Our Ref: 2995/SM/LT20250725

25 July 2025

MRPP
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Julie Roscoe
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Via Email: [redacted]

Dear Julie,

ITEM 11 OF MANCHESTER CITY COUNCIL PLANNING COMMITTEE THURSDAY 31ST JULY 2025 2 PM. ERECTION OF FOOD STORE (LIDL) WITH ASSOCIATED CAR PARKING AND LANDSCAPING. 440 HOLLINWOOD AVENUE, MANCHESTER M40 0AE. PLANNING REFERENCE: 142670/FO/2025.

We act on behalf of Tesco Stores Ltd in respect of the above application. Our client has traded from an Extra store located within Failsworth Local Centre on Ashton Road since 2007, and a Superstore on Victoria Avenue since 2011.

We have reviewed the Officer's Report ahead of Thursday's meeting and wish to make representations with regard to the following considerations:

- Inappropriate classification of the application site as being edge-of-centre;
- Limiting sequential site search to the applicant's catchment area instead of looking at defined centres;
- Significantly adverse impact on independent stores in Hollinwood Ave/Greengate (Moston) Local Centre;
- Breach of the core strategy's requirement to retain and enhance existing employment sites;
- The application's unacceptable contribution to potentially unsafe traffic conditions; and
- Substantial ecological harm arising from the loss of biodiversity.

<u>Inappropriate classification of the application site as being edge-of-centre</u>
Primarily, the applicant's agent and the Officer have asserted that *"the site is located within an edge of centre location, with the nearest centre situated to the opposite side of Hollinwood Avenue/Greengate"* (page 16 of the Officer's Report) and at paragraph 10.2 of the applicant's agent's Planning and Retail Statement. This is incorrect. Hollinwood

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Avenue/Greengate (Moston) is a local centre as established in Policy C1 of the Core Strategy (2012). The Glossary to the NPPF confirms that the definition of "Edge-of-Centre" is limited in respect of retail purposes to "*…a location that is well connected to, and up to 300m from, the primary shopping area"*.

A "town centre," in the glossary of the NPPF, is defined as an area on a *"local authority's policies map, including the primary shopping area and areas predominantly occupied by main town centre uses within or adjacent to the primary shopping area".* Conversely, a Primary shopping area is a *"defined area where retail development is concentrated".*

Therefore, while the definition of "town centre" may include local centres, the concept of a definable edge-of-centre location cannot apply to a local centre – only to a centre that possesses a *"primary shopping area,"* which Hollinwood/Greengate Local Centre does not possess.

As a result, the sequential assessment has been incorrectly undertaken due to the above misclassification of the application site. As set out by the Applicant's Agent (Rapley's) in Appendix 4 of the Planning and Retail statement, *"It was agreed with the Council during pre-application discussions that alternative In-Centre and Edge-of-Centre opportunities in the following centres should be considered as part of the Sequential Site Assessment"*

Therefore, the applicant's agent's sequential assessment is incomplete. Only sites within town, and local centres and within nearby 'edge of centre' locations have been reviewed. Bearing in mind that the application site is in an out-of-centre location, the test operates on the basis that, while preference should be given to town-centre and then edge-of-centre sites, if there are none suitable or available (having regard to necessary flexibility), out-of-centre sites can then be considered. It is therefore incumbent on the applicant to ensure that other out-of-centre opportunities have been considered. Such sites may be seen as preferable, including regarding accessibility, as well as connection to any town centre, as per the advice in the NPPF (paragraphs 91 and 92). As a consequence, the sequential test is failed, and planning permission should be refused in accordance with Core Strategy Policy C1 and Paragraph 95 of the NPPF.

<u>Limiting sequential site search to applicant's catchment area instead of looking at defined centre</u>

Furthermore, the applicant's agent's (Rapleys) sequential assessment is inappropriately limited by a 5-minute drivetime catchment area. Rapleys simplistically conclude that there are "*no suitable or available sequentially preferable sites to accommodate the proposed development."* (paragraph 7.21 of the Planning Statement). To undertake a sequential assessment, one needs to start with the relevant 'centres' identified in Policy C1 of the Core Strategy (Manchester's Centre Hierarchy).

Policy C1 aims to prioritise the development of town centre uses in the centres identified. The catchment area of the development should align directly with those centres, not to the "*inevitably precisely drawn line to represent the inherently imprecise and debatable five-*

minute off-peak drive time' as discussed by Justice Ouseley in *Aldergate Properties v Mansfield District Council (EWHC1670 (Admin) 8 July 2016* judgement.

