

PLANNING COMMITTEE

25th November 2020

Planning Application 18/01049/FUL

Demolition of existing buildings and erection of a class E retail foodstore with associated car parking, access, landscaping and associated engineering works, and relocation of existing substation.

Land At, Battens Drive, Redditch, Worcestershire, B98 0LJ,

**Applicant: Woodbourne Group Redditch
Ward: Winyates Ward**

(see additional papers for site plan)

The case officer of this application is Sharron Williams, Planning Officer (DM), who can be contacted on Tel: 01527 534061 Ext 3372 Email: sharron.williams@bromsgroveandredditch.gov.uk for more information.

Site Description

The site is approx. 0.7 ha. There are two red brick buildings on the site, the larger building was originally a squash club that has more recently been used as a health and fitness club. The smaller building, that was formerly a dwelling, is currently used as a beauty salon. The site has its own provision of car parking that fronts Battens Drive. Vehicular access is shared with the Arrow Valley Country Park off Battens Drive which is a District Distributor Road in the Borough of Redditch Local Plan No. 4 (BORLP4). The site is washed over as Primarily Open Space in the BORLP4, however the larger building is excluded from this designation in the Local Plan.

Proposal Description

The proposed scheme seeks to demolish an existing health and fitness club/beauty salon and provide a retail foodstore (Use Class E, formerly Class A1) comprising 1,727 sqm gross external area (GEA), with a net sales area of 1,039 sqm. It is intended that 80% of the net sales area will be used for the sale of convenience goods and 20% for comparison goods. Access would still be off the existing access road shared with the country park. The site provides 95 car parking spaces of which 6 are accessible spaces, and 10 are equipped electric vehicle spaces. A total of 10 motorcycle spaces and 40 cycles spaces would be provided for by the scheme. The proposal will also provide the provision of a new signal controlled crossing and bus stop on Battens Drive to provide a sustainable access to the site for the Winyates area.

Relevant Policies :

Borough of Redditch Local Plan No. 4

Policy 1: Presumption in Favour of Sustainable Development

Policy 13: Primarily Open Space

Policy 11: Green Infrastructure

Policy 17: Flood Risk Management

Policy 18: Sustainable water Management

PLANNING COMMITTEE

25th November 2020

Policy 19: Sustainable travel and Accessibility
Policy 20: Transport Requirements for New Development
Policy 22: Road Hierarchy
Policy 30: Town Centre and Retail Hierarchy
Policy 31: Regeneration for Town Centre
Policy 39: Built Environment
Policy 40: High Quality Design and Safer Communities
Policy 41: Shopfronts and Shopfront Security

Others

NPPF National Planning Policy Framework (2019)
NPPG National Planning Practice Guidance
National Design Guide
Redditch High Quality Design SPD
Redditch Town Centre Strategy

Relevant Planning History

There have been variety of planning applications on the site between 1981 and 2002 all associated with sport and health related developments. None of these are directly relevant to the application currently under consideration.

Consultations

Redditch Strategic Planning and Conservation

Agree with much of the commentary set out in the Planning and Retail Statement in respect to the criteria contained in 13.2 of policy 13 BORLP4 particularly concerning the lack of amenity value or environmental quality that can currently be attached to the area of open space within the proposed development site, due to its use as an area of car parking and access road, but argue that the site could be protected for alternative open space uses (e.g. an outdoor sports facility), which in future could feasibly be located on the existing hardstanding currently used for car parking.

The commentary on the health of Redditch town centre and the District Centres that are reviewed in the planning and retail statement (Aug 2018) is generally considered to be fair. It is also noted that the proposed development is below the threshold set out in the NPPF for an impact assessment to be required.

With regards the sequential test set out in the planning and retail statement, it is considered that all options have not been fully explored and the sequential test has failed and therefore the application is not in accordance with BORLP Policy 30, nor NPPF paragraph 86.

Town Centre Co-ordinator

Comments combined with Policy.

PLANNING COMMITTEE

25th November 2020

Leisure - Open Space/Parks

Have operational concerns with regard to conflict with access and parking at Arrow Valley Country Park:

- The access off Battens Drive is Arrow Valley Country Park's (Sub-Regional Park) primary access. Concerns over priority access into the park and conflict of use. Arrow Valley Country Park car parks could be impacted with overspill from the shoppers from the retail store at key times.
- There are key annual events at Arrow Valley Country Park that operate a Road Closure at Battens Drive. This is to prioritise health and safety and eliminate the conflict of vehicles and pedestrian crowds accessing the park. Whilst there is a limited number of large scale events throughout the year, the road closure operation will result in prevention/restriction of access, not only to council car parks but also to the applicants car park.

Highways Redditch

No objections subject to conditions.

North Worcestershire Water Management

Recommend conditions.

Severn Trent Water Ltd

No objections to the proposals subject to drainage condition.

Worcestershire Archive And Archaeological Service

The site could potentially impact several known historic monuments. The development site contains high potential for below ground remains. Although later development may have impacted on any below ground remains, but it is still likely that there would be survival within the development area. On this basis, recommend conditions in respect to a programme of archaeological works be secured and implemented.

WRS - Contaminated Land

Recommend conditions in respect to unexpected land contamination.

WRS – Air Quality

Recommend conditions.

Arboricultural Officer

No objection subject to tree protection condition.

Hereford & Worcester Fire And Rescue

From a Fire Service perspective we would like to ensure that Fire Appliances can get full access to the site and there are sufficient hydrants on site in the event of a fire. In addition consideration should be given to fitting sprinklers to the building.

PLANNING COMMITTEE

25th November 2020

Crime Risk Manager

No objections or comments regarding the above application.

Public Consultation Response

35 letters of comment submitted.

1 letter of support

- With the number of homes in the area, the provision of a supermarket within walking distance would be a benefit.

34 objection letters

Comments summarised as follows:-

- Contrary to policies in the Local Plan.
- Destroying green spaces in Redditch.
- Arrow Valley Park key part of families, elderly and children's lives.
- Enough food retailers in the area should be looking to promote the site for recreational use. Could encourage an attraction that would be in keeping with the Country Park? Would be better to use site as a leisure facility.
- Proposal will cause traffic problems. Battens Drive is a busy road, serving industrial development, supermarket, 2 schools, petrol stations and housing. Currently congestion on Battens Drive with delays leaving Colts and Hopyard Lane. Traffic congestion during rush hour and school times.
- Accidents on Battens Drive already, this will make situation worse. Traffic noise.
- Traffic concerns raised by local employers on Padgets Lane.
- Concern that there is only one means of access to serve the site and existing Country Park.
- Environmental impact on the surrounding area.
- Need to have a store in Town, need to promote empty units in the Kingfisher Centre.
- Parking insufficient for existing visitors of the Country Park.
- Antisocial problems likely to occur, noise, litter.
- Proposal will be harmful to wildlife in the area.
- There's a Lidl nearby, no need for another one. Does not seem to be required.

Objections from Kingfisher Limited Partnership (KLP), which owns the Kingfisher Shopping Centre in Redditch town centre,

- The Kingfisher Shopping Centre is the main comparison goods destination in Redditch, offering 1 million sq ft of retail accommodation and therefore provides a significant attraction within the town as well as the region. Improvements have been made to the Shopping Centre in recent years, which have significantly enhanced the quality and attraction of the Shopping Centre, with wider benefits for the vitality and viability of the whole town centre.
- Following this review, we have significant concerns about the proposal and wish to strongly object on the following grounds:
 1. Adverse impact on the vitality and viability of Redditch Town Centre;

PLANNING COMMITTEE

25th November 2020

2. The failure to satisfy the requirements of the Sequential Approach to site selection;
 3. The ability to accommodate the proposals within the Town Centre; and
 4. Non-compliance with national and local planning policy.
- Contrary to policy 13. The provision of convenience and unrestricted comparison floorspace in this out-of-centre location (on protected open land) can, in no way, be positive for the vitality and viability of Redditch Town Centre, which, in accordance with the recently adopted Local Plan and National Planning Policy Framework, should be the focus of all retail floorspace.
 - Redditch town centre is within a single shopping centre and under a single ownership, where KLP has worked hard to ensure that the vitality and the viability of the town centre has been maintained. There have been several improvements to the Kingfisher Shopping Centre in recent years, including the improvement of retail offer, through the extension to accommodate Debenhams and other additional floorspace, refurbishment of its malls and the provision of a cinema and a food and beverage area to develop a night-time economy, which is now firmly established.
 - Despite these improvements and the town's popularity, it is far from immune from the negative effects of austerity, where there have been number of retail insolvencies (e.g. TJ Hughes, BHS, Woolworths and JJB) as well as the loss of high-profile tenants such as M&S.
 - KLP is keen to ensure that the vacancy rates within the town centre are improved and is actively seeking new tenants to increase the vitality and viability of the town centre.
 - A long-standing aim for KLP is to provide a convenience offer within the shopping centre. The retail core of the town centre is almost all within the enclosed malls of the Kingfisher Centre, which now only has Farmfoods providing convenience retailing, now that M&S has vacated its unit. Any new retail provision within the Borough should be directed to the town centre first.
 - Failure to Comply with the Sequential Approach/Ability to Accommodate within Town Centre as required under the NPPF. Main town centre uses should be located in town centres, then in edge of centre locations; and only if suitable sites are not available (or expected to become available within a reasonable period) should out of centre sites be considered. This national policy requirement is reinforced under Policy 30 of Redditch Local Plan No. 4. The proposed development site does not sit within either the town centre, a district centre or identified local parade. It is an unallocated site that is out-of-centre and does not meet any of the requirements of the national and local planning policy stated above.
 - Spatially, the right location for a new large foodstore is not in an out-of-centre location and should be in the town centre. There are a significant number of residents living within walking distance of the town centre who do not have a car and would benefit from a town centre store.
 - The agent has prepared a Planning and Retail Statement (August 2018), which includes a sequential analysis of more central sites within the town centre and but has discounted them on the basis that they are unsuitable or unavailable. In

PLANNING COMMITTEE

25th November 2020

particular, the retail statement refers to the recently vacated M&S unit located within the Kingfisher Shopping Centre. It states that the former Marks and Spencer unit is not suitable. We disagree, the former M&S unit would be suitable and available for a tenant (including Lidl) to occupy and can easily accommodate the proposed requirement set by Lidl. The unit is within the town centre that benefits from easy access from sustainable public transport and four car parks, all having a direct connection to the town centre retail core. Lifts are available to other levels of the car park that can easily accommodate standard Lidl trolleys. These facilities have serviced trolley shoppers from M&S in the past and currently service The Range Home and Garden stores requirements comfortably.

