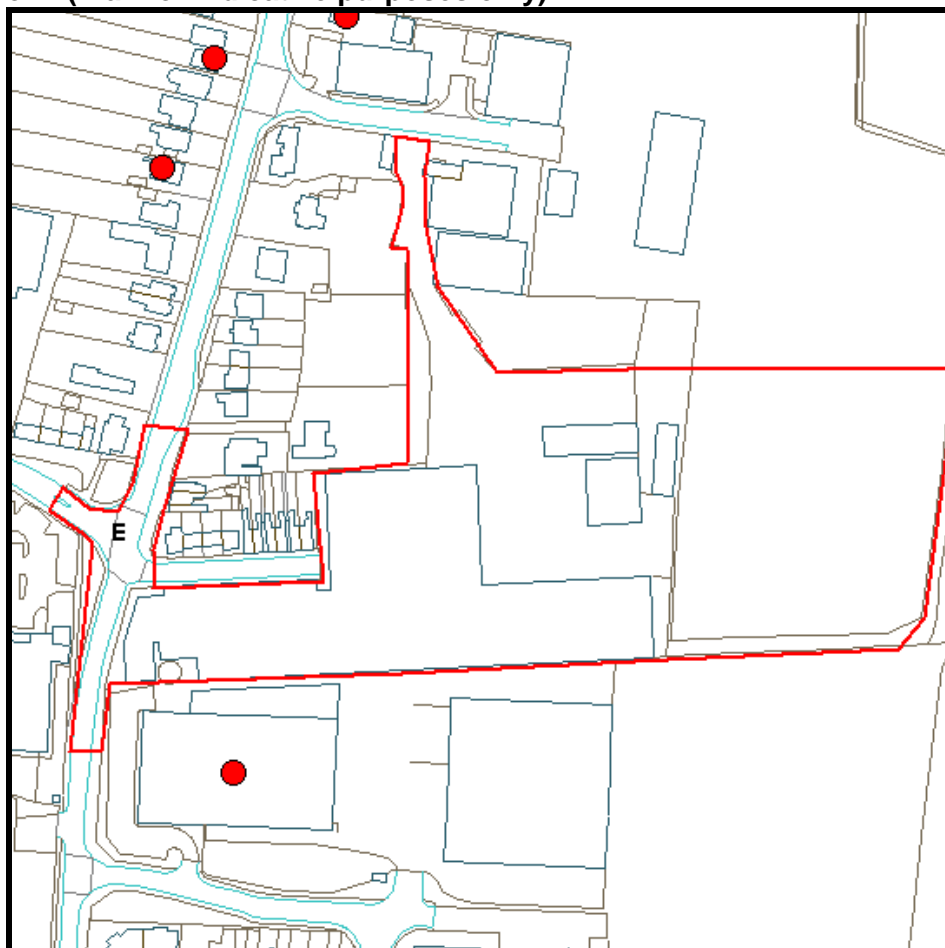
Date Registered
16 September 2013

Case Officer:
Sarah Worrall

Target Decision Date
16 December 2013

Recommendation:
PERMIT

Site Location - (Plan for indicative purposes only)



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Executive Summary

Call In

The application is brought before Planning Committee due to the major retail proposal within the Limits to Development of Castle Donington and on the grounds of local concern.

Proposal

This is a full application for the demolition of the existing factory buildings within the site, except the northern façade of the Victoria Street factory, and the erection of the following within the Limits to Development of Castle Donington:

- Part two storey food store (A1 and ancillary A3 uses) (first floor element to include staff room, ancillary store room, and wc facilities) comprising 2,830 sq m of gross external floor space and a net internal area (sales space) of 1,860 sq m;
- Single storey retail (A1 use) terrace of 4 units comprising 538 sq m gross external floor space with a gross internal area of 502 sq m;
- Two storey pre-school nursery (D1 use) with a gross external floor space of 604 sq m;
- A petrol filling station including canopied area over fuelling units and ancillary sales kiosk
- The kiosk would have a gross external area of 106 sq m.

Consultations

Members will note that representations from local residents and businesses have been made and the full representations are available to view on the working file. In terms of the issues raised, statutory consultees are satisfied that there are no matters that have not been satisfactorily addressed or cannot otherwise be satisfied by way of condition. Members will also note that the applicant has undertaken a number of public consultation events prior to submission of the application.

Planning Policy

The site is an existing employment site and the loss of employment opportunities will need to be gauged against proposed employment opportunities at retail and nursery operations. The retail impact on Castle Donington will also need to be considered under National Planning Policy Guidance (NPPF) and the North West Leicestershire Retail Survey. Other material planning considerations are design, heritage, residential amenity and highways aspects of the proposal and can be considered under NPPF and Adopted Local Plan Policies.

Conclusion

The report below indicates that the site is located within the Limits to Development of the sustainable settlement of Castle Donington, and is considered to represent a sustainable location for new development. The proposed retail and nursery development would provide employment opportunities which would counter the loss of the current employment opportunities at the site, would not adversely impact on Castle Donington village centre, would be in scale and character with its surroundings, and have no adverse impact on residential amenities or highway safety in accordance with the requirements of the Adopted Local Plan and NPPF. As such the proposal is recommended for approval.