Whilst the 5-minute catchment area has assessed Harpurhey district centre, the applicant's agent has failed to assess Newton Heath district centre, which is located within a 9-minute drive from the application site. Similarly, the Core Strategy identifies Manchester City centre as the primary shopping centre in the Manchester Retail Hierarchy (C1) and thus should be assessed, regardless of the applicant's chosen drivetime catchment area.

The sequential assessment is therefore inappropriately limited and should be broadened to include Newton Heath, as well as Manchester City Centre, regardless of the area the applicant intends to serve. Otherwise, the sequential test does not address the need to meet the key town centre first principles, and the test is failed. The application should therefore be refused due to breach of Core Strategy Policy C1 and NPPF paragraph 91.

Significant adverse impact on independent stores in Hollinwood Ave/Greengate (Moston) Local Centre

Hollinwood Ave/Greengate (Moston) Local Centre consists of a small number of independent businesses, including a Londis convenience store, which are key to its function. The applicant's agent's Planning and Retail Statement asserts that the proposed Lidl store will only divert 0.25% of trade from the Londis store. This can be seen in comparison to a 7% diversion from Morrisons, Poplar Street (2.7km away), 19.5% from Morrisons, Tweedale Way (1.7km away) and 20% diversion from Aldi, Victoria Avenue (480m away).

This seems a likely low estimate as the Londis is directly opposite the proposed store. Whilst the NPPG explains that *"As a guiding principle impact should be assessed on a like-for like basis in respect of that particular sector…",* the guidance tempers this with the explanation, *"that trade draw will relate to a certain geographic area (i.e. the distance people are likely to travel) and for a particular market segment (e.g. convenience retail)"* (our emphasis).

Thus, whilst a new discounter store might ordinarily draw much of its trade from any nearby existing Lidl and Aldi store(s), the issue of distance is critical. It is unreasonable to accept that a store located directly opposite the proposed Lidl would be so minimally impacted. It is considered that the applicant's agent's findings are inaccurate and seek to minimise what is potentially a greater impact upon the nearest local centre. The submitted retail impact assessment is not sufficient to demonstrate that the proposed development would not result in any significant adverse impact on this centre and therefore does not comply with Policy C9 of the Core Strategy or paragraph 95 of the NPPF, justifying refusal.

The application's unacceptable contribution to potentially unsafe traffic conditions

The proposed development seeks to retain the existing ghost-island right-turn lane across Hollinwood Avenue. Approximately half of the trip generation figures could avail of the ghost-island right-turn lane to manoeuvre across the four lanes of traffic on Hollinwood Avenue. Such a manoeuvre would be required to ensure vehicles are in the correct lane on approach to the Greengate Roundabout. Coupled with the proposed pedestrian store access to Hollinwood Avenue, the increased frequency of car movements generated by the new store has the potential to make the crossing very unsafe.

It is also of note that the application site shares a common boundary with the Brighter Beginnings children's nursery, and this should be taken into consideration. The applicant's agent's Transport Assessment finds that the trip generation of the proposed store is 193 trips during the Friday peak. The children's nursery remains open throughout this peak time, and therefore, careful consideration should be taken due to the impact of the application on the safety of the pedestrians and road users who frequently travel to and from the nursery, particularly in the context of the heavily frequented Moston station on the opposite side of Hollinwood Avenue.

Paragraph 116 of the NPPF sets out that an application should prove that it will not have an *"unacceptable impact on highway safety".* The application, as it stands, seems surely to be at risk of failing the test of *"unacceptable impact"*. The Officer's Report does not seek to assess the application by the NPPF necessary test, only stating that *"it is not considered that the proposed development would exacerbate existing highway conditions to such an extent that it would be significantly problematic*" (page 21 of the Officer's Report).

The Officer's Report also asserts that *"the existing building could lawfully operate as a 24-hour storage and distribution use (Class B8) with no control over traffic or HGV movements."* This is an unjustified reliance on a fallback position. The Ahern Judgment [*R. v Secretary of State for the Environment and Havering London Borough Council, ex parte P.F. Ahern (London) Ltd.* [1998] established a three step approach to assessing fallback positions.

In this case, the application falls at the second hurdle and does not constitute a *"real prospect of occurring"* as the applicant is not proposing to occupy the site for a storage or distribution use (B8). The existing building could not lawfully operate as a foodstore, and that is what is being assessed.