- In addition, a representative on behalf of KLP submitted a document with alternative town centre sites that KLP believed could accommodate a similar sized Lidl store for consideration. The document was called The Lidl Study and provided a plan showing a footprint of the typical Lidl 1100 store (approx. 1104 sqm) and associated parking on town centre sites. The four sites for consideration included multi storey car park (MSCP) 3, 4, 7, and the former M and S store.

Additional comments submitted on behalf of KLP August 2020

- Main priority is to revitalise and attract investment into Redditch town centre. This objective is set out within the Adopted Borough of Redditch Local Plan No. 4. The Redditch Town Deal Board are currently developing the Town Deal Bid, with the aspiration to access the full £25m available, to be able to regenerate the town centre. In addition to this, following the launch of the Prime Minister's 'New Deal for Britain,' it was announced in July 2020 that the town would receive a further £1m funding boost, to accelerate investment and to assist with projects across the town. Redditch Borough Council also recently received £75,088 from the Reopening High Streets Safely Fund to assist in kick-starting the local economy and attracting customers back to the town centre. Initiatives and proposals to address challenges in the town centre must, therefore, be given significant weight when considering proposals for retail in locations outside of the town centre.
- There is an aspiration, through adopted Policy 31 (BORLP4), for a foodstore to be accommodated within the town centre as part of the Town Centre Strategic Site designation. This further objection provides an up to date assessment of the availability, suitability and viability of alternative, more central sites within our Client's control.
- The former Marks and Spencer store within Kingfisher Shopping Centre, was one of the four sites previously assessed by KLP. Whilst this site may no longer be available, other sites MSCP 3, 4 and 7 are available, suitable and viable for the proposed development and are thus sequentially preferable, with desirable connectivity. They are all within the defined Town Centre of Redditch (Town Centre Inset Map of the BORLP4, 2017), albeit outside of the designated primary retail core. The primary retail area is largely confined to the Kingfisher Shopping Centre, itself, and as such, MSCP 3, 4 and 7 are all located in the next

PLANNING COMMITTEE

25th November 2020

sequentially preferable location, being immediately adjacent (less than 300 metres) to the retail core and still clearly situated within the defined town centre. This is furthered by Policy 30 of the BORLP4, which states that the maintenance of the vitality and viability of the town centre can be assured through promoting the appropriate reuse and redevelopment of land and existing floorspace within or immediately adjacent to the town centre. Moreover, the policy also outlines that Redditch Town Centre should be the preferred location for major retail developments.

Objection from Asda

- Objections relate to the Transport Assessment that accompanies the planning application.

Additional comments submitted from Asda representative

- We note that Lambert Smith Hampton have reviewed the applicant's sequential assessment and note that concerns have been raised over the level of flexibility and conclusions that have been reached on some of the assessed sites. Asda recommend that further information is provided by the applicant.
- Request that the applicant be asked to undertake a full assessment of retail impact despite the proposal falling just below the NPPF threshold and there being no locally set threshold.
- The nature of convenience retailing is such that there will be impacts on designated centres not only in terms of monetary trade diversion but also through the loss of opportunity for linked trips within those designated centres. What is being sought is planning permission for a Class A1 food retail unit which could ultimately be occupied by any food retailer so the applicant's focus on the qualitative need for a Lidl is flawed. In determining this application the Council needs to be satisfied with the retail use in general and not the occupation of the unit by a specific retailer.

Assessment of Proposal

Principle of the development

The site (excluding the building) is within an area designated as Primarily Open Space in the Borough of Redditch Local Plan No.4 (BORLP4).

Policy 13 of the Local Plan would apply. The policy states that open spaces should be protected and where appropriate, enhanced to improve quality, value and multifunctionality and accessibility. Proposals that would result in the total or partial loss of Primarily Open Space will not normally be granted planning permission unless it can be demonstrated that the need for development outweighs the value of the land as open space.

PLANNING COMMITTEE

25th November 2020

When assessing applications for development on Primarily Open Space policy 13.2 requires the following to be taken into account:-

- i. the environmental and amenity value of the area;
- ii. the recreational, conservation, wildlife, historical, visual and community amenity value of the site;
- iii. the merits of retaining the land in its existing open use, and, the contribution or potential contribution the site makes to the Green Infrastructure Network, character and appearance of the area;
- iv. the merits of protecting the site for alternative open space uses;
- v. the location, size and environmental quality of the site;
- vi. the relationship of the site to other open space areas in the locality and similar uses within the wider area;
- vii. whether the site provides a link between other open areas or as a buffer between incompatible uses;
- viii. that it can be demonstrated that there is a surplus of open space and that alternative provision of equivalent or greater community benefit will be provided in the area at an appropriate, accessible locality; and
- ix. the merits of the proposed development to the local area or the Borough generally.

This proposal would potentially have an impact on Primarily Open Space, therefore, justification is required to demonstrate that the need for the development outweighs the value of the land as open space.

The agent has submitted a Planning and Retail Statement (PRS) to support the proposal and address policies in the BORLP4 and the National Planning Policy Framework (NPPF). In respect to policy 13 their arguments have been summarised below:

- The supporting text of Policy 13 confirms that all Primarily Open Space is considered “a valuable part of the Green Infrastructure Network”. Policy 11 of BORLP4 states that the Green Infrastructure (GI) Network makes an important and valued contribution to the Borough of Redditch and its distinctiveness and is a multifunctional resource that can include green spaces/corridors, waterways, natural heritage and wildlife habitats. Whilst the examples of GI typologies within the policy 11 is not intended to be exhaustive, it is noted that they are typologies which are either ‘open’ and/or ‘green’. In this case, the designation applies to a car parking area and access. The inclusion of the car park and access in the Primarily Open Space designation cannot be characterised as being “important” or as making a “valued contribution” to the GI network. As such we do not consider that the car park and access needs to be “safeguarded” according to Policy 11 of BORLP4. For the above reason, Policy 13 is not relevant to this application. The car park and access, whilst ‘open’, are developed and make no contribution to the amount or quality of Primarily Open Space having regard to the location of the site

PLANNING COMMITTEE

25th November 2020

on the edge of the Arrow Valley Country Park. If the land makes no positive contribution, there is no need to consider whether the benefits of the proposals outweigh its 'loss'. Even if there were a need to do so, it is relevant that the proposal is to retain the existing access and to replace what is currently car parking with a revised parking area, so any impact is neutral.

- In respect to meeting the criteria set out under Policy 13.2 when assessing proposals on Primarily Open Space locations, we state the following:-
 - The environmental and amenity value of the car parking and access possess no amenity value;
 - The car park and access has no conservation, wildlife, historical, visual or amenity value;
 - The site, whilst 'open' does not play a part of the Green Infrastructure Network;
 - The merits of protecting the site for alternative open space uses is not relevant on the basis that the site is not 'open space';
 - The site is a self-contained use on the edge of the Arrow Valley Country Park and, on the basis that it comprises parking and access, does not possess any environmental qualities;
 - The site currently has no functional or other relationship with the Country Park so this criterion is not relevant;
 - The site does not provide a link between other open areas or act as a buffer between incompatible uses;
- The existing building footprint is 1,910 sqm (gross) and the footprint of the proposed foodstore is 1,703 sqm (gross). This represents a 207 sqm (gross) reduction in overall built footprint, albeit new floorspace does not fit entirely within the uncoloured area shown on the Policies Map. Moreover, the site lies adjacent to a country park so that any perceived loss of open space is de-minimis when considered in respect of the adjacent provision.

Strategic Planning have been consulted and refer to Policy 13 and state that they agree with much of the commentary on the above criteria, particularly concerning the lack of amenity value or environmental quality that can currently be attached to the area of open space within the proposed development site, due to its use as a car parking area and access road.

However, with reference to 13.2 (iv), where the applicant states that the merits of protecting the site for alternative open space uses is "not relevant on the basis the site is not open space". It is considered that the site could be protected for alternative open space uses (e.g. an outdoor sports facility), which in future could feasibly be located on the existing hardstanding currently used for car parking. Viewed in the wider context of the open space designation that covers the immediate vicinity of the application site (i.e. the open space surrounding the Arrow Valley Country Park and Visitor Centre), use of the application site in future for an open space, sport, recreation or leisure use would be far

PLANNING COMMITTEE

25th November 2020

more in keeping with the remainder of the open space designation than the proposed retail use.

The agents response to Strategic Planning's comments are summarised as follows:-

- Criterion (iv) addresses itself to circumstances where development is proposed on a site that is currently in open space use (i.e. a site that comprises green infrastructure) and where it is possible that the site may be used for some other form of open space or green infrastructure use. An example might be that informal amenity space might convert to formal amenity space, or that one type of sports pitch may be used for a different sports use. This would seem consistent with the reference to "alternative open space uses". It would also be consistent with the supporting text that all Public Open Space is considered "a valuable part of the Green Infrastructure Network" with GI defined in the plan in various ways but principally as "a network of multifunctional green space" which can contribute to objectives relating to "biodiversity, climate change, historic environment and flood risk". We do not think that it addresses situations where land is in commercial use (in this case as parking areas serving a commercial use), or that it suggests that permission should be refused on the basis that, at some point in the future the owner might decide to extinguish the current use and lay the site to open space.
- Changes in terms of the amount of land set to parking and building footprint after development, compared with the current situation, is minor, with a reduction in footprint and re-organisation of developed and undeveloped areas across the site. The changes are de minimis, so that any harm arising (according to the LPA's interpretation of policy) is also de minimis. However, in this context additional landscaping, planting species and materials could offset and outweigh any harm that the LPA considers might arise. Enhanced landscaping could address that harm, as a matter of principle as well as enhancing nearby areas of Primarily Open Space.

Officers accept the viewpoint from Strategic Planning that alternative open space facilities could be provided on the hard surfaced area of the site such as a MUGA, or skate park as examples. In addition, it is unlikely that the site would be redeveloped to a soft grass open space facility due to the likely cost of removing the current hardsurfacing. However, it is important to note that the car parking and access provision would mainly remain the same, but the footprint of the proposed building would be reduced compared to the current building albeit a different shape and slight shift in positioning. This does enable additional landscape amenity space to be provided as part of the overall scheme. In addition, the general landscaping proposals also includes a large provision of new tree planting that will provide an immediate visual enhancement to the site due to the size of the proposed trees. Also, addressing criteria iv of Policy 13, a contribution towards enhancing existing Open Space Areas within the park near to the site would offset protecting the site for alternative open space uses.

PLANNING COMMITTEE

25th November 2020

On balance, it is considered that the provision of additional landscape amenity space within the site and also the provision of enhancing the existing open space area within the park would be sufficient to address the criteria set out under policy 13.2 of the BORLP4.