RECOMMENDATION - PERMIT, SUBJECT TO CONDITIONS.

Members are advised that the above is a summary of the proposals and key issues contained in the main report below which provides a full details of all consultation responses, planning policies, the Officer assessment and recommended conditions, and

Members are advised that this summary should be read in conjunction with the detailed report.

MAIN REPORT

Proposals and Background

This is a full application for the demolition of the existing factory buildings within the site, except the northern façade of the Victoria Street factory, and the erection of the following:

- Part two storey food store (A1 and ancillary A3 uses) (first floor element to include staff room, ancillary store room, and wc facilities) comprising 2,830 sq m of gross external floor space and a net internal area (sales space) of 1,860 sq m;
- Single storey retail (A1 use) terrace of 4 units comprising 538 sq m gross external floor space with a gross internal area of 502 sq m;
- Two storey pre-school nursery (D1 use) with a gross external floor space of 604 sq m;
- A petrol filling station including canopied area over fuelling units and ancillary sales kiosk
- The kiosk would have a gross external area of 106 sq m.

Whilst the application site includes part of Station Road, where off-site highways works are proposed, the main development site is some 1.6ha and currently has a main vehicular access off Station Road via Newbold Drive, and includes various factory buildings of different ages. The site forms part of a wider area of land which is an industrial/business estate and the site is currently occupied by Duflex, a company which manufactures foam mattresses and cushions.

A BP petrol filling station and the 'Available Car' site are situated to the north of Newbold Drive, with residential dwellings on Station Road backing onto the western boundary of the site access off Newbold Drive. This access would be used for delivery vehicles accessing the proposed retail units and for staff parking (30 spaces) and recycling bins associated with the nursery and retail units. Two industrial units off Carnival Way adjoin the application site at southern elevation, the Art Forma unit fronting Station Road and the Charles Blyth firm to the rear of that

It is proposed that the existing factory buildings would be demolished with the northern façade of the original brick factory fronting Victoria Street being the only part retained. The removal of the bulk of the original brick factory facing Station Road would provide for a new vehicular access to the site. Works to Station Road are proposed, including a right turn lane to the site, to form a new road junction. The access would involve an in and out lane along with a mini roundabout within the application site.

The main supermarket would be situated to the rear of the site with a car parking area of 163 spaces to the front. The supermarket would be some 7.2m in height with a flat roof incorporating a pitched roof section at the southern end. The pitched roof section would have a ridge height of some 12.9m, dropping to some 8m at eaves level.

Four smaller retail units would adjoin the main supermarket building at its north west corner and extend across the top section of the access off Newbold Drive effectively separating that access from the main part of the site. The terrace of four retail units would be a single storey flat roof section with a height of some 4.5m. The two storey nursery building would adjoin the retail terrace at its western elevation. This section of built form would also face onto the main car park which would cover the central part of the main application site.

A petrol filling station with ancillary canopied area and kiosk would be situated to the front of the site nearest to Station Road, with the kiosk being situated on the road frontage with landscaping to the fore. An amended plan in relation to the kiosk design and how the canopy would relate to the retained brick façade onto Victoria Street was submitted on 5 December 2013.

A planning statement, Design and Access Statement, Flood Risk Assessment, Phase I ground report, Retail Assessment, Transport Assessment and Statement of Community Involvement have been submitted as part of the application. During the application process additional information has been submitted as follows:

- Highways swept path plans - 29 October 2013;
- Historic Buildings Assessment - 30 October 2013;
- Additional Travel Plan - 4 November 2013;
- Transport information and an amended kiosk elevation plan - on 5 December 2013; and,
- Retail Assessment update was received on 13 December 2013.

The District Council has sought independent advice on the retail assessment information from Peter Brett Associates.

History

The site has a planning history dating back to the mid 1970's up to 2007. The applications relate to extensions, alterations and new buildings at the existing factory site.

2. Publicity

31 no neighbours have been notified.(Date of last notification 16 December 2013)

Site Notice displayed 22 October 2013

Press Notice published 2 October 2013

3. Consultations

Castle Donington Parish Council consulted 24 September 2013

County Highway Authority consulted 16 December 2013

NWLDC Urban Designer consulted 16 December 2013

County Archaeologist consulted 1 November 2013

NWLDC Conservation Officer consulted 1 November 2013

County Highway Authority consulted 5 November 2013

County Highway Authority consulted 17 October 2013

Environment Agency consulted 25 September 2013

Severn Trent Water Limited consulted 25 September 2013

Head of Environmental Protection consulted 25 September 2013

County Archaeologist consulted 25 September 2013

Airport Safeguarding consulted 25 September 2013

NWLDC Conservation Officer consulted 25 September 2013

NWLDC Urban Designer consulted 25 September 2013

County Planning Authority consulted 25 September 2013

Development Plans consulted 25 September 2013

Police Architectural Liaison Officer consulted 25 September 2013

Building Control consulted 25 September 2013

County Planning Authority consulted 14 October 2013

4. Summary of Representations Received

Castle Donington Parish Council - No objections to original submission or additional information including kiosk plans;

Severn Trent Water - No objection subject to condition;

Environment Agency - No comments received;

LCC (Highways) - No objections in principle subject to conditions;

LCC (Minerals) - No objection;

LCC (Contributions) - No requests in relation to proposal;

LCC (Archaeology) - A Historic Building Assessment should be submitted;

Manchester Air Group - No objection;

NWLDC (Environmental Protection - noise) - No objection;

NWLDC (Conservation Officer) - Concern regarding the loss of legibility of a non-designated heritage asset which would be demolished.