With regard to the third step in the Ahern approach, *"comparisons of the proposal and the fallback scheme"*, the vehicle and pedestrian traffic generation from a commercial (Soft drink storage and distribution) is not comparable to that of a foodstore. The submitted (Cora) transport assessment asserts that there will be 269 trips associated with the foodstore, 50% of these being new trips. We note there has been no assessment of the expected uplift in pedestrian trips, which would likely represent a significant increase. As such, any reliance on a 'fallback' position is unjustified and should not be relied upon.

As it stands, the application is contrary to the Council's objective to support proposals which improve pedestrian safety, which is set out in Core Strategy Policy CC5 and NPPF paragraph 116.

Furthermore, we note that consultee responses have been kept out of the public domain, and any highways consultees' responses were not made viewable to the public. We therefore request that all consultee responses be made viewable to the public prior to the application being considered at a committee. We also reserve our position in terms of being able to make further representations as necessary when any withheld information may become available. Regardless, as it stands, fundamental deficiencies in the application have been identified, and the application should be refused.

Breach of the core strategy's requirement to retain and enhance existing employment sites

Paragraph 10.14 of the applicant's agent's Planning and Retail Statement highlights that *"the proposed development would result in the loss of a B8 use site…".* This is contrary to Policy EC2 of the Core Strategy, which states that "*The Council will seek to retain and enhance existing employment space and sites*" and that alternative uses will only be supported if certain criteria are met, which in our opinion they are not.

Furthermore, the Places for Everyone Joint Development Plan (2024) also states that "*it will be important to ensure that there is an excellent supply of employment sites and premises across the Plan area…*" (paragraph 6.16). As such, the application is contrary to Policy EC2 of the Core Strategy and the objectives of the Places for Everyone Joint Development Plan (2024).

Substantial ecological harm arising from the loss of biodiversity

As set out on page 22 of the Biodiversity Net Gain Statement & Assessment (BNG Assessment) accompanying the application, redevelopment of the site will result in a loss of trees and vegetation and, as such, will lead to a net loss in biodiversity of -62.97%. To meet the mandatory 10% Biodiversity Net Gain, the applicant proposes to achieve this through the acquisition of off-site units or credits (page 24 of the Biodiverse BNG assessment). We note that the Officer's Report refers to a net loss of -51.33% at page 5 (GMEU); however, it is unclear where this figure has been taken from.

Paragraph 8.63 of the Places for Everyone Joint Development Plan 2022-2039, alongside Paragraph 193 of the NPPF, clearly states: "*if significant harm to biodiversity resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or as a last resort, compensated for, the planning permission should be refused"* [our emphasis].

The BNG Assessment states that to achieve 10%, a total of 2.45 habitat units, of which 1.75 units must be Individual Trees, will need to be acquired offsite. A loss of biodiversity caused by the proposal indicates that the development is one whose scale and character are not suitable for this site or is the result of the prioritisation of car parking spaces and hard paving. The application could seek to deliver an outcome that achieves an acceptable

scale of development that also meets BNG requirements through a reduction in the built form and hard paving. This opportunity has not been appropriately considered, and the failure to provide an effective biodiversity solution justifies refusal.

Conclusions

The proposal cannot be classified as an edge-of-centre location since it is not in any way connected with a town centre having a primary shopping area, and therefore has incorrectly undertaken a sequential assessment, thereby conflicting with Policy C1 of the Core Strategy and Paragraph 95 of the NPPF.

The applicant's agent's catchment area, which informs the sequential assessment, is limited and fails to have regard to the natural starting point, 'town centres first'.

The submitted retail impact assessment is not sufficient to demonstrate that the proposed development would not result in any significant adverse impact on Hollinwood Avenue/Greengate (Moston) local centre as a result of trade diversion from its anchor convenience store.

The proposal has failed to demonstrate that the application satisfies the NPPF highways safety test under paragraph 116, or that the objectives of Policy CC5 (Transport) of the Core Strategy have been met.

The application is contrary to the Core Strategy objective to "*retain and enhance existing employment space*" within Policy EC2.

The proposal will result in ecological harm arising from the loss of biodiversity and has an unacceptable lack of consideration of opportunities to reduce the scale of the development and hard paving. It is therefore in conflict with the requirements of paragraph 193 of the NPPF.

For all of the reasons above, planning permission should be refused.

Yours sincerely,

[redacted]

CC: [redacted]