The principle of the use

The proposed use would be a discount foodstore, such facilities should be located within the town centre. Para. 86 of the NPPF states that a sequential test should apply to applications for main town centre uses which are neither in an existing centre nor in accordance with an up to date plan. Main town centre uses should be located in town centres, then in edge of centre locations; and only if suitable sites are not available (or expected to become available within a reasonable period) should out of centre sites be considered.

Para. 87 of the NPPF states that when considering edge of centre and out of centre proposals, preference should be given to accessible sites which are well connected to the town centre. Applicants and LPA's should demonstrate flexibility on issues such as form and scale, so that opportunities to utilise suitable town centre or edge of centre sites are fully explored.

Para 89 of the NPPF states that retail development outside town centres that exceed 2,500 sqm require an impact assessment. The proposed development is below this threshold, and as such an impact assessment would not be required.

Para. 90 of the NPPF states that where an application fails to satisfy the sequential test or is likely to have a significant adverse impact on one or more of the considerations in para. 89, the application should be refused.

Policy 30 of BORLP4 provides a retail hierarchy for the Borough with the town centre being the preferred location for major retail developments, large scale leisure, tourist and cultural activities.

The policy provides a list of principles to be applied to development within the town centre or to development for town centre uses in order to ensure that the vitality and viability of the town centre can be maintained.

Policy 31 of BORLP4 states that in order to secure the regeneration and future of the town centre, regard should be had to both the retail vision within BORLP4 and the Redditch Town Centre Strategy. Policy 31.3 refers to three parcels of land within and on the periphery of town centre that would help support the regeneration of the town centre. The three parcels of land are Prospect Hill, Edward Street and Church Road.

The Planning and Retail Statement (PRS) submitted to support the application refers to the above policies and a sequential approach has been applied.

No impact assessment has been submitted as the scheme is below the threshold. However, a commentary on the potential for impact based on a review of the composition

PLANNING COMMITTEE

25th November 2020

and health of any relevant centres and identifying food and convenience operators has been included in the PRS.

The PRS clarifies that Lidl is characterised as a Limited Assortment Discounter (LAD). LADs typically carry a limited range of grocery products and base their retail offer on selling those products at very competitive prices. They supply in the region of 1,600 to 2,000 product lines in stores that range from 500m² to 1,400m². The likes of Aldi and Lidl fall within this retail category. LAD operators, are different to main grocers (Tesco, Asda, Sainsbury's, Waitrose and Morrisons) as they sell limited ranges of staple products catering predominantly for main food shopping needs with a limited range of non-food items which typically occupy about 20% of the sales area.

The LAD business model has consequences for the design and layout of the stores concerned. A critical component is the size and configuration of the store which supports Lidl's stock handling procedures and the ability to stock its standard product lines in sufficient depth to minimise servicing costs. It is argued in the PRS that the restriction that this places on the ability of Lidl to be 'flexible' in its format is relevant to the application of the sequential approach. This has been accepted by the Secretary of State and Inspectors in appeal decisions relating to Lidl foodstores.

The PRS makes reference to appeal decisions that refer to the inherent characteristics of the Lidl business model that limit their scope for flexibility. Those characteristics are:-

- a store of a size that may accommodate all functions that form the business model
- the need for a high proportion of sales relative to storage space
- a need to enable efficient movement of palletised goods. Stores are generally rectangular with wide enough aisles to be able to control the sales floor, move pallets and keep costs to a minimum.
- the fact that Lidl stores concentrate on selling a limited range of primarily convenience goods.

The PRS highlights that the majority of Lidl stores criteria for sites is a site of 0.80ha, a minimum net floorspace of 1325 sqm and a minimum of 120 parking spaces. Lidl are prepared to incorporate some reduction in these requirements in respect to the application. This is expressed as applying reasonable flexibility in the application of the sequential approach. When considering town centre sites for the purpose of the sequential approach for this proposal, the following criteria was applied:-

- a minimum site size of circa 0.5ha
- a minimum net floorspace of 1,000m²
- approximately 70 car parking.

PLANNING COMMITTEE

25th November 2020

Site assessed in the PRS

Vacant town centre premises at the time of PRS August 2018;

- Unit 1a Alcester Street is located within the main pedestrianised area adjacent to the Kingfisher Centre. The unit is of an irregular shape and has a gross floorspace of 948 sqm with a net sales area of 914 sqm. It is therefore too small and unsuitable to accommodate the proposals, as it would require a level of flexibility beyond that which Lidl, as a LAD, might reasonably be expected to adopt. It has no dedicated, adjacent car parking. At the time consideration, the site was shown to be under offer and as such not available.
- Unit 4a, Alcester Street is also within the main pedestrianised retail area adjacent to the Kingfisher Centre. The unit has a gross floorspace of 550 sqm and was discounted for similar reasons to Unit 1a.
- The former Marks and Spencer unit at 9 Walford Walk within the Kingfisher Shopping Centre. The unit closed in April 2018. The unit has a gross floorspace of 2,320 sqm and is therefore large enough to accommodate the proposals. However, parking is provided by a multi-storey car park, access to which is via stairs or lifts, and with lifts that are too small to provide reasonable access for customers with trolleys undertaking a main food shop. For this reason alone, this unit is considered to be unsuitable.

Allocated and Other Sites

Church Road/ North West Quadrant

This site is located to the north-west of Redditch town centre. Its boundary is shown on the Policies Map and the allocated area is understood to be approximately 5.35 hectares in size. The site is, in fact, made up of multiple sites and multiple interests and includes approximately 40 buildings including a multi-storey car park, health centre and former bus depot. The majority of buildings are occupied, and by a wide range of what are assumed to be viable uses including commercial, health uses and offices. The site is identified as a preferred location within the Local Plan for a mixed use development comprising convenience and comparison retail, food & drink and leisure development. It is said to be “the preferred location for convenience retailing” with the inference being that should be a standalone store. The supporting text recommends that redevelopment “provides a foodstore as part of a mixed use development” which emphasises an expectation of a comprehensive approach.

Its noted that aspiration for change in this area has been a feature of policy for some time but has not progressed. The allocation is in multiple ownerships with a vast majority of the units within the designated area occupied. A small part of the allocation also has permission for residential use. The Local Plan would appear to prefer a comprehensive approach to the planning of the redevelopment and regeneration of the site. That would suggest a need for a Masterplan or Planning Brief or a phased approach, and/or that

PLANNING COMMITTEE

25th November 2020

individual sites may be capable of being progressed in isolation from others without compromising the LPA's objectives for the site. However, to our knowledge, no such processes have been progressed. It appears that the allocation does not offer any realistic prospect of supporting the development that is proposed by this application. It is noted that there are a number of potentially significant constraints to development including two statutorily listed buildings and a number of locally listed buildings along Prospect Hill and Church Road. Part of the site is also within a conservation area. As a consequence it seems likely that only the west of the allocation might realistically be considered as suitable for supporting a foodstore. However, we have noted that site levels represent a considerable challenge in this part of the site, both across the body of the allocation and also in respect of the significant level drop to the Ringway. We consider that the land in question remains unsuitable for a foodstore, despite the references in the policy and supporting text.

Edward Street

The Local Plan states that land at Edward Street site is appropriate for convenience retail uses if it can be demonstrated that such development cannot be accommodated at the Church Road/North West Quadrant. Given our conclusions above, we have considered the Edward Street site in further detail. The site defined on the Policies Map comprises 0.48 ha of vacant land adjacent to Redditch train station and in an edge-of-centre location. Part of the site is currently being utilised as a private car park although we assume that in itself would ultimately not be constraint to development. The site is large enough to accommodate the development that is proposed. However, it is necessary to reflect on any site specific issues that might affect the ability to deliver a development with satisfactory access, parking, design outcomes and shopping environment. In this regard a critical issue is the levels difference between Bromsgrove Road as it rises to cross the railway line and turns into Unicorn Hill, and the southern edge of the development site. The only opportunity for access is from the west via Edward Street.

The particular requirements of Lidl's business model legitimately constrain the scope for adopting a flexible approach, we conclude that the building footprint could only be accommodated on the eastern boundary of the site, parallel to the railway line. This would present a blank elevation to the railway. It would also mean that the customer entrance and active elevation would face south and would sit substantially below the level of Bromsgrove Road with no connection to the street. In addition, the store would only be able to accommodate perhaps 40 parking spaces (and potentially fewer) which is insufficient for a foodstore operator, even allowing for flexibility. It seems likely also that the first section of Edward Street would need to be widened to accommodate two way traffic to/from Bromsgrove Road which would further compromise site size and the amount of parking that may be achieved. Whilst parking is available nearby at the station, that is very well used. Parking is also available at the Kingfisher Centre but because Lidl caters predominantly for main food shopping needs it cannot rely on remote parking, particularly where there are significant slopes involved which makes such an arrangement impractical for those pushing trolleys. For all these reasons, we have

PLANNING COMMITTEE

25th November 2020

concluded that the site is not suitable for the development that is proposed, even adopting a flexible approach.

Prospect Hill

The third site for consideration is Prospect Hill to the north of Redditch town centre. The site measures approximately 1.3 ha and is occupied by parking for nearby offices and an existing residential development. The Local Plan confirms that the “preferred uses” are offices (Class B1) and residential uses (Class C3). This is unsurprising given that levels and gradients lend themselves to smaller footprint uses. A large number of trees on site are understood to be subject to a TPO which, coupled with the site’s irregular shape and topography, further limits the scope for larger footprint uses. We therefore consider the site is unsuitable for retail development (which is, in any event, not one of the preferred uses according to policy) and further note that part of the site has planning permission for residential use.

The PRS concludes that following an assessment of identified centrally located sites, none offer a suitable and available alternative to the proposed foodstore at Battens Drive.

Impact on Centres

As mentioned above there is no requirement in policy to undertake any form of impact assessment, however, the following observations on potential impact on town centre facilities, district centres and existing out of centre supermarkets (in August 2018) are provided in the PRS:-

- f) a) The floorspace threshold in the NPPF is set at a level which provides a reasonable indication of the scale of development above which government thinks the impact on centres of new development might be significant and adverse. It is open to LPAs to adopt lower thresholds where their evidence base suggests that impacts may be significant from smaller proposals, but none has been set in Redditch.
- b) Lidl trades already in the town at The Quadrant. The store is popular, and trades very well, so that Lidl is an established part of the network of centres and foodstores in the town. The development of a new Lidl will not materially or substantially alter the established trading patterns in the town in the way that a new entrant, not currently trading in Redditch, might. Lidl expects to trade both stores and that the existing store will continue to trade well.
- c) There would be a lack of competition between Lidl and the main grocers, except in relation to their value lines, and between Lidl and independent grocers, butchers, freezer centres and convenience stores. This supports our conclusions in relation to the low propensity for impact on the network of centres (reinforced by the fact that Lidl already trades in Redditch) having regard to the nature of convenience retailing within the network of centres.