Business representations have been received from Marrons on behalf on Midlands Co-operative Society; NJL Consulting on behalf of The Co-operative Group; Enwabe Investments Ltd as owner of the Art Forma and Blyth factory site; and Charles Blyth and Co Ltd and their concerns can be summarised as follows:

- There is insufficient expenditure capacity available to support the proposed development which will therefore have an adverse impact on Castle Donington village centre;
- Proposed new access would be adjacent to Carnival Way which serves adjacent industrial units and may cause highway safety problems;
- Employees turning right out of Carnival Way already have to wait a long time and the access will make this worse;
- Highway problems for daily deliveries to our site from suppliers and couriers who already have to observe the weight limit on part of Station Road and travel via Trent Lane to station Road;
- We would need to invest in boundary treatments to ensure children don't stray onto our industrial site;
- Timber is stored at the rear of the Art Forma and Charles Blyth units so there is a risk of fire from cigarette ends from the development site;
- The development may cause problems with trespass and theft.

Four neighbour representations have been received from residents of Victoria Street and Station Road and can be summarised as follows:

Amenity Issues

- Could you explain how the residents of Station Road have been taken into consideration as part of the development, particularly those with houses whose gardens back onto the access road from Newbold Drive;
- The petrol filling station (PFS) is some 40-50 feet away from my front door;

- The PFS will cause a risk of air pollutants which can contaminate buildings up to 100m away, high levels of benzene increase the chances of cancer, children are four times more likely to develop leukemia, acute non-lymphoblastic leukemia is seven times more likely and these all stem from evaporated vehicle fumes;
- The PFS should be a minimum of 50m away from houses;
- The close proximity of the PFS to dwellings will be a health risk, a fire risk and cause air pollution;
- We have not been assured that our 130 year old houses will be safe and withstand the work and vehicles required in the area;
- How will we avoid dust and dirt?;
- New development on a quiet street could be considered out of scale or character;
- The impact of change is significant;
- Noise pollution from the increase in traffic will affect the standard of living and well being;
- Large lighting is likely to be erected at the supermarket and PFS which will severely impose and affect the character of the neighbourhood and impact on our lives;
- Victoria Street resident are concerned about the effect of demolition and subsequent redevelopment may have on our homes and surrounding infrastructure;
- The safety and stability of houses needs to be considered before, during and after work occurs - our house walls are only one brick thick so there will be noise and disturbance during construction and after;
- The Victoria Street factory wall should be retained and Victoria Street should not be used as a through road to the development;
- Concerns over increased food waste and rubbish created by the development which will attract vermin;

Highways Issues

- The access road via Newbold Drive which turns right behind our property is used by lorries;
- Concerns about the increase in traffic and parking adjacent to my property despite there being covenants to prevent this;

Other Issues

- Devaluation of property;
- Impact on house insurance;
- We should be offered compensation so if we feel we can't live on Victoria Street then we have an option to move if required.

5. Relevant Planning Policy

National Planning Guidance

The Department of Communities and Local Government published the National Planning Policy Framework (NPPF) on 27 March 2012. The NPPF brings together Planning Policy Statements, Planning Policy Guidance Notes and some Circulars into a single consolidated document. The NPPF contains a number of references to the presumption in favour of sustainable development. It states that local planning authorities should:

- o approve development proposals that accord with statutory plans without delay; and
- o grant permission where the plan is absent, silent or where relevant policies are out of date unless:
- any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in this Framework taken as a whole; or

- specific policies in this Framework indicate development should be restricted.

The NPPF (Para 215) indicates that due weight should be given to relevant policies in existing development plans adopted before 2004 according to their degree of consistency with the Framework. The closer the policies in the development plan to the policies in the Framework, the greater weight they may be given.

Paragraph 17 of the NPPF establishes 12 core planning principles, which outline that planning should (amongst other things):

- be genuinely plan-led
- proactively drive and support sustainable economic development ... Every effort should be made objectively to identify and then meet the housing, business and other development needs of an area...
- always seek to secure high quality design and a good standard of amenity....
- Encourage the effective use of land by reusing land that has been previously developed
- Promote mixed use developments
- Deliver sufficient community and cultural facilities and services to meet local needs
- actively manage patterns of growth to make the fullest possible use of public transport, walking and cycling, and focus significant development in locations which are or can be made sustainable.

