

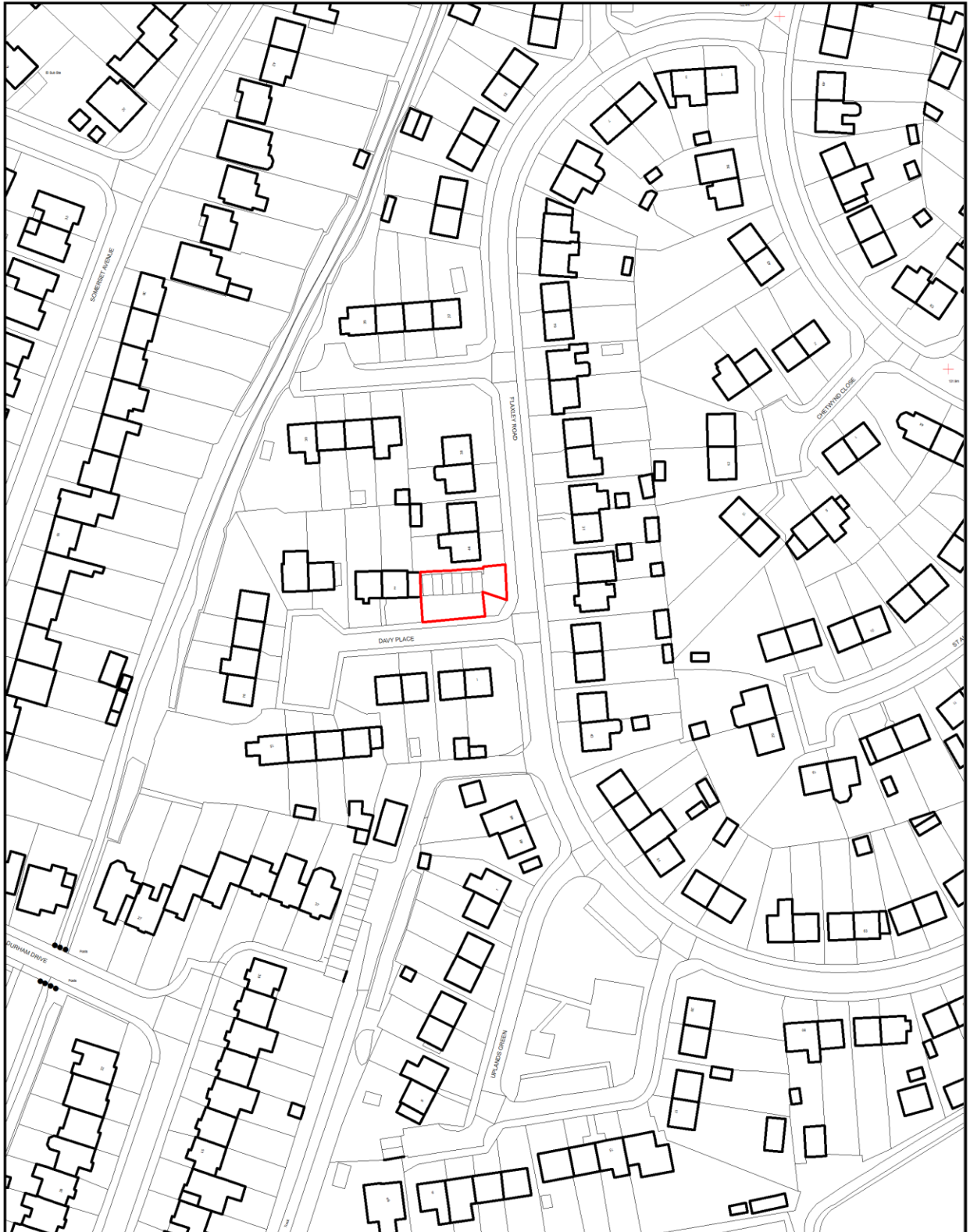


**Application No:** CH/20/311

**Location:** Land between 44 Flaxley Road and 2 Davy Place, Pear Tree Estate, Rugeley, WS15 1NA

**Proposal:** Erection of 3 Bedroom Detached Dwelling

Item no. 6.1



# Location and Site Plans



location plan 1:1250