PLANNING COMMITTEE

25th November 2020

d) The town centre is performing well according to the indicators of vitality and viability that we have reviewed. It has a low vacancy rate and those units that are vacant are dispersed around the centre. The existing Lidl is part of the centre and will continue to trade following completion of the new store.

e) We have noted that all of the District Centres are performing well in their role, with few vacant units present, and that all are supported by small convenience stores capable of meeting 'top-up' needs. None contains a foodstore capable of meeting main food shopping needs.

f) We expect much of the turnover of the new Lidl to be drawn from its existing store and the value lines of Asda, Morrisons, Sainsbury's and Tesco, all of which are out-of-centre and so not protected by policy.

The PRS concludes that these general points support a conclusion that there will be no significant adverse impact on the town centre, or on the District Centres, as a result of Lidl's proposals.

Strategic Planning considered the above findings in 2018 and accepted the commentary in relation to the health of the town centre and district centres to be fair.

In respect to the sequential approach, Strategic Planning accepted the commentary given on Unit 1a and Unit 4a Alcester Street, but disagreed with the conclusion that the former Marks & Spencer unit at 9 Walford Walk was not suitable for a convenience retail unit, including the more specific requirements for the 'broad type of retailer' category that Lidl fits into specifically the car parking arrangements. It was not accepted that customers using trolleys to undertake a main food shop could not access the available car parking using the lifts provided. Whilst large convenience stores may generally prefer single level sites to accommodate stores and parking side-by-side, it is not uncommon for such stores to show flexibility in design/layout to provide lift or escalator access to car parking on a different level to that of the main store. Precedent has in fact already been set in the Kingfisher Centre by the former occupation of the existing 'H&M' and 'New Look' units by a large Tesco foodstore, which operated using the very same lift/car parking arrangement available at the Kingfisher Centre.

Due to the suitability and availability of this town centre location, which is a sequentially preferable site, with only very limited flexibility required on the part of the operator to meet their specific requirements, Strategic Planning considered that the sequential test had failed and therefore the proposal was not in accordance with BORLP Policy 30, nor NPPF paragraph 86.

In respect to policy 31 of the BORLP4, the PRS considers the opportunity for sequentially preferable sites on the three town centre allocations set out in BORLP4 Policy 31. The applicant's commentary on the sites at Edward St and Prospect Hill as not being suitable for their requirements is accepted by Strategic Planning.

PLANNING COMMITTEE

25th November 2020

With respect to Church Road / North West Quadrant, the PRS notes that policy indicates a mixed-use development of convenience and comparison retail is preferred on this site, and a comprehensive approach be led by a masterplan to deliver new development, given the fragmented ownership constraints that exist across the site. The PRS concludes that the site is not suitable in the context of the application of the sequential test. Planning Strategy clarify that at the time of making comments, a coherent plan for the development of this site was being progressed, under a process currently being led by the North Worcestershire Economic Development and Regeneration (NWEDR) service. Subject to ongoing discussions concerning land assembly across this site, it is arguable that this site could be “expected to become available within a reasonable period” (NPPF para. 86) and therefore offers a sequentially preferable location than the application site.

To conclude, Planning Strategy considered that the former Marks and Spencer store and Church Road/NW Quadrant sites were sequentially preferable locations for a potential foodstore and as such considered the sequential test had failed.

Retail Advisor comments

As part of processing the application the Council procured a Retail Advisor from Lambert Smith Hampton (LSH).

The Retail Advisor provided a detailed appraisal in April 2019. In respect to the sequential approach and how the retail user operates, the Retail Advisor stated that town centre sites should be assessed against broad types of development and that operator requirements should not be used to circumvent the sequential test. It is for the applicant to demonstrate that an alternative site is not suitable or available.

One main point of difference is that para 86 of the revised NPPF allows for greater flexibility in assessing the availability of sites than the 2012 NPPF (para. 24), as it clarifies that only if suitable town and edge of centre sites are not available or expected to become available within a reasonable period should out of centre sites be considered. The revised wording means that site/buildings do not need to be available immediately for occupation/development.

Para. 87 maintains the need for applicants and LPAs to demonstrate flexibility on issues such as format and scale so that opportunities to utilise suitable town centre or edge of centre sites are fully explored. Flexibility in the format and scale is a key consideration and where appropriate, adjusting proposals in order that their scale may fit better within existing developments in the town centre. When assessing flexibility it can be considered in terms of flexibility in a business model, use of multi-level stores, flexible car parking requirements or arrangements, innovative servicing solutions and a willingness to depart from standard formats. This more flexible approach is supported by appeal decisions.

The Council's Retail Advisor has appraised the sequential approach. In respect to flexibility the PRS summarises:-

PLANNING COMMITTEE

25th November 2020

- A minimum of site area of 0.5 hectares – equates to a 28% reduction from what is proposed.
- A minimum net floorspace of 1,000 sqm on a single level – equates to a 3.75% reduction from what is proposed.
- Approximately 70 adjacent car parking spaces – equates to a 29% reduction from what is proposed.

The Retail Advisor argues that it is questionable how the applicant can truly demonstrate flexibility in format and scale with just a 3.75% reduction in net floorspace compared to the proposal. A reduction of at least 10% of the gross floorspace would be reasonable, equating to a gross floor area of 1,554 sqm. Based on the applicant's gross to net ratio, this would equal a minimum net sales area of 935sqm.

Turning to parking, whilst it is preferable for foodstores to benefit from adjacent parking, we consider that the applicant's requirement for adjacent parking to be a commercial preference. We are not convinced that the absence of adjacent parking would prevent Lidl from successfully trading in-centre. It is unreasonable to expect a town centre site to support an operator's desired parking requirements, given that parking is readily available in the town centre.

There are many (real world) examples of where both food and non-food retailers have applied significantly greater flexibility to their "standard business models" when taking space in town and edge of centre locations, compared with out-of-centre sites and formats. There are examples of both Aldi and Lidl actively applying different store business models and formats in different locations to secure representation. For instance, utilising multi floor premises as well as premises with a smaller floorarea (circa 840sqm) for example. It's considered that the applicant could have applied greater flexibility in this case and assessed the potential for sites/premises to accommodate a store trading at ground and first floor level, with a consequent reduction in the scale/footprint needed.

In respect to the premises assessed in the sequential approach, the former Marks and Spencer unit could have accommodated the quantum of floorspace proposed but is dismissed on the basis that access to the nearby car park would be taken via stairs or lifts, with the lifts being too small to provide reasonable access for trolleys. Owners of the Kingfisher Centre commissioned an analysis of various town centre sites to assess their suitability for accommodating a Lidl foodstore. The analysis was based on Lidl's standard specification for a 'Type 1100' unit. The study demonstrates that the Marks and Spencer unit could accommodate a Type 1100 format store when allowing for minor design alterations. Whilst the applicant will no doubt argue that Lidl will not trade as lucratively from this unit as it would from a purpose built store positioned next to major road route, this will be principally influenced by differences in operating costs and the ability to attract customers, particularly from nearby foodstores (i.e. Morrisons off Warwick Highway). It is well known that purpose built out of centre stores or those trading from retail parks more often than not benefit from lower rents and other associated charges compared to town centre units, and can attract shoppers with free and extensive car parking. Therefore, it is

PLANNING COMMITTEE

25th November 2020

a commercial preference that is driven by profit in which Lidl will seek to trade from out of centre sites, over occupying existing town centre units. In summary, it is evident that this unit of the Kingfisher Shopping Centre could support the proposed floorspace when allowing for some flexibility in format and scale, and at a level that reflects the standard format of Lidl stores. We dismiss the reasons given by the applicant for discounting the site.

In respect to the sites assessed including land at Church Road/ North West Quadrant, land at Edward Street, and land at Prospect Hill. The Retail Advisor comments as follows:-

Church Road/North West Quadrant

It is highlighted in the PRS how the 5.35ha site comprises land in multiple ownership and some 40 buildings, including a multi-storey car park, health centre and former bus depot and that the site is allocated in the Local Plan for mixed use development, which also supports a foodstore. The arguments put forward infer that the site has been a long standing undeveloped site allocation and there is question as to its deliverability. The site is ultimately dismissed on the basis that the provision of a new foodstore on the site would only be supported as part of a comprehensive mixed use development, highlighting constraints to development, such as land assembly issues relating to acquiring sites in multiple ownership and conservation policy. However, MSCP7 within the allocated site could be a suitable location to potentially accommodate the proposed Lidl. Whilst it is acknowledged there would be higher costs associated with the redevelopment of the site, the Lidl store could be developed at street level, with car parking at basement level. Underground parking is not an unusual feature for foodstores, including LADs. Access to basement parking can be provided in an easy and convenience manner for trolleys, such as via travelators. Whilst there may be preference for the wider Church Road/ North West Quadrant site to be brought forward as a comprehensive development scheme, there is no reason why the multi-storey car park which is in a prominent location could not come forward as a standalone scheme and could stimulate the regeneration of the wider opportunity site.

Edward Street

The site is located adjacent to Redditch railway station and represents another opportunity site allocated in the Local Plan for mixed use development. The site has many positive aspects, including its proximity to public transport nodes (i.e. rail station and interchange) and the Kingfisher Shopping Centre, it is single ownership, and there is policy support for its development. At the time of making comments the site was not being actively marketed but understand that the site's owners are open to the sale or development of the site. Therefore, the applicant has not satisfactorily demonstrated that the site is not available. As highlighted before, the proposed scheme is based on the preferred design requirements for Lidl. However, when considering the sequential potential of sites, their suitability must be based on the potential to accommodate the broad type of development proposed and that the end users requirements should be disregarded. In the case of the Edward Street site, we are not convinced that the level differences within the site and access would be prohibitive to development.

PLANNING COMMITTEE

25th November 2020

Prospect Hill

The site is allocated in the Local Plan as a preferred location for office and residential development. The site comprises of a number of trees that are subject to a TPO. We question whether the physical constraints would prevent the site from accommodating the proposed scheme. However, taken in the round alongside the preferred uses for the site, as identified in the Local Plan, we consider that the site is not suitable to accommodating a foodstore.

Other Sites

The Council requested the Retail Advisor to review two additional sites put forward by the owners of the Kingfisher Centre (KLP). They included:

- Multi-storey car park site, off Station Way (multi storey car park 3)
- Level 4 of multi-storey car park, off Clarke Street (Multi storey car park 4)

A Lidl Study was commissioned by Capital and Regional on behalf of the Kingfisher Centre and provided concept site plans for each site to demonstrate that a standard specification Lidl store (sales area 1104sqm) could be accommodated.