Paragraph 22 states that Where there is no reasonable prospect of a site being used for the allocated employment use, applications for alternative uses of land or building should be treated on their merits, with regard to market signals and the relative need for different land uses to support local communities.

Paragraph 23 advocates that town centres are to be at the heart of communities and policies should promote competitive town centre environments and support their viability and vitality.

Paragraph 24 goes on to state that the sequential test should be applied to proposals for main town centre uses. The sequential test requires applications for main town centre uses to 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. When considering edge of centre and out of centre sites, preference should be given to accessible sites that are well connected to the town centre. There should also be flexibility on issues such as format and scale.

An impact assessment is needed if the development is over 2,500 sqm (Para 26). Such an assessment should include the impact of the proposal on;

- existing, committed and planned public and private investment in a centre or centres in the catchment area;
- town centre vitality and viability, including local consumer choice and trade in the town centre and wider area, up to five years ahead from the time the application is made.

Paragraph 27 concludes that that if proposals fail to satisfy the sequential test or are likely to have an adverse impact on one or more of the above factors, they should be refused.

The following policies of the North West Leicestershire Local Plan are consistent with the policies in the NPPF and should be afforded weight in the determination of this application:

North West Leicestershire Local Plan

Policy S2 sets out that development will be permitted within Limits to Development, subject to material considerations

Policy E3 seeks to prevent development which would be significantly detrimental to the amenities enjoyed by the occupiers of nearby dwellings.

Policy E4 seeks to achieve good design in new development.

Policy E30 seeks to prevent development which would increase the risk of flooding and remove the extra discharge capacity from the floodplain of the River Trent.

Policy T8 sets out the criteria for the provision of parking associated with development.

Policy R1 seeks to permit shopping and related development within Coalville and Ashby de la Zouch Town Centres, allocated sites (as shown on the Proposals Map) and in existing or proposed local shopping areas. Policy R1 states that "new retail development will only be permitted outside these areas where it can be shown that:

- (a) There is a clearly demonstrable need for the development
- (b) There is no suitable site capable of accommodating the proposed development within, or failing that, adjoining, the nearby town centre
- (c) The proposed development would not, either by itself or cumulatively with other development proposals, be detrimental to the vitality or viability of Coalville or Ashby de la Zouch town centres
- (d) The location of the proposed development is well related to an existing centre, and is readily accessible on foot or by bicycle and by public transport, and will not result in an unacceptable increase of CO₂ or other polluting emissions compared with the alternatives
- (e) The proposed development would not be detrimental to plans for new investment in redevelopment or revitalisation of existing centres
- (f) The proposed development would not adversely affect the supply of land for other major uses, particularly the supply of land for employment".

Submission Core Strategy

At a meeting of the Full Council on 29 October 2013, the District Council resolved to withdraw the Submission Core Strategy.

Other Guidance

NWLDC Retail Capacity Study (March 2013) The Council's Updated Retail Capacity Report: March 2013 (Peter Brett/Roger Tym) identifies Castle Donington village centre as displaying positive signs of vitality and viability, and having low vacancy rates and a reasonable mixture of uses relative to the size of the centre. It also recognises that Castle Donington is served by an out-of-centre Midlands Co-operative supermarket on Station Road (opposite the application site)

and approximately 10 minutes walk to the north of the village centre. It was considered a suitable size (1147 sqm) to meet residents' main and top-up shopping needs and there was not considered to be a qualitative gap in convenience provision in this centre.

The study concludes there to be an oversupply of convenience retail floorspace across the district with no need for additional floorspace until beyond 2016. It recommends that the maximum floorspace requirement would be for an additional 1100 sqm up to 2021 and an additional 2500sqm for the period up to 2031. This would translate into one medium-size food store in the district over the period to 2031, with Coalville the focus for development.

6. Assessment

Principle of Development

The site lies within the Limits to Development of Castle Donington, although not within the defined Local Centre Boundary, and within an existing Industrial Estate. As such development of the site is, in principle, acceptable subject to a sequential approach and retail impact issues, loss of employment land issues, and design and heritage, amenity and highways considerations.

Sequential Approach Issues

The proposal is for a main town centre use on an out-of-centre site and a sequential test should be applied. The area of search has included Castle Donington and Kegworth and in this respect the applicants advise that there are no available and suitable sequentially preferable sites in Castle Donington, being in part due to the constrained and historical character of the village centre, or in Kegworth due to the existing pattern of development within the village, its historical importance and the village's defined boundaries which restrict any new development on the edges of the village centre. This conclusion is supported by Peter Brett Associates (PBA).

Retail Impact Assessment

Peter Brett Associates have considered the original and additional retail impact information on behalf of the District Council. PBA's latest comments advise as follows in relation to retail impact:

In terms of the applicant's impact assessment, we concluded that whilst the application proposals would not have any significant impacts on in-centre investment, we were not satisfied that the applicant has demonstrated that the proposal would not result in significant adverse impacts on the vitality and viability of Castle Donington village centre. The applicant's quantitative assessment of retail impact was considered to have underestimated the potential impacts of the proposed development by calculating the turnover of the proposed retail development on the basis of figures that were below benchmark level, by not including any assessment of the impacts of the additional floorspace contained within the proposed retail terrace, and by underestimating the impacts of the proposed foodstore on local facilities in Castle Donington and Kegworth.