**AVANTAGE**  
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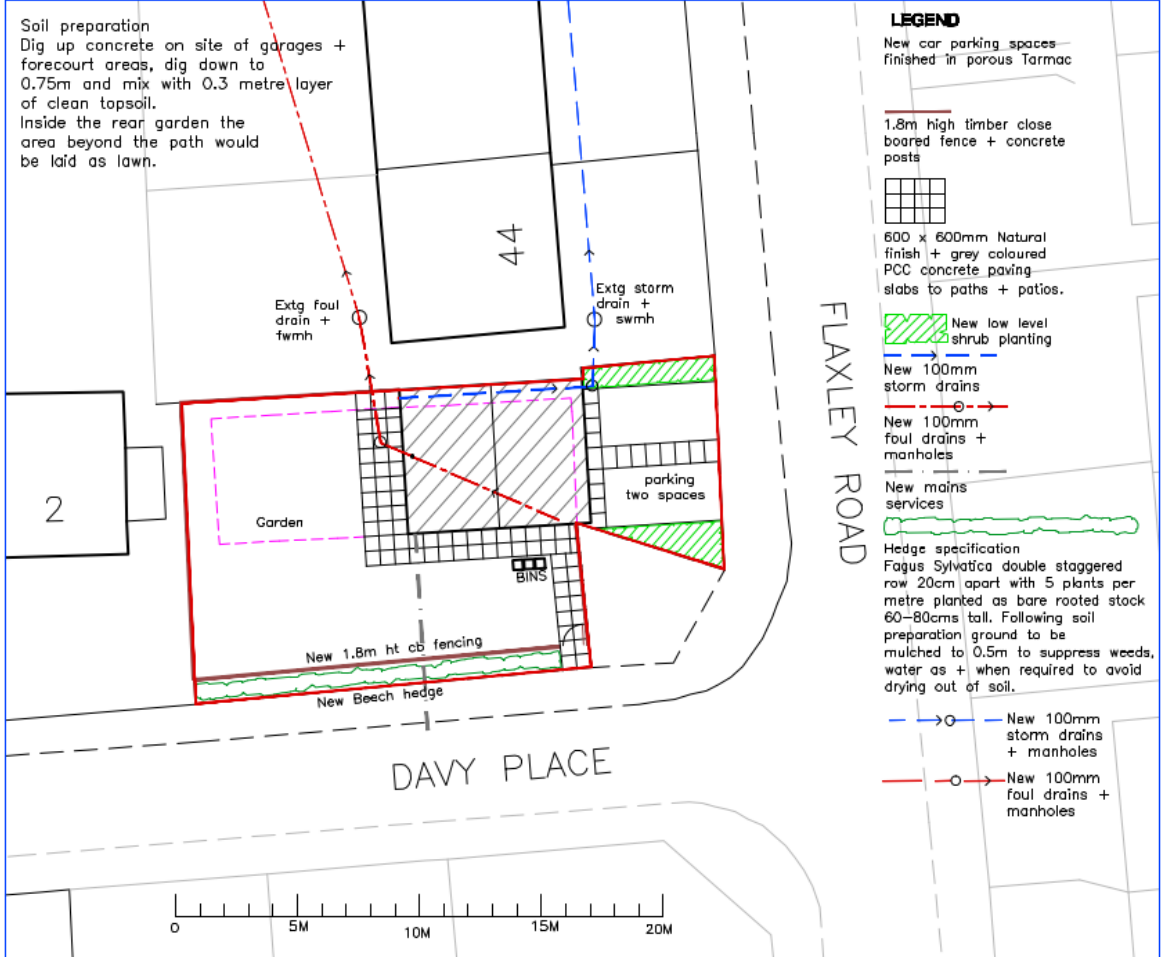
**RESIDENTIAL  
 DEVELOPMENT**  
 Land between  
 44 Flaxley Road +  
 2 Davy Place  
 Pear Tree Estate  
 Rugeley WS15 1NA

CLIENT  
**MR. G. ELWELL**  
 SEPT 2020

REV A  
 Tree + planting spec added  
 REV B  
 Further info added  
 REV C  
 General revisions