The Council's Retail Advisor concluded that whilst both sites benefit from good road access and good pedestrian links to the town centre, particularly the Clarke Street car park site, it is unlikely that either site could reasonably support the proposed scheme without incurring considerable cost in respect to demolition and redevelopment. There may be potential to develop these sites in the future as part of a wider development scheme, which could offset the associated demolition and redevelopment costs, but for the purpose of this appraisal, it is considered that these two sites are not suitable for accommodating the proposed scheme as a single use development.

The overall conclusion of the Retail Advisor in April 2019 was that the Lidl as proposed failed the sequential test. A key criticism in the applicant's assessment is that their sites have not been robustly tested in terms of demonstrating flexibility in format and scale. It is for the applicant to demonstrate flexibility and in this case, the applicant has failed to do so adequately. As a result of this approach, any constraint to development is amplified as a reason as to why a site is unsuitable, particularly where constraints can be overcome but may not be commercially preferable.

The former M and S store represents the most suitable site to accommodate a new foodstore for Redditch. We consider that the unit can broadly accommodate the scale and format of floorspace required by Lidl. The applicant may argue that it is not commercially viable to support two stores in the town centre and is therefore not suitable. However, it is considered that the proper application of the sequential test requires that identity of the end user is disregarded as permission runs with the land and not the end user. Further consideration should also be given to the Church Road/NW Quadrant and Edward Street.

PLANNING COMMITTEE

25th November 2020

Notwithstanding the above, we have concerns that there may be an intention to close the existing town centre Lidl store which could have an adverse impact on the vitality and viability of the town centre. Whilst the store falls within the default NPPF threshold (2500 sqm gross) for assessing retail impact for edge and out of centre site, impact is still a material consideration. No evidence has been provided that they will maintain their presence in the town centre. In the absence of any assurances from Lidl to maintain their town centre store, it is considered that the Council should consider the potential closure of the existing store in the determination of the application.

Since the submission of the above assessments, a Town Centre Report has been considered at Executive Committee in November 2019 with a view to draft proposals for the regeneration and redevelopment of various sites in and around Redditch town centre. Whilst potentially this could be viewed as a material consideration for the application, the status of the report is very limited given that proposals are at the early stages. Since its closure in April 2018, the former M and S store has also been boarded up with internal alterations taking place for potential end users. In addition, outline planning permission for residential development has been considered favourably on land at Edward Street (Ref:19/01060/OUT).

In June 2020, the applicant submitted a Further Submission responding to the Retail Advisor's assessment, comments from interested parties and reference to the Town Centre Paper. The comments are summarised as follows:-

- there is no need for an impact assessment given the scale of the proposal;
- the site is out-of-centre so there is a need for a sequential assessment; and it is agreed that there are no more centrally located sites within the District and Local Centres.
- The only outstanding matter between the applicant and RBC relates to compliance with the sequential test, and whether there are any more centrally located opportunities in or on the edge of Redditch town centre that could accommodate the development that is proposed.
- The general approach to the application of the sequential test and, in particular, how the requirement to demonstrate 'flexibility' is to be applied to a discount foodstore operator such as Lidl.
- The other area of disagreement is whether the reasons given for discounting sites in Redditch as being unsuitable or unavailable are robust. We examine those matters by summarising our conclusions in relation to each of the sites that we believe may remain 'in scope'. Those sites are:

Former M&S Unit

The unit is considered to be unsuitable for the development, even adopting a flexible approach. We repeat and continue to rely on the matters that we have set out before, namely that the unit is too large for Lidl; it is awkwardly configured; and it does not have adequate parking provision that could be allocated to Lidl customers for free.

PLANNING COMMITTEE

25th November 2020

Edward Street

The site is substantially too small to accommodate the development that is proposed, even adopting an approach to flexibility; the site would be unable to accommodate more than perhaps 33% of Lidl's normal parking requirements, or 40% of the already reduced provision proposed at Battens Drive; due to levels differences the relationship with the street would be poor, which would be exacerbated by the need to widen Edward St to create two way working at least to the point of access into the site. In any event to grant permission for residential use of the site. The Town Centre Report promotes the site for housing in preference to retail/commercial uses; and the site has been marketed as such. On this basis the site is discounted.

MSCP7

The PRS did not explicitly refer to MSCP7 in its consideration of the sequential test. The PRS considered the potential for any development to come forward in the NW Quadrant site in a reasonable timescale, having regard to matters such as the fact that the 'site' (i.e. the wider NW Quadrant) is within multiple ownerships and subject to occupation by numerous commercial enterprises. The lack of any comprehensive or deliverable Masterplan for the area, or any site within it, led us to the conclusion that it does not realistically render up any suitable and available opportunities to accommodate the development that is proposed. The Policy Team's response was that "subject to ongoing discussions concerning land assembly across this site it is arguable that this site could be 'expected to be available within a reasonable period and therefore offer a sequentially preferable location than the application site. The Town Centre Report has not progressed beyond a 'preferred options' report and has not been subject to any consultation. It is notable that the Town Centre Report focuses only to the north of Church Road, and that it excludes MSCP7 and other land to the south. The Retail Advisor acknowledges that there is a preference for a comprehensive approach, although there is no reason why MSCP7 could not come forward as a standalone scheme. We consider that there is a preference in the Town Centre Report for a retail store in an alternative location. Utilising this site would reduce town centre parking, no information submitted to confirm that there is surplus parking in the area. No information submitted to clarify that the site would be made available within a suitable time period. We continue to discount MSCP7 because the site is substantially too small to accommodate the development that is proposed, it has been put forward by the Kingfisher Centre in a 'study' that claims that the site is suitable and available without any evidence to support that claim, and it has not been demonstrated that the loss of such a substantial number of spaces would be acceptable.

The Church Road Site

The Town Centre Report promotes a mix of residential and commercial uses on land to the north of Church Rd. The concept plans include the development of a food store of 1,575 sqm GEA, with 60 parking spaces on the bus garage site and adjacent Lloyds pharmacy/Elgar House GP surgery site. The Town Centre Sites Report has no formal status, and there is no published programme for it to be progressed. Officers have said that no weight should be attached to it, and its final content is uncertain. On this basis, it remains the case that there is no "coherent plan" for the area at present and no clear timescale within which one might develop. We note that the site at Church Road would be

PLANNING COMMITTEE

25th November 2020

unable to deliver even the reduced GEA and net sales areas that are proposed at Battens Drive. It would also support substantially fewer parking spaces than Battens Drive. In relation to availability the Elgar House health centre and pharmacy remain occupied and operational and we conclude that this part of the site is not available; and the bus garage site that has been recently vacated, has been offered to the market on a leasehold basis and has been 'Let' so that it is not available in any event.

In August 2020 a representative for the Kingfisher Centre (KLP) submitted additional objections to the application and provided more information in respect to sites that they had put forward previously as alternative town centre sites to consider:-

Car Park 3

Availability

The site adjacent to the retail core, separated by the Ringway. It is an undeveloped parcel of land adjacent to one of the multi-storey car parks and is owned by KLP and is immediately available for development.

Suitability

In retail terms, suitability is taken to mean 'suitable for the development proposed', with a reasonable requirement for flexibility in format and scale. Therefore, it is necessary to consider whether the proposed development can reasonably be located at a particular site, meeting the scale and type of development likely to be needed. This site is large enough for the '1100 Type' store requirement, plus some surface level car parking, and is immediately adjacent to a large dedicated multi-storey car park to the west.

In planning policy terms, this site is suitable for a range of main town centre uses (being within the designated town centre) and does not have any other designation that would prevent its development for a foodstore. The site is slightly sloping and, having not been previously developed, has several trees within its boundaries. Notwithstanding this, if the operator applied flexibility and reduced the scale of its standard '1100 Type' store, there is the possibility that this site could allow for many of the existing trees to be retained.

Direct access from the Ringway into the multi-storey car park is available and a new point of access from Station Way can be achieved to access the surface level car park to the east with sufficient capacity for car parking. Suitable lifts can be installed within the multi-storey car park to serve the development. These have been accepted elsewhere by Lidl, where the car park sits below the store.

The site is highly accessible via foot, car and public transport. The location is well connected to the retail core and offers the ability to create linked trips, which will have wider benefits to the town centre, according with Policy 30 and 31 of the BORLP4.

A Lidl in this location could also assist in realising the vision for Redditch Town Centre, as set out in Policy 31 of the BORLP4, including the following priority projects – 'tackling the Ringway,' by increasing footfall to and from the town centre via the existing covered connection; and potentially 'rejuvenating Silver Street' through creating a key arrival point. For the purposes of the sequential test, this site should, therefore, be considered as 'suitable' for the proposed development.

Viability

The site contains some made ground, which is reflected in the levels built up towards the Ringway. However, this is not unusual for an urban site and should not represent a

PLANNING COMMITTEE

25th November 2020

particular challenge for development. The site contains no built development and so there are no demolition costs. Use of the existing multi-storey car park will mean that there is no additional build cost in this respect. We, therefore, conclude that there are unlikely to be any exceptional development costs, suggesting that the proposed development on this would be viable.

Car Park 4

Availability

The site comprises an existing multi-storey car park on Clarke Street (known as Car Park 4) which is located within the town centre, immediately adjacent and to the west of the retail core (and Kingfisher Shopping Centre). Whilst the demolition of the existing car park may be required to enable development, this should not per se preclude the potential site from being available and could be available 'within a reasonable period' (NPPF, Para 86). Our Client has confirmed that sufficient parking capacity for shopping and other needs existing within the centre exists and that the loss of this car park – which is under-utilised on a regular basis, not just in present times – would not undermine their ability to serve the needs of visitors to the town centre. Whilst the site has not been marketed as such, it is genuinely available for the proposed development.

Suitability

The site is suitable for a range of main town centre uses and it does not have any other designation that would prevent its use as a Lidl store. The site is located in an optimum location and suitable format for an external, singular supermarket store, suiting the Lidl model. According to Policy 5 of the BORLP4, non-residential development proposed on previously developed land, including the re-development of tired or redundant sites, is considered favourable, with the existing Car Park 4 able to accommodate the '1100 Type' store requirement, with dedicated access and below grade parking meeting the required capacity. Parking below the store is accepted by Lidl at stores located across the country. There is the opportunity for the store to have a prominent external presence on the Ringway, and thus it would be attractive on a commercial and marketing basis.