Jones Lang LaSalle (JLL) has now provided an update to its Retail Assessment that seeks to address these points... and now includes consideration of the impacts of the proposed comparison goods floorspace and a more realistic assessment of the pattern of trade draw to the application scheme from existing facilities. JLL has also clarified the relevant floorspace figures for the application scheme and the neighbouring Co-operative foodstore on Station

Road.

PBA advises of some potentially negative aspects in relation to the proposal as follows:

- that there is no confirmed operator for the proposed foodstore;
- no identified capacity for additional convenience goods floorspace within the District;
- the North West Leicestershire Retail Study found the neighbouring Co-operative foodstore to be undertrading; and,
- despite recent improvements in the economic environment convenience goods expenditure and sales density growth is forecast to be very low over the next five years.

However, in light of the amended retail impact information submitted as part of the application, PBA also advises the following points:

- In view of the corrected floorspace figures for the Co-operative foodstore at Castle Donington, PBA is of the view that the proposed foodstore would provide the village with a larger foodstore that may encourage more local residents and workers to carry out their main food shopping in the primary catchment area (possible top up sales from the PFS kiosk are also considered within this);
- There may be some loss of trade to the Co-operative foodstore on Station Road, which is already noted as undertrading in the North West Leicestershire Retail Study, but the impact on the vitality and viability of the village centre is the key consideration for the retail impact assessment, and the Co-operative foodstore on Station Road is an out-of-centre facility and is not afforded any policy protection;
- The applicant's assessment of the impact of the development on the in-centre Co-operative stores at Castle Donington and Kegworth is reasonable, although PBA considers there is an under-estimation of impact on the Castle Donington store on Borough Street. However, since that store principally performs a top-up shopping role the impact of the proposal on that store would be less than that experienced by the larger Co-operative store on Station Road. Notwithstanding this point, even if the application scheme fundamentally compromised the Station Road Co-operative foodstore PBA considers that the Co-operative would retain the Borough Street store;
- A quantitative assessment of the proposed comparison goods floorspace of the proposed main store and retail terrace has now been undertaken and PBA advises that the predicted impacts of the proposed comparison goods floorspace are acceptable (more so if the retail terrace units were to become occupied by non-retail operators);
- In the unlikely event that all four units within the retail terrace were occupied by retailers or service operators that had previously occupied premises within the village centre it is not clear that this would result in significant adverse impacts on the village centre.

As such, PBA advise that, on balance, the proposed development satisfies the requirements of the NPPF paragraph 26 and would be unlikely to give rise to significant adverse impacts on the vitality and viability of any centre within the catchment area of the proposed development. Conditions relating to limitation of comparison floorspace and subdivision of the foodstore unit are recommended should the application be approved since the submitted retail impact assessment does not take that potential impact into account.

Loss of Industrial Site

Whilst there would be a loss of land currently occupied by an industrial operation, the proposed development would also result in employment opportunities albeit in a different setting. The application form submits that the existing employees equate to No.78 full time employees (FTE), and that the proposed development including main retail store, retail terrace of four units and a D1 use class nursery would equate to No.105 FTE.

The existing business at the site, Duflex foam mattress and cushion manufacturers, would be seeking to relocate within the wider area should the application be approved and the application submission advises that Duflex has already been actively seeking alternative premises. The Planning Statement in support of the application states that only six employees are from Castle Donington and the North West Leicestershire District area, with the bulk of the staff living in Derbyshire and Nottinghamshire districts.

The application Planning Statement also submits that the existing factory buildings are no longer suitable for modern business requirements. Buildings at the site have been added to or new ones attached to existing and all in a manner which kept the scale and form of the original factory, meaning that manufacturing processes are spread about the site. The factory buildings are low grade with poor insulation, have a low haunch height, and there is no space inside for storage so temporary warehousing takes place in the outside yard.

On the basis that the proposed development would offer varied employment opportunities to residents of Castle Donington as well as further afield which would offset the loss of Duflex from the site, and that there are vacant industrial units at the nearby airport business park as well as other areas within the District, the impact of the loss of the industrial use at the site would not justify a refusal of the application.

Design and Heritage Issues

The main supermarket would be some 7.2m in height with a flat roof incorporating a pitched roof section at the southern end. The pitched roof section would have a ridge height of some 12.9m, dropping to some 8m at eaves level and would be predominantly glazed at the west elevation to form a design feature incorporating the store entrance at ground floor level, and the staff area at the first floor. The pitch roof section would be quite substantial in size and would form a strong visual terminus within the site from the proposed new customer access from Station Road. This subordinate section of the store would also have a predominantly glazed west elevation using vertical glazed units with an overhead canopy section running the full length of the frontage.

Adjoining the subordinate section at a right angle, the proposed terrace of four retail units would follow the appearance of the main retail store with the glazed frontage with canopy at the south elevation. The retail terrace would be at a lower height again (some 4.5m) to visually break up the appearance of the flat roof developments proposed at the site.