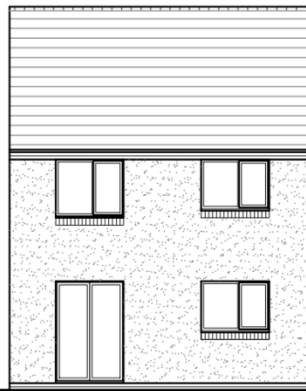
site plan 1:250



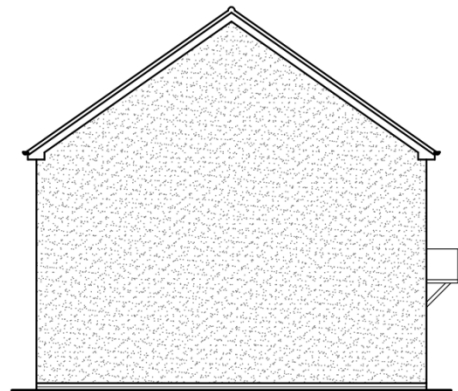
# Proposed Elevations



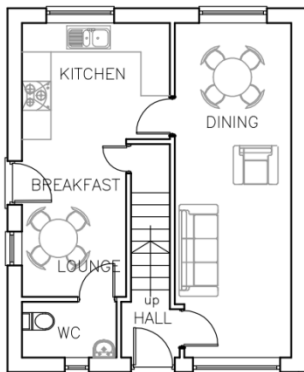
FRONT ELEVATION



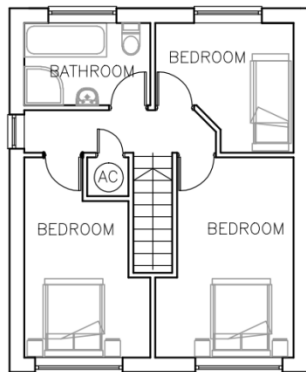
REAR ELEVATION



SIDE ELEVATION

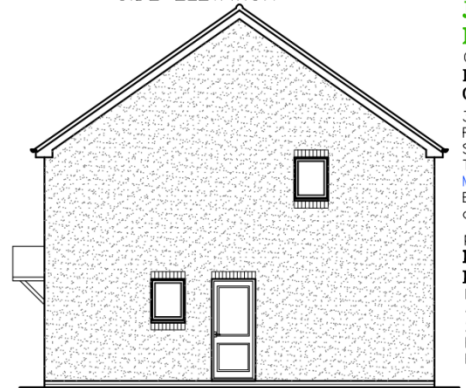


GROUND FLOOR PLAN 1:100



FIRST FLOOR PLAN 1:100

0 1M 2M 3M 4M 5M plotted at A4



SIDE ELEVATION

Roof tiling, rendered walls + white upvc external joinery all to Local Authority approval

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**project RESIDENTIAL DEVELOPMENT**

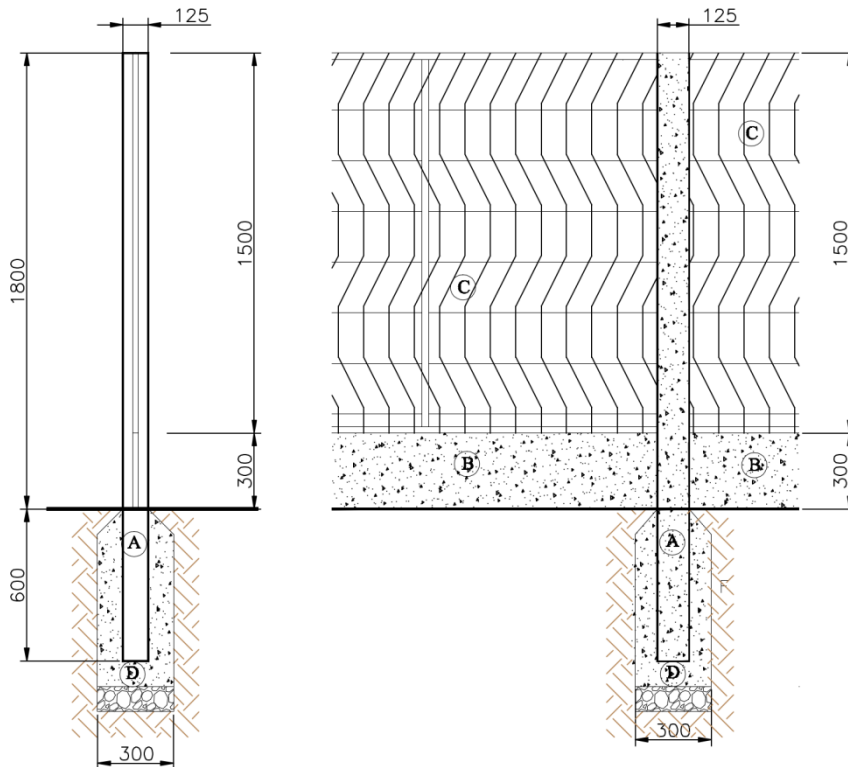
Land between  
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 2 Davy Place  
 Pear Tree Estate  
 Rugeley WS15 1NA

CLIENT

**MR.G.ELWELL**  
 SEPT 2020  
 dr no

2020:201:01

# Proposed Fence Details



- A 2450mm length CP1315 concrete slotted post, round top 125 mm square.
- B PCC concrete gravel boards, 300 x 50 x 1830 mm length slotted into concrete posts.
- C 1.5 metre high, standard waney close timber fence panels, slotted into concrete posts
- D 100 mm concrete surround minimum mix Gen 3 or better, set on 100 mm compacted depth MOT type 1 sub base. On well consolidated sub soil.