The potential site is also highly accessible and well-connected to the town centre, through two existing bridge links to the Kingfisher Shopping Centre to the north and south, enabling linked trips between the potential store and the existing retail and food and beverage units within the Shopping Centre. Redditch Bus Station and Rail Station are also located to the immediate north-west of the car park, with a Lidl store at this site being situated on the main pedestrian route between the two public transport hubs and Shopping Centre, attracting footfall. An existing access road curves around the south, east and north of the site, leading onto the Redditch Ringway, providing excellent access by car.

Viability

Demolition of the existing car park would need to occur prior to development of a new store. At this stage, this has not been costed by our Client and it is accepted that costs can be substantial. However, the town centre is changing rapidly and the Council and others are leading on securing funds from various sources to revitalise key parts and kick-start investment. It is possible for some monies to be levied towards costs of bringing forward development, which could conceivably include the demolition of buildings, such as Car Park 4, where this facilitates investment.

PLANNING COMMITTEE

25th November 2020

Building on out of town, cleared sites is undoubtedly less complex and less expensive but the test here is not to compare one with the other, it is: accepting the town centre first principle, to make informed judgements about whether a particular form of development on a particular site (in this case a site within the town centre) would, based on the evidence available, be viable. It is our view that, in this case, there is every possibility that the development of a Lidl foodstore on this site could be viable. On this basis, this site should not be discounted and combined with its availability and suitability, should be considered sequentially preferable to the application site.

Car Park 7

Availability

Car Park 7 is a multi-storey car park owned by our Client, situated within the town centre. Whilst the demolition of the existing car park may be required to enable development, this should not preclude the potential site from being available, and could be available 'within a reasonable period' (NPPF, Para 86).

For the reasons explained above (in relation to the availability of Car Park 4), there is an over-provision of car parking for the town centre and, consequently, the use of this site for an alternative Main Town Centre Use – in this case a foodstore – would not undermine the ability to serve the needs of car-borne visitors. Whilst the site has not been marketed as such, it is genuinely available for the proposed development.

Suitability

This site is able to accommodate the requirements of a 'Type 1100' store with parking underneath, following demolition of the existing car park. Although the site is situated further to the north of the Kingfisher Shopping Centre, this is still within 300m of the primary retail core at its northern boundary and is well-related to existing commercial areas and associated walking routes. Furthermore, Car Park 7 is also within a wider designation as a 'Town Centre Strategic Site', as identified by Policy 31 and the Town Centre Inset Map of the Local Plan. The Church Road/North West Quadrant is the preferred location for convenience retailing, with Policy 31 noting that, as part of the redevelopment of the site, a food store should be incorporated. Therefore, a Lidl store in this location would accord with the aspirations of the BORLP4 for this area. The site is also located outside of the designated Church Green Conservation Area, where design and layout would be more tightly controlled than at this site.

The site is located on the Redditch Ringway, therefore, a Lidl store here would be purpose built, positioned next to a major route, thus also securing key prominence. Redditch Bus Station and Rail Station are also located to the south of the car park. As set out above, Lidl have other stores with car parking below or in decks to the side, so this should not be considered an unacceptable arrangement for their trading format per se. We, therefore, conclude that this site is suitable for the proposed use.

Viability

Demolition of the existing car park would need to occur prior to the development of a new store. Nevertheless. The site is situated within the Church Road/North West Quadrant, where it is anticipated that there will be a high level of investment and development to establish the aspirations of the BORLP4 as a Strategic Site, where it is recommended that the redevelopment of the area includes a food store. The local authority's emphasis on unlocking Redditch should be considered in this circumstance, which could,

PLANNING COMMITTEE

25th November 2020

conceivably, include the demolition of Car Park 7 to be able to facilitate investment and development. Therefore, this site should not be discounted and combined with its availability and suitability, should be considered sequentially preferable to the application site.

To conclude, this is an updated position statement from KLP that confirms the above sites are available, suitable and viable, sequentially preferable sites within the town centre which are capable of accommodating the proposed development.

Council's Retail Advisor Comments September 2020

The Council's Retail Advisor has considered the latest objection from KLP and the Further Submissions from the applicant. The Retail Advisor's final response submitted September 2020 are as follows: -

- We have questioned the applicant's stance on the need to demonstrate flexibility in terms of format and scale, which we consider if reasonably applied, could potentially support the proposed foodstore on more central sites. In particular, our Appraisal highlighted the potential to accommodate the proposed foodstore within the former M&S unit in the Kingfisher Centre. In addition, we questioned the applicant's rationale for discounting the Edward Street site and MSCP 7. Our view was that the aforementioned sites were not robustly assessed.
- Further clarification was sought by the applicant on a number of points in the 2019 Appraisal, which were put to the Council these are documented by the applicant in their Further Submissions and mostly relate to the Edward Street site and MSCP7.
- More recently, further representations were submitted to the Council on behalf of Kingfisher Limited Partnership (KLP), owners of the Kingfisher Shopping Centre. KLP also own a number of sites across the town centre including MSCP 7. The representations follow on from earlier objections submitted by KLP in October 2018 and February 2019, which argued that the applicant did not undertake a robust sequential assessment and that four town centre sites (in KLP's ownership) were suitable and available to support a new foodstore. The latest representation in August 2020 provides further consideration of these sites.
- We summarise and discuss the key areas of disagreement in respect to the sequential test as follows:
- The degree to which it is reasonable and legitimate for a LAD foodstore operator to constrain its search for sites and premises. In response to the 2019 Appraisal, the applicant repeats their argument that Lidl's operational model is a relevant consideration in the application of the sequential test and that the operator's business model requirements are distinct from other convenience providers. Whilst the applicant agrees that flexibility should be demonstrated they maintain that Lidl's requirements restrict the extent to which flexibility can be accommodated.
- The extent to which flexibility can be reasonably applied ties in with the findings of the Mansfield Judgement. Its interpretation in respect to what represents a "broad type of retail development" and whether the identity of the applicant/ food retailer is relevant are key areas of disagreement between the Retail Advisor and applicant.

**PLANNING
COMMITTEE**

25th November 2020

The applicant's view is that "broad type of development" should not represent all retail formats due to variances between foodstore and convenience store operators. Whilst we agree that it should not apply to all retail development, it should be interpreted as a starting point on all convenience retail.

- The extent to which an applicant should reasonably demonstrate flexibility is an area of much discussion and disagreement. We note the response given by the applicant in their Further Submissions they compare how the proposal and the minimum requirements they have considered in demonstrating flexibility depart from Lidl's standard store requirements. Looking at site area requirements, the applicant highlights how they have demonstrated flexibility in their PRS by assessing sites that provide a minimum site area of 0.5 ha, compared to 0.7 ha for the proposed application site and 0.8 ha for standard stores. It should be noted that Lidl's most recent published store requirements from April 2020 states a minimum site area of 0.6 ha for new development opportunities. However, this minimum site area is influenced by Lidl's requirement for at grade parking provision. It does not take account of the potential to develop on a smaller site where existing shared parking may be available or the potential to provide say, under-croft parking.
- It is noted that flexibility has not been demonstrated in regard to the proposed store's overall GEA measurement. Instead the applicant highlights that at 1,727 sqm GEA, the proposed store is 25% smaller than standard Lidl stores (2,279 sqm GEA). The applicant dismisses the suggestion in the 2019 Appraisal that in demonstrating flexibility in format and scale a smaller store size should be tested. A reduction of 10% on the store's GEA was suggested in the 2019 Appraisal, which the applicant measured as 1,554 sqm GEA.
- Lidl has published store requirements for Redditch which were identified on the Requirements List website, which seek opportunities for a unit size ranging between 1,300sqm gross and 2,462 sqm gross (14,000 sqft and 26,500 sqft). This reflects the store size range in their published property requirements. The proposed store size fits comfortably within Lidl's desired store size requirement for Redditch, as would a reduced store size of 10%. Therefore, we question whether the applicant has reasonably demonstrated flexibility in format and scale, particularly in relation to the proposed store's overall size and net sales area. In addition, given that Lidl's published requirements for Redditch quote a minimum store size of 1,300 sqm gross, we consider that the applicant has not gone far enough to demonstrate flexibility in their application of the sequential test. As a result, they have limited the potential to consider a foodstore on smaller, but more centrally located sites.
- The applicant identifies four sites that are subject to disagreement in respect to their suitability and availability to support the proposed scheme including:
 - the former M&S unit in the Kingfisher Centre;
 - the site at Edward Street adjacent to the railway station;
 - MSCP7 at Church Road / Adelaide Street;
 - and the Church Road site.

PLANNING COMMITTEE

25th November 2020

The applicant has provided a further review on these sites, which we consider in turn.

- **Former M&S Unit in the Kingfisher Centre**
The latest representation on behalf of KLP August 2020 confirms that the unit has been let and is no longer available. Therefore, we discount the site on the basis that it is no longer available.
- **Site at Edward Street adjacent to the railway station**
The Council has resolved to grant planning permission for a residential development on the site. We understand that the Section 106 agreement is outstanding and that there is a strong probability that the site will be delivered for housing. While planning consent is still effectively pending the Council are supportive of the residential scheme and that the S106 will be agreed in due course. Therefore, we accept that the site is unlikely to be available to support a proposed foodstore and given the permission in principle for a residential scheme that the site is not suitable to support a foodstore.
- **Multi Storey Car Park 7 (MSCP7) at Church Road / Adelaide Street**
It is noted that a foodstore is identified as a potential use in the Town Centre Report for the Church Road site. According to the latest representation from KLP the MSCP7 site is in their ownership and they have confirmed that the site is 'genuinely available' within a matter of months for development. With regards to the site's suitability, we do not consider that the omission of the MSCP7 site from the Town Centre Report means that the site should predicate the site's potential to support town centre uses. Whilst a foodstore is mooted for the adjacent Church Road north site this does not mean that the foodstore could not be accommodated in another location in the town centre. The MSCP7 benefits from very good visibility and is in easy walking distance to Redditch's core shopping area. Its redevelopment does not need to come forward as part of a comprehensive development, which was confirmed by the Council. If anything, the development of the site for a foodstore would help to stimulate interest in the redevelopment of the wider North West Quadrant. We accept that a foodstore on the MSCP7 site would require under-croft parking, but this is not an unusual feature for foodstores. There are examples of LAD stores with this parking arrangement. That said we have further reviewed the site assessment carried out by KLP. To enable foodstore to be accommodated on the site, parking would need to be below the store. To achieve this arrangement, the site would require the installation of a lift or more preferably, a travelator to allow trolleys to the under-croft parking area. This has not been taken into account in the details submitted. Whilst we appreciate that details are not expected to provide a detailed analysis, access to basement parking is an essential feature that needs to be considered. We have doubts as to whether there is site capacity to include a travelator. This is likely to be the case even with a smaller format Lidl foodstore. We conclude that whilst the MSCP7 site is available, the evidence provided suggests it is not suitable for a foodstore and associated parking even if allowing for flexibility in format and scale. Whilst KLP

PLANNING COMMITTEE

25th November 2020

has sought to demonstrate how a Lidl foodstore could fit on the site, the evidence highlights that the site is potentially constrained in terms of its physical capacity to accommodate access from the store to a potential underground car park. Therefore, we consider that the site is not a suitable and is therefore not sequentially preferable to the application site.