The nursery (D1) unit at the western end of the retail terrace would be a two storey pitched roof development with subordinate elements, in height and set back, which would visually break up the appearance of the unit. There would also be a flat roof 'wrap round' section on the south western corner of this unit which would provide a contemporary visual link to the two storey glazed section of the main store, and would also emulate the canopied frontages and flat roofs of the main body of the main store and the adjoining retail terrace. The roof ridge would be some 11.4m in height, dropping to 7.6m at eaves level so this two storey unit would be quite substantial in size.

In addition, to the main design focus at the fronts of the proposed units, various doors and windows are proposed at the side and rear elevations of the main store, retail terrace and nursery unit to provide for servicing and access.

Whilst the main development would be larger in scale and form to nearby residential units on Victoria Street and Station Road, the development would be set away from those dwellings so

there would be no overbearing visual effect on those properties. In addition, the scale and form of the proposed development would be in scale with adjacent and nearby industrial units off Carnival Way to the south and Station Road to the north. As such, the main retail and nursery development would be in scale and character with the locality.

The petrol filling station (PFS) to the front of the site nearest to Station Road would be the same height as the retail terrace at the rear of the site (some 4.5m in height) and would be of a similar appearance. Amended plans were received on 5 December 2013 in relation to an amended design which would incorporate additional glazing at the west elevation, along with landscaping, to ensure a more interactive frontage with Station Road rather than a blank brick wall which had been proposed originally. In addition, a canopy would be associated with the PFS kiosk to cover the four fuel dispensing stands which would accommodate eight vehicles at any one time.

The Historic Buildings Assessment which was submitted as part of the application, following concerns raised by the District Council Conservation Officer and the County Archaeologist, indicates that the earliest building on the site is a single storey north light factory on the south side of Victoria Street and was built in 1897 and occupied by a hosiery manufacturer from at least 1899 to the early 1940's. The factory site has been added to over the years to cover much of the current application site. In terms of the current application, the Victoria Street façade would be retained, although the north light roof would be removed.

The retention of the façade wall, supported with new brick buttresses on the application site, would address the main heritage concerns raised in that the relationship between the likely former workers cottages on Victoria Street and the original factory building would remain intact as well as the façade acting as a visual barrier to the PFS forecourt. Heritage concerns were raised about the canopy adjoining the retained façade and the amended plan received on 5 December 2013 indicates that the canopy would be kept separate to the façade to ensure legibility of the original factory elevation. It is proposed that the brick buttresses on the application site would be erected to a lower level than the capping stone in order for a return to be formed below the main canopy which would extend down towards the buttresses and below the top section of the façade.

The Historic Buildings Assessment also sets out the background to the growth of the site and outlines other buildings on the site, the majority of which are more modern additions over the last 40 years. Whilst the loss of the rest of the original factory would be regrettable, the premises are not listed and are not situated within a Conservation Area and the applicant submits that the premises are no longer suitable for modern day use as outlined in an earlier section of this report.

On balance, the retention of the façade of the original factory building and its incorporation into the proposal along with the proposed design, scale and form of the new buildings and structures at the site would ensure the historic character of the locality is retained, and that the new build elements would, visually, be in scale and character with their surroundings all in accordance with the provisions and intentions of NPPF and Adopted Local Plan Policy E4.

Residential Amenity Issues

It is noted that the majority of neighbour concerns relate to amenity issues. In terms of the new buildings proposed, the proposed PFS kiosk and canopy would be at a lower height than the existing north lit factory roof so would have no adverse impact on the residents of Victoria Street in terms of overshadowing or loss of light, and would not have an overbearing impact on these dwellings either. No vehicular access to the site is proposed via Victoria Street. In addition, the

retention of the original factory façade at Victoria Street would form a barrier between the PFS activity and the existing dwellings on that street so there would be no adverse impact on occupiers of those dwellings as a result of noise pollution.

The only other new building close to existing residential development is the proposed nursery building which would be situated some 35m away from the nearest dwelling at No.68a Station Road. Whilst the nursery would be some 5m from the actual boundary of that property, the total 35m between the two would ensure that there would be sufficient distance separation to ensure no significant adverse impact on the residential amenities of the occupiers of that dwelling. Boundary treatment could be implemented at the boundary with that dwelling which is already separated from the site by mature hedging and trees to ensure no intrusion from activity from the parking area or outdoor play area associated with the nursery.

The nursery operation would be set away from the industrial operations to the south of the application site, so it would be highly unlikely that children attending the nursery would stray onto the nearby industrial sites. In addition, boundary treatments could be implemented to ensure clear demarcation between adjacent commercial sites and the application site, although conventional wisdom also indicates that businesses should ensure their security arrangements are appropriate for their site.

The main access to the site for customers would be from Station Road itself, and the existing access via Newbold Drive would be used by staff and delivery vehicles only. As such, in amenity terms, it is unlikely that the comings and goings associated with the proposed development would be significantly worse than those associated with an industrial operation at the site which uses the access via Newbold Drive as a main access.

