

**PLANNING
COMMITTEE**

8th June 2022

Planning Application 22/00329/S73

Planning application 18/01049/FUL Date of decision - 21.12.20 Variation of condition 20 to revise opening hours for bank and public holidays from 08:00-20:00hrs to 08:00-22:00hrs. All other hours of opening to remain the same.

Lidl Store, Battens Drive, Redditch, Worcestershire, B98 0LJ.

**Applicant: Lidl Great Britain Ltd
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 previously occupied a health and fitness club. Following the approval of planning application 18/01049/FUL, a Lidl store has been built and is close to completion. 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 former building had been excluded from this designation in the Local Plan.

Proposal Description

Condition 20 of planning permission 18/01049/FUL states the following:-

The retail unit hereby permitted shall not trade to the public outside the following hours:

08:00-22:00 Mondays to Saturdays
10:00-17:00 on Sundays
08:00-20:00 on bank and public holidays

Reason: To define the permission.

Permission is sought under this application to vary the opening hours for bank and public holidays only from 08:00-20:00hrs to 08:00-22:00hrs. All other hours of opening are to remain the same.

PLANNING COMMITTEE

8th June 2022

Relevant Policies :

Borough of Redditch Local Plan No. 4

Policy 1: Presumption in Favour of Sustainable Development

Policy 13: Primarily Open Space

Policy 19: Sustainable travel and Accessibility

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 (2021)

NPPG National Planning Practice Guidance

Redditch High Quality Design SPD

Relevant Planning History

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.	Approved	21.12.2020
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Consultations

West Mercia Constabulary

No objections to this application.

Community Safety

No objections.

WRS - Noise

No objection to the variation of condition application in terms of any noise / nuisance issues.

Open Space/Parks

No comments submitted.

Highways Redditch

I have no highway objections to the proposed variation of opening hours for bank and public holidays. Proposal has no highway implications.

**PLANNING
COMMITTEE**

8th June 2022

Public Consultation Response

Neighbour consultation/Site Notice and Press Notice

No comments submitted.

Assessment of Proposal

Members will be aware that work has been progressing on this site in respect to the development of a Lidl store following the approval of 18/01049/FUL on 21 December 2020. The store is close to completion and is likely to open in the very near future.

Before the store opens, permission is sought to revise the opening hours for bank/public holidays. Members will be aware that there are generally 8 bank/public holidays every year and are as follows:-

New Year's Day, Good Friday, Easter Monday, early May Bank holiday, Spring bank holiday, Summer bank holiday, Christmas Day and Boxing Day. This year there has been an additional Bank Holiday in connection with the Queen's Jubilee.

The Government states, in the Sunday Trading Act 1994, that in respect to trading for large shops over 280 sqm, such as the new Lidl store, trading hours are restricted on Sundays. Stores can only be open for 6 consecutive hours between 10:00 – 18:00hrs and must be closed on Easter Sunday and Christmas Day. The Sunday Trading Act does not restrict the opening hours of smaller shops.

The variation of the opening hours for bank/public holidays will result in the store being open for an additional 2 hrs for the 8 days concerned, the hours will then match the intended general opening hours for the store on Monday to Saturday. Whilst the condition has been imposed to generally safeguard the amenities of neighbouring occupiers, it is considered that the 2 additional hours per bank/public holiday is unlikely to be harmful to the occupiers concerned taking into consideration the proximity of nearby residential properties.

During the consultation period, no objections or comments were made by neighbours. West Mercia Police, Community Safety, and Worcestershire Regulatory Services have no objection to the variation in the opening hours. It is considered unlikely that the variation in the opening hours for the bank/public holidays would have a detrimental impact on the amenities of the surrounding area and as such the proposal is considered to be acceptable and in accordance with policy 40 of the Local Plan No.4, and guidance set out in the Council's High Quality Design SPD.

The condition shall be revised to read as follows:-

The retail unit hereby permitted shall not trade to the public outside the following hours: 08:00-22:00 Mondays to Saturdays (which shall include any bank and public holidays falling on these days) and 10:00-17:00 on Sundays.

**PLANNING
COMMITTEE**

8th June 2022

Reason: To define the permission.

Other matters

Members will recall that a planning obligation formed part of the approval of 18/01049/FUL. The obligation included a financial contribution towards the cost of improving Green Space amenities within Arrow Valley Park to address the loss of primarily open space in the area because of the development. In addition, to ensure the vitality and viability of the town centre was maintained, the obligation also ensured that the existing Lidl store in the town centre remained open, that commitment runs until June 2023.