- **Church Road Site**

In the Supplementary Appraisal we concluded that the Church Road site, which forms part of the Church Road / North West Quadrant opportunity area, was not robustly assessed by the agent in their Further Submissions, both in terms of its suitability and availability to support the proposed foodstore when allowing for reasonable flexibility in format and scale. The agent has undertaken a further review of the site's suitability and availability to support the proposed foodstore. It should be noted that the agent maintains their position on flexibility as set out in their PRS and Further Submissions.

We highlighted in the Supplementary Appraisal that based on the evidence presented in the Council's Town Centre Report that the Church Road site could support a 1,575 sqm foodstore and parking for 60 cars. A store of this size would still meet the store size requirements published by Lidl and the site would benefit from supplementary parking available at the adjacent multi-storey car park (MSCP) and on-street parking. Therefore, we concluded that the site was suitable for accommodating the proposed scheme, when allowing for reasonable flexibility in format and scale.

The agent demonstrated that the site is too small to accommodate the proposed foodstore by overlaying a 1,656 sqm GEA format Lidl store on the Church Road site. They have explored orientating the unit north to south and west to east as shown in the drawings accompanying their response. They conclude that the site is too small to accommodate the proposed foodstore and that parking provision is too limited. They do not accept that parking provision could be reasonably supported by the adjacent MSCP and on-street parking.

We consider that the agent's assessment of the site is too constrained on the basis that they have not demonstrated flexibility in format and scale. The foodstore size applied in their assessment is only 71 sqm GEA smaller than that proposed for Batten's Drive (1,727 sqm GEA). It would have been more appropriate for the applicant to have tested a smaller store size. However, we accept that a smaller foodstore could only be accommodated on the Church Road site. Even with a smaller site, such as that promoted in the Town Centre Report it is likely that parking provision would be limited and whilst the MSCP on Church Road would provide supplementary parking provision for a foodstore on the Church Road site we do have reservations on its suitability as the foodstore's main parking provision given that most customers would be required to cross Church Road with trolleys. Whilst under-ground parking could be achieved, but this would require land from the adjoining site to the north. The site's elevated position is likely to prevent an

PLANNING COMMITTEE

25th November 2020

arrangement for parking to be provided at ground (with retail above) or at roof level. In any case this would also require land from the adjoining site to the north. To conclude, whilst we consider that the agent has failed to reasonably demonstrate flexibility in format and scale, a smaller foodstore may not be feasible on the site and that on-site parking would be too compromised.

The Church Road site comprises two parcels of land – the bus garage site and the health centre/ pharmacy site. Whilst the bus station site is let on a temporary basis, Elgar House Surgery is subject to a 25 year lease (expiring in 2042) and Lloyds Pharmacy is sub-let until 2027. Unless the leases have an arrangement in place to allow the landlord to gain possession of the site then it must be assumed that the head tenant (Elgar Medical Centre) has the right to the life of the lease. Whilst this does not necessarily mean that the site could not become available for development within the lease period, there is question as to whether the site would be available within a reasonable period of time, which we have considered to be three years. Therefore, without further knowledge of the leasing arrangements for the medical centre site we must assume that the site is not available within a reasonable period.

- **Car Park 3**

Whilst it appears that a foodstore could potentially be accommodated, albeit it would be a 'tight' fit, it does not take account of the site's topography. For example there is a considerable level difference from Station Road, which features on KLP's plan as a service and customer vehicle access point, compared to north western area of the site where access would be available to the MSCP and subway. In KLP's recent representation it is acknowledged that development of the site contains made ground, but that the remediation costs associated with levelling out the site would not be prohibitive to delivering a foodstore. We agree on this point given that the applicant would entail demolition costs in bringing forward development on the application site. Nonetheless, we consider that the level differences on the site, particularly with existing access points and adjacent facilities, would not be suited to a foodstore development. We note that the site is in KLP's ownership and as it is vacant it would be available. However, given the points raised on the site's suitability we do not consider that this is a sequentially preferable site to support a foodstore and we are satisfied that the Church Road site is not suitable or available to support the proposed Lidl foodstore.

- **Car Park 4**

We agree that the site is suitable in principle for a foodstore given its location to the core shopping area and note that the site is available within a reasonable period. In acknowledging the costs for development, It is suggested (in the representation) that contributions could come from the Council through unspecified funding sources. Whilst this is a possibility there is no guarantee that funding could be made available within a reasonable period (e.g. up to 3 years) or whether funding could be secured at all. We consider that the costs associated with bringing forward a foodstore on the Car Park 4 site would be unviable and

PLANNING COMMITTEE

25th November 2020

therefore, rendering the site unsuitable for a proposed foodstore. Therefore, we conclude that the site is not sequentially preferable to the application site.

Retail Advisor's final conclusions

Key issues relating to the application are focused on the sequential test and the interpretation of what constitutes reasonable flexibility in format and scale. We advise the Council that in this case the applicant has not demonstrated sufficient "flexibility" on issues such as format and scale in compliance with the NPPF (para 87) and the PPG. Although we fully understand Lidl's stated business model, there are many (real world) examples where both food and non-food retailers have necessarily applied greater flexibility to their standard business models to secure space in town and edge of centre locations. The agent should have applied a further "layer" of flexibility to the Lidl store, in particular considered the potential to support a smaller format store on more central sites. If the agent demonstrated flexibility by reducing the store's GEA by 10% as suggest in the 2019 Appraisal this would reduce the store size to 1,554 sqm GEA. Given that Lidl are seeking opportunities for new sites that support store sizes of between 1,300 sqm and 2,462 sqm GEA we do not consider that such a reduction in floorspace would be unviable. Similarly, we do not accept that the applicant does not need to consider a reduction on the proposed store's GEA in demonstrating flexibility on the basis that what is proposed is smaller than their standard store size. The standard store size quoted is close to the largest store size identified in Lidl's published site requirement brochure.

However, taking into account of our findings on alternative sites considered above we now conclude that the applicant has passed the sequential test in line with paragraph 87 of the National Planning Policy Framework. As the decision-taker in this case the local planning authority will have to apply the planning balance and weigh our advice against any wider impacts and/or benefits arising from the proposed Lidl foodstore. If the Council is minded to approve this application we strongly advise that conditions are attached that limit the store's use to that of a Limited Assortment Retailer, and limit the GEA and net sales to that identified in the PRS and planning drawings. A condition excluding the potential for the permitted use to change within the new Use Class Order (Class E) is also recommended.

Conclusions with respect to the principle of the use

Officers accept the specialist advice from the Retail Advisor and are comfortable that a thorough assessment has been made on potential town centre sites for the purposes of the sequential approach and that the proposal would accord with the NPPF and policies 30 and 31 of the BORLP4.

The Council's Retail Advisor has advised that a legal agreement ought to be sought in respect to retaining the existing store within the town centre. It has been emphasised in the PRS that the existing store in the town centre would remain open. The applicant has clarified that the store at Battens Drive will very much be a second store in Redditch. The proposed foodstore at Battens Drive will primarily serve the eastern and central-eastern parts of the town, whilst the existing store will continue to serve the western and 'town

PLANNING COMMITTEE

25th November 2020

centre' areas of Redditch. The Retail Advisor recommends a 5 year period from the date of opening the Battens Drive store. This is to ensure that the existing store does not close prematurely once the new store has opened maintaining retail convenience shopping within the town centre. This has been discussed with the applicant, however, the lease on the existing store in the town centre will expire around September 2023. Therefore, it is not possible to impose a 5 year retention but it is considered prudent to ensure the retention of the town centre store to the end of the current lease as part of a legal agreement.

Layout and appearance

The layout of the building is generally rectangular for the purposes of how the end user operates. The building would be single storey with a mono pitched roof with an overhang canopy. Initial plans submitted showed a standard style Lidl building. The building would be finished in brick, render and glazing, however, negotiations have been held with the agent to add timber cladding for the main elevations to reflect the country park setting. The design of the building is considered to be acceptable in this location in accordance with policies 39 and 40 of the BORLP4.

Highway Matters

The access will be provided off the shared junction with the country park as occurs with the existing gym. The proposal will alter the access onto Battens Drive to ensure that it is suitable for the future site demands, particularly with regards to delivery vehicles. The proposal will also introduce a new signal controlled crossing on Battens Drive and bus stop, these are considered to be essential features in providing sustainable access to the site particularly for the Winyates area. Additionally the site can easily be accessed by cycle via the country park which has a high quality cycle network connecting to the centre of Redditch, and footway is also provided within the site to connect to the country park.

The site provides 95 car parking spaces of which 6 are accessible spaces, 10 are equipped electric vehicle spaces, 10 motor cycle spaces, 40 cycles spaces shared between staff and customers. This provision accords with adopted policy. The delivery vehicle has been demonstrated to manoeuvre within the site without conflicting the parking areas.

Several objections have been submitted in respect to the proposal and likely traffic problems as a result of the scheme. The Highway Authority is aware that public comments have been made relating to the traffic generation of the proposal. Traffic movement needs to be considered in two respects, firstly the local impact on the site access and secondly the implications on the wider network. Additionally this needs to be compared to the traffic generation that the gym would have generated.

The applicant has reviewed the traffic generation of the site on the local network and has demonstrated that there will not be a detrimental impact on capacity, and undertaken a separate analysis based on net impact and the number of new trips to recognise that there is a finite number of shoppers, the approach adopted is considered to be very robust compared to other schemes considered by the Highway Authority. The Highway

PLANNING COMMITTEE

25th November 2020

Authority has undertaken a robust assessment of the planning application. Based on the analysis of the information submitted and consultation responses from third parties the Highway Authority concludes that there would not be a severe impact and therefore there are no justifiable grounds on which an objection could be maintained.

The Highway Authority has considered the highway objections from Asda. The Highway Authority remain satisfied that consideration has been made of all the key issues and do not consider that the application would be contrary to safety or capacity, and the site is accessible by a range of sustainable transport modes.

Landscape

As mentioned above the overall proposals include the provision of a landscaped amenity area adjacent to the building. In addition, substantial tree planting is proposed around the site to enhance the scheme as well as further enhance the country park setting. The arboricultural officer has no objection to the development subject to tree protection conditions.