The PFS and proposed retail elements would not cause any overlooking of nearby residential dwellings. However, the proposed nursery building includes two first floor windows serving a staff room on the west elevation which would have the potential to overlook the garden area of No.68a Station Road should the existing vegetation die or be removed at any stage in the future. As such, should the application be approved, it is recommended that those windows be obscure glazed to protect the privacy of the occupants of that dwelling and in order for the garden area not to be overlooked. The glazed stair well and wrap round glazed part of the west elevation would not cause overlooking of any residential properties due to orientation within the site.

The application form advises that hours of operation for the proposed A1 retail and D1 nursery operations are not known at this time. It also has to be taken into consideration that the site has an existing industrial use and could continue to be used for industrial activities. However, it is recommended that opening hours of the nursery and retail uses are limited by condition should the application be approved to ensure that residential amenities of occupiers of nearby dwellings are not adversely affected by comings and goings to and from the site during unsocial hours.

Dust and disruption during any construction activity is inevitable, but would only be for a temporary time. As such, a refusal of a scheme on such grounds would not be warranted.

Concerns over food waste and rubbish attracting vermin are also noted but trade bins would be situated to the rear of the new build elements, away from residential properties, as shown on the submitted layout plan (Drawing Number 12-133-P002) and businesses have to comply with Environmental Health legislation in respect of waste disposal. As such, if a problem was to arise with trade waste it would be dealt with under legislation separate to planning law and

would not warrant a refusal of the current scheme put forward in this planning application.

A number of comments have been received in relation to health and safety of residents of Victoria Street in relation to the PFS activity. Whilst good practice distance appears to have been suggested in an article contained in the Journal of Environmental Management, as referred to in a neighbour representation, good practice is not a statutory obligation and there is no planning law or policy which stipulates a specific distance between residential dwellings and a PFS. A PFS operator would have to obtain a petroleum licence from Trading Standards at Leicestershire County Council and would have to meet health and safety requirements set out in any relevant legislation in order to operate.

Overall, the proposed development would not have an overbearing presence and would not cause any loss of residential amenity through overlooking or overshadowing in accordance with Policy E3 of the Adopted Local Plan. Health and safety issues relating to the proposed PFS would be dealt with under legislation separate to planning. On balance, it is considered that the proposed development would not adversely impact on the residential amenities of occupiers of nearby dwellings to such a significant extent that the application should be refused.

Highway Issues

A new access to Station Road is proposed as part of the application and this would involve off-site works which the County Council has been notified of and consulted on. Works within the public highway would involve an additional lane on Station Road to form dedicated right turn junction to the application site. Notwithstanding the representations made by local residents and businesses the County Highways Authority has advised that it has no objection to the proposal in principle, subject to conditions and agreement of appropriate off-site works, and that final observations will be submitted. Further comments received will be reported on the update sheet. As such, the proposal complies with policies T3 and T8 of the Local Plan.

Other Issues

The content of covenants, devaluation of property, impact on house insurance and compensation between a developer and a third party are all private matters and not material planning considerations.

Summary

In summary, the site is located within the limits to development within the sustainable settlement of Castle Donington which is considered to represent a sustainable location for new development. The proposed retail and nursery development would provide employment opportunities which would counter the loss of the current employment opportunities at the site, would not adversely impact on Castle Donington village centre, would be in scale and character with its surroundings, and have no adverse impact on residential amenities or highway safety in accordance with the requirements of the Adopted Local Plan and NPPF. As such the proposal is recommended for approval.

RECOMMENDATION - PERMIT, subject to the following condition(s):

- 1 The development shall be begun before the expiration of three years from the date of this permission.

Reason- To comply with the requirements of Section 91 of the Town and Country Planning Act 1990 (as amended.)

2 The development shall be built in accordance with the approved plans as follows:

Drawing Number 12-133-P001 - Site Location Plan;
Drawing Number 12-133-P002 - Site Layout Plan;
Drawing Number 12-133-P004 - Supermarket plans and elevations;
Drawing Number 12-133-P005 - Nursery and Retail Terrace unit plans and elevations (all received on 16 September 2013); and,
Drawing Number 12-133-P105 - Petrol Filling Station and associated canopy and Victoria Street façade retention plans and elevations (received on 5 December 2013).

Reason- To determine the scope of this permission.

3 No work shall commence on site until such a time as a scheme indicating the precise proposed finished floor levels of all buildings, and the relationship of such to the adjacent dwellings on Victoria Street and Station Road has been submitted to, and agreed in writing, by the Local Planning Authority, and the development shall be constructed in accordance with the agreed levels.

Reason- For the avoidance of doubt since specific details have not been submitted. Whilst the site is flat and occupies factory buildings floor level details would ensure that the privacy and amenities of occupiers of nearby dwellings could be safeguarded.

4 The gross retail floor space of the larger retail unit hereby permitted shall not exceed 2682 sq m, and the net retail sales floor space shall not exceed 1860 sq m. The sales area shall not be subdivided into separate retail units, and no mezzanine floor shall be installed other than the first floor staff area shown on the approved plans.