The contribution has been paid, however, the obligation in relation to the town centre store still applies. The existing obligation does not include the approval of subsequent S73 applications. Therefore, a new planning obligation is required for this application to ensure the town centre store remains open. The applicant has been requested to submit a revised planning obligation to cover this matter.

Finally, as this S73 application seeks an amendment to an earlier Planning Permission, it is necessary to issue a new decision notice. It is a requirement that this new decision notice contains all relevant conditions attached to the original consent. Some of these conditions have already been discharged so these have not been included here.

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. **Commitment to ensuring that the town centre Lidl store stays open until the end of June 2023.**
 - 2. **A Section106 monitoring fee**
- b) **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 from 21 December 2020.

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 the following plans:-

Location Plan Dwg. No. 4392-CA-0000-DR-A-01001-Rev 02
Proposed Site Plan Dwg. No. 4392-CA-0000-DR-A-00055-Rev 01
Topographical Survey with Land Registry Boundary Dwg. No. 4392-CA-0000-DR-A-01002-Rev 02
Proposed Floor Layout Plan Dwg. No. 4392-CA-00-GF-DR-A-01100-Rev 10
Proposed Elevations Dwg. No. 4392-CA-00-ZZ-DR-A-02100-Rev 11
Proposed Roof Plan Dwg. No. 4392-CA-00-GF-DR-A-01110-Rev 03
Western Power Distribution Substation Dwg. No. EKV0015
New Proposed Site Sections Option 3 2% Fall Dwg. No. 2017-310-SK138 P2
Planting Plan and Schedule Dwg. No. RED1811_PP01 Rev D
Planting Species RED1811-DOC1-A
SCP Technical Note SCP/18006/TN01

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

- 3) 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.

- 4) 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 the Proposed Site Plan Dwg. No. 4392-CA-0000-DR-A-00055-Rev 01 and Proposed Floor Layout Plan Dwg. No. 4392-CA-00-GF-DR-A-01100-Rev 10.

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

- 5) The drainage scheme (approved under condition 6 of Ref:18/01049/FUL dated 21 October 2021) 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.

- 6) The landscaping details for the development (approved under condition 8 of Ref: 18/01049/FUL dated 6 August 2021) 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

**PLANNING
COMMITTEE**

8th June 2022

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.

- 7) The Development hereby approved shall not be brought into use until the access, parking and turning facilities have been provided as shown on Dwg. No. 4392-CA-0000-DR-A-00055-01.

Reason: To ensure conformity with the submitted details.

- 8) Works to the access to give priority to the Country Park shall be in accordance with details approved under condition 10 of Ref: 18/01049/FUL dated 6 Sept 2021). The approved details shall be implemented in full before the development is first brought into use and shall be maintained as such in perpetuity.

Reason: In the interests of highway safety.

- 9) The 10 electric vehicle charging facilities (approved under condition 11 of Ref: 18/01049/FUL dated 21 August 2021) shall be provided before the development is first brought into use and the 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.

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

- 11) The Development hereby approved shall not be brought into use until 7 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.

- 12) 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.

13) 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.

14) The approved Construction Environmental Management Plan (approved under condition 16 of Ref: 18/01049/FUL dated 1 July 2021) shall be carried out and complied with in full during the construction of the development hereby approved.

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

15) 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. 5 of 10
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.

16) The retail unit hereby permitted shall not trade to the public outside the following hours:

08:00-22:00 Mondays to Saturdays, (which shall include any bank and public holidays falling on these days) and 10:00-17:00 on Sundays.

**PLANNING
COMMITTEE**

8th June 2022

Reason: To define the permission.

- 17) The boundary and security measures for the development shall be in accordance with details approved under condition 21 of Ref: 18/01049/FUL dated 1 July 2021.

Reason: In the interests of minimising crime and disorder.

- 18) The car parking management for the development shall be in accordance with details approved under condition 22 of Ref: 18/01049/FUL dated 1 July 2021.

Reason: In the interests of highway safety.

- 19) The litter management strategy for the development shall be in accordance with details approved under condition 23 of Ref 18/01049/FUL dated 1 July 2021.

Reason: In the interests of the biodiversity and visual amenity of the surrounding area.

- 20) Trolley storage for the development shall be in accordance with details approved under condition 24 of Ref 18/01049/FUL dated 17 May 2022.

Reason: In the interests of the biodiversity and visual amenity of the surrounding area.

Procedural matters

This application is reported to Planning Committee for determination because the application relates to a major development (more than 1000 sq metres of new commercial / Industrial floorspace), and as such the application falls outside the scheme of delegation to Officers.

This application is being reported to the Planning Committee because the application requires a S106 Agreement. As such the application falls outside the scheme of delegation to Officers.