Drainage Matters

The southern part of the site is within flood zone 2 and 3; the applicant has submitted the necessary flood risk assessment acknowledging this risk. The site is also at surface water flood risk according to the Environment Agency's surface water flood maps although this isn't the building footprint itself but rather the car park and access/ egress is at risk. Whilst we have records of flooding to Battens Drive, records indicate that flooding will only occur to the car park, Battens Drive and the access to the super store.

To accord with policy 17 of the BORLP4, the drainage strategy needs to incorporate SuDS measures. Such options could be to use geocellular crate storage under the asphalt with standard gullies connecting to a storage area (outside the flood zone area). This could be possible under the customer car park although the applicant could use standard permeable paving at this section. North Worcestershire Water Management recommend a drainage condition to cover this matter.

Other Matters

Access to the site is off the access road that serves the country park which is in the control of the Council. Members will be aware that when public events are held at the country park, it can be a draw for a considerable number of residents locally as well as further afield. Historically, car parking and particularly traffic control can sometimes be an issue at the park during these times. The Leisure Team have requested that priority of traffic be given to the users of the country park. This should ensure reasonable traffic flow when users of the park are leaving the site after a public event. This can be achieved by amending the white line markings on the access road that serves the country park and the proposed store. The applicant is agreeable to changes to the access arrangements, and plans are currently being considered.

PLANNING COMMITTEE

25th November 2020

Planning Obligations

In order to address the loss of primarily open space in this area, a contribution is sought to enhance the existing open space facilities within the country park near to the site. This would be sought via a planning obligation.

In addition, to ensure the vitality and viability of the town centre is maintained, the obligation will also ensure that the existing Lidl store in the town centre remains open. Whilst a 5 year period has been recommended by the Retail Advisor, it is understood that this can only be agreed to the end of the current lease for the Lidl Store in Grove Street. Therefore, this commitment will be imposed until the expiry of the lease. The applicant is agreeable to the above Heads of Terms.

Monitoring

A Section 106 monitoring fee (as of 1 September 2019, revised Regulations were issued to allow the Council to include a provision for monitoring fees in Section 106 Agreements to ensure the obligations set down in the Agreement are met.

Other matters

Sections 100ZA(4-6) of the Town and Country Planning Act 1990 requires the applicant's written agreement to the terms of a pre-commencement condition. Written agreement to the terms of relevant recommended conditions has been sought.

Conclusion

The proposal has conflicted with policies in the BORLP4 in respect to policies 13, 30 and 31. However, the applicant has provided justification to address concerns in respect to loss of primarily Open Space with the provision of additional amenity provision within the site as well as providing enhancements to the country park. In respect to the sequential approach, whilst there has been discrepancies in respect to flexibility when assessing alternative town centre sites, the Retail Advisor concludes that the applicant has passed the sequential test in line with paragraph 87 of the National Planning Policy Framework. As such the proposal would not conflict with policies 30 and 31 of the BORLP4. It is considered on balance that the proposal is acceptable.

RECOMMENDATION:

That having regard to the development plan and to all other material considerations, authority be delegated to the head of Planning and Regeneration to GRANT planning permission subject to:-

a) The satisfactory completion of a suitable legal mechanism ensuring that:

- 1. Contributions are paid to the Borough Council in respect to off site open space enhancements with the country park and in close proximity to the site.**
- 2. Commitment to ensuring that the town centre Lidl store stays open until the expiry of the current lease.**

PLANNING COMMITTEE

25th November 2020

- 3. A Section106 monitoring fee (as of 1 September 2019, revised Regulations were issued to allow the Council to include a provision for monitoring fees in Section 106 Agreements to ensure the obligations set down in the Agreement are met.**

a) Conditions and informatives as summarised below:

Conditions

- 1) The development to which this permission relates must be begun not later than the expiration of three years beginning with the date of the grant of this permission.

Reason:- In accordance with the requirements of Section 91(1) of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

- 2) The development hereby approved shall be carried out in accordance with plans and drawings (to be defined)

REASON: To provide certainty to the extent of the development hereby approved in the interests of proper planning.

- 3) Prior to their first installation, details of the form, colour and finish of the materials to be used externally on the walls and roofs shall be submitted to and approved in writing by the Local Planning Authority. The development shall then be carried out in accordance with the approved details.

Reason: To ensure that the development is satisfactory in appearance, to safeguard the visual amenities of the area.

- 4) Notwithstanding the provisions of the Town and Country Planning (Use Classes) Order 1987 (England) (or any Order revoking and re-enacting that Order), the building shall be limited to a Limited Assortment Retailer under Use Class E and shall not be used for any other purpose within that Class.

Reason: To define the permission.

- 5) The building shall have a limited gross external area (GEA) of 1,727 sqm, with a net sales area of 1,039 sqm. 80% of the net sales area shall be used for the sale of convenience goods and 20% of the net sales area shall be used for comparison goods in accordance with the Planning and Retail Statement and Dwg. No.s. (to be defined).

REASON: To provide certainty to the extent of the development hereby approved in the interests of proper planning.

**PLANNING
COMMITTEE**

25th November 2020

- 6) Prior to any works above foundation level commencing on site a scheme for surface water drainage will be submitted to, and approved in writing by the Local Planning Authority. This scheme should be indicated on a drainage plan and the approved scheme shall be completed prior to the first use of the development hereby approved.

Reason: In order to ensure satisfactory drainage conditions that will not create or exacerbate flood risk on site or within the surrounding local area.

- 7) No demolition, site clearance or development shall take place until all trees and hedges and their root protection areas (RPA) to be retained on the site and around the boundaries of the site must be protected during clearance and construction phase in accordance with British Standard BS:5837 2012, and shall remain in situ for the duration of the development.

Reason:-To ensure the protection of trees and hedgerows in the interests of visual amenity.

- 8) No development above foundation level of the scheme hereby approved shall take place until all hard and soft landscaping details have been submitted to and agreed by the Local Planning Authority. The approved works shall be carried out in accordance with the approved details. The works shall be carried out prior to the occupation of any part of the development or in accordance with a programme agreed in writing by the local planning authority. Any trees or plants which within a period of 5 years 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 sizes or species unless the local planning authority gives written approval to any variation.

Reason:- In the interests of the visual amenity of the area.

- 9) The Development hereby approved shall not be brought into use until the access, parking and turning facilities have been provided as shown on drawing to be specified.

Reason: To ensure conformity with submitted details.

- 10) The Development hereby approved shall not be opened to the public until 10 electric vehicle charging space has been provided in accordance with a specification which shall be submitted to and approved by the Local Planning Authority and following their provision, such spaces and power points shall be kept available and maintained for the use of electric vehicles as approved.

REASON: To encourage sustainable travel and healthy communities.

- 11) The Development hereby approved shall not be brought into use until 6

**PLANNING
COMMITTEE**

25th November 2020

accessible car parking spaces have been provided and thereafter shall be kept available for disabled users as approved.

REASON: To provide safe and suitable access for all.

- 12) The Development hereby approved shall not be brought into use until 10 secure motorcycle parking spaces have been provided and thereafter shall be kept available for motorcycle parking as approved.

REASON: To provide safe and suitable access for all.

- 13) The Development hereby approved shall not be brought into use until sheltered and secure cycle parking for 40 spaces have been provided and thereafter the approved cycle parking shall be kept available for the parking of bicycles only.

REASON: To comply with the Council's parking standards.

- 14) The Employment Travel Plan hereby approved, reference JW/18006/TP/2 dated June 2018 shall be implemented and monitored in accordance with the regime contained within the Plan. In the event of failing to meet the targets within the Plan a revised Plan shall be submitted to and approved in writing by the Local Planning Authority to address any shortfalls, and where necessary make provision for and promote improved sustainable forms of access to and from the site. The Plan thereafter shall be implemented and updated in agreement with the Local Planning Authority and thereafter implemented as amended.

REASON: To reduce vehicle movements and promote sustainable access.

- 15) The Development hereby approved shall not commence until a Construction Environmental Management Plan has been submitted to and approved in writing by the Local Planning Authority. This shall include but not be limited to the following:-

- Measures to ensure that vehicles leaving the site do not deposit mud or other detritus on the public highway;
- Details of site operative parking areas, material storage areas and the location of site operatives facilities (offices, toilets etc);
- The hours that delivery vehicles will be permitted to arrive and depart, and arrangements for unloading and manoeuvring.
- Details of any temporary construction accesses and their reinstatement.
- A highway condition survey, timescale for re-inspections, and details of any reinstatement.

The measures set out in the approved Plan shall be carried out and complied with in full during the construction of the development hereby approved. Site operatives' parking, material storage and the positioning of operatives' facilities shall only take place on the site in locations approved by in writing by the local planning authority.

**PLANNING
COMMITTEE**

25th November 2020

Reason: To ensure the provision of adequate on-site facilities and in the interests of highway safety.

- 16) In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11' and where remediation is necessary a remediation scheme must be prepared and approved in writing by the Local Planning Authority in advance of the scheme commencing.

Following completion of measures identified in the approved remediation scheme a verification report must be prepared, which is subject to the approval in writing of the Local Planning Authority prior to development commencing other than that required to be carried out as part of an approved scheme of remediation.

Reason:- To ensure that the risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecosystems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.

- 17) No development shall take place until a programme of archaeological work including a Written Scheme of Investigation, has been submitted to and approved by the local planning authority in writing. The scheme shall include an assessment of significance and research questions; and:
- a) The programme and methodology of site investigation and recording.
 - b) The programme for post investigation assessment.
 - c) Provision to be made for analysis of the site investigation and recording.
 - d) Provision to be made for publication and dissemination of the analysis and records of the site investigation
 - e) Provision to be made for archive deposition of the analysis and records of the site investigation
 - f) Nomination of a competent person or persons/organisation to undertake the works set out within the Written Scheme of Investigation.

Reason: In accordance with the requirements of paragraph 199 of the National Planning Policy Framework.

- 18) The development shall not be occupied until the site investigation and post investigation assessment has been completed in accordance with the programme set out in the Written Scheme of Investigation approved under condition (1) and the provision made for analysis, publication and dissemination of results and archive deposition has been secured.

**PLANNING
COMMITTEE**

25th November 2020

Reason: In accordance with the requirements of paragraph 199 of the National Planning Policy Framework.

Procedural matters

This application is being reported to the Planning Committee because the application requires a S106 Agreement, is for a major development (more than 1000 sq m of new commercial floorspace), and because two (or more) objections have been received. As such the application falls outside the scheme of delegation to Officers.