Reason- For the avoidance of doubt and in the interests of the vitality and viability of Castle Donington village centre.

5 The gross retail floor space of the retail terrace units (No.4) shall not exceed 502 sq m in total and the No.4 units hereby permitted shall remain as No.4 individual units as per Drawing Number 12-133-P005 and not be consolidated into fewer larger units.

Reason- For the avoidance of doubt and in the interests of the vitality and viability of Castle Donington village centre.

6 Notwithstanding the provisions of the Town and Country Planning (Use Classes) Order 1987 (as amended), or any Order revoking and re-enacting that Order, the D1 use class unit hereby permitted shall be retained for D1 use only.

Reason- For the avoidance of doubt and in the interests of the vitality and viability of Castle Donington village centre.

7 The retail operations and uses (including Petrol Filling Station) authorised under this permission shall be carried out within the application site only between the following times:

Between 0700 hours and 2200 hours Mondays to Saturdays; and,

Between 1000 hours and 1600 hours on Sundays.

Reason- For the avoidance of doubt since specific details have not been submitted, in the interests of residential amenities of residents of Victoria Street, and in the interests of the vitality and viability of Castle Donington village centre.

- 8 Notwithstanding any other conditions of this permission, no work shall commence on site until such time as a scheme for the phasing of construction works (including details of the phasing relevant to each area of the site and a timetable for the commencement of work within each area) have been submitted to and agreed in writing by the Local Planning Authority. The development shall be carried out in accordance with the agreed details.

Reason - To ensure the development takes the form envisaged by the Local Planning Authority, and to ensure that various elements of the proposed scheme comes forward in a logical manner, in the interests of the proper planning of the area.

- 9 No construction works, movement of construction traffic, and deliveries to and from the premises, shall occur other than between 0800 and 1800 hours weekdays, and 0800 and 1300 hours on Saturdays, and at no time on Sundays or Public Holidays.

Reason- To safeguard the privacy and amenities of the occupiers of adjoining properties during periods of construction.

- 10 Notwithstanding the submitted details, no development shall commence on site until representative samples of the materials to be used in all external surfaces have been submitted to and agreed in writing with the Local Planning Authority. The works shall be undertaken in accordance with the approved details and maintained as such.

Reason- To enable the Local Planning Authority to retain control over the external appearance.

- 11 No development shall take place until there has been submitted to and approved by the Local Planning Authority a scheme of hard and soft landscaping. All planting, seeding or turfing indicated on the approved landscaping scheme shall be carried out in the first planting and seeding seasons following the occupation of the building or the completion of the development, whichever is the sooner; and any trees or plants which within a five year period from the completion of the development die, are removed, or become seriously damaged or diseased, shall be replaced in the next planting season with others of similar size and species unless the Local Planning Authority gives written consent to any variation.

Reason- To ensure the satisfactory overall appearance of the completed development.

- 12 No work shall commence on the site until such time as a scheme for protecting the existing trees and hedgerows at the western site boundary of the site access via Newbold Drive, to the rear of properties on Station Road, during the construction process has been submitted to and approved by the Local Planning Authority and implemented to its satisfaction. The scheme shall include measures to protect the working area within Root Protection Areas. Such protection as is agreed shall be maintained during the course of development.

Reason- To ensure satisfactory protection of the existing trees and hedgerow in question during the period when construction works take place on the site.

- 13 Notwithstanding the details submitted, no development shall commence until a detailed scheme for the boundary treatment of the site has been submitted to and approved by the Local Planning Authority. The approved scheme shall be implemented before the dwellings and retail unit are occupied, taking into account any agreed phasing of construction works.

Reason- To preserve the amenities of the locality.

- 14 No development shall commence until details of waste/recycling storage for units within the site have been submitted to and agreed in writing by the Local Planning Authority. The works shall be undertaken in accordance with the approved details and maintained as such.

Reason- To enable the Local Planning Authority to retain control over the external appearance and to preserve residential amenities of nearby properties.

- 15 The development hereby permitted shall not commence until drainage plans for the disposal of surface water and foul sewage have been submitted to and approved by the Local Planning Authority. The scheme shall be implemented in accordance with the approved details before the development is first brought into use

Reason- To ensure that the development is provided with a satisfactory means of drainage as well as to reduce the risk of creating or exacerbating a flooding problem and to minimise the risk of pollution.

- 16 Any highways conditions which may be requested by the Highway Authority. Any requirements will be reported on the Update Sheet.

Notes to applicant

- 1 Planning permission has been granted for this proposal. The Local Planning Authority acted pro-actively through positive engagement with the applicant at the pre-application stage and during the determination process which led to improvements to the scheme. The Local Planning Authority has therefore acted pro-actively to secure a sustainable form of development in line with the requirements of the National Planning Policy Framework (paragraphs 186 and 187) and in accordance with the Town and Country Planning (Development Management Procedure) (England)) Order 2010 (as amended).
- 2 As of April 6th April 2008 written requests to discharge one or more conditions on a planning permission must be accompanied by a fee of £85.00 per request. Please contact the Local Planning Authority on (01530) 454665 for further details.