Note: All timber to be softwood, pressure treated with non-injurious preservative to be agreed with 10 year guarantee. All concrete to be smooth natural finish with no imperfections or sharp edges.

## Close boarded fence detail 1:20

plotted at A4

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project  
**RESIDENTIAL  
DEVELOPMENT**  
Land between  
44 Flaxley Road +  
2 Davy Place  
Pear Tree Estate  
Rugeley WS15 1NA  
CLIENT  
**MR. G. ELWELL**  
SEPT 2020  
dr no  
**2020:201:02**

**Contact Officer:** David Spring  
**Telephone No:** Remote Working

**Planning Control Committee**  
**January 13<sup>th</sup> 2021**

**Application No:** CH/20/311  
**Received:** 04-Sep-2020  
**Location:** 2 Davy Place, Rugeley, WS15 1NA  
**Parish:** Rugeley  
**Ward:** Hagley Ward  
**Description:** Erection of 3 Bedroom Detached Dwelling, Land between 44 Flaxley Road and 2 Davy Place, Pear Tree Estate, Rugeley  
**Application Type:** Full Planning Application

**Recommendations:** Approve subject to a unilateral undertaking in respect of securing the mitigation for impact on Cannock Chase SAC and the attached conditions

**Reason(s) for Recommendation:** In accordance with paragraph 38 of the National Planning Policy Framework the Local Planning Authority has worked with the applicant in a positive and proactive manner to approve the proposed development, which accords with the Local Plan and the National Planning Policy Framework.

**Conditions (and Reasons for Conditions):**

1. The development to which this permission relates must be begun not later than the expiration of three years beginning with the date on which this permission is granted.

Reason

To comply with the requirements of Section 91 of the Town & Country Planning Act 1990.

2. The materials to be used for the external surfaces of the development shall be of the same type, colour and texture as those specified in the application form.

Reason

In the interests of visual amenity and to ensure compliance with Local Plan Policies CP3, CP15, CP16, RTC3 (where applicable) and the NPPF.

3. The approved landscape works shall be carried out in the first planting and seeding season following the occupation of any buildings or the completion of the development whichever is the sooner.

Reason

In the interest of visual amenity of the area. In accordance with Local Plan Policies CP3, CP12, CP14 and the NPPF.

4. The development hereby permitted shall not be occupied until the window(s) indicated in the side elevations of the proposed dwelling on the approved plan are obscure glazed. The window(s) shall be non-opening unless the parts of the window which can be opened are more than 1.7m above the floor of the room in which the window is installed.

Thereafter the window(s) will be retained and maintained as such for the life of the development.

Reason

To ensure that the development does not give rise to overlooking of adjoining property injurious to the reasonable privacy of the occupiers and to ensure compliance with Local Plan Policies CP3 Chase Shaping - Design, and the NPPF.

5. The development hereby permitted shall be carried out in accordance with the following approved plans:

Location & Site Plan Rev C, Drwg No. 2020:201:02, Drwg No. 2020:201:01

Reason

For the avoidance of doubt and in the interests of proper planning.

6. The dwelling hereby approved shall not be occupied until a scheme for the fitting of that dwelling with electric charging points for electric vehicles has been submitted to and approved in writing by the Local Planning Authority and the works comprising the approved scheme have been completed. The works shall thereafter be retained for the lifetime of the development unless otherwise approved in writing by the Local Planning authority.

Reason

In the interests of improving air quality and combatting climate change in accordance with policy CP16 and the National Planning Policy Framework.

7. The development hereby permitted shall not be brought into use until the access, parking and turning areas have been provided in accordance with the 'Location & Site Plan Rev B' submitted on 20<sup>th</sup> October 2020 and shall thereafter be retained for the lifetime of the development.

Reason

In the interests of Highway safety

8. No development shall take place including any works of demolition, until a Highways Construction Method Statement has been submitted to and approved in writing by the Local Planning Authority. The approved Statement shall be adhered to throughout the construction period. The statement shall provide for:
  - A site compound
  - The parking of vehicles of site operatives and visitors
  - Times of deliveries including details of loading and unloading of plant and materials
  - Storage of plant and materials used in constructing the development
  - Duration of works
  - Wheel wash facilities

Reason

To protect the amenity of neighbouring occupiers.

9. If potential ground contamination is detected during subsequent intrusive investigation or site works, then this should be assessed by suitably qualified personnel. If specific remediation works will be required to deal with these findings, then the Local Planning Authority shall be informed, and a Remediation Method Statement submitted for approval, which details the required works in full.

Reason

To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems and to ensure that the development can be carried out safely without unacceptable risks to workers neighbours and other offsite receptors in accordance with Paragraph 178 of the National Planning Policy Framework.

10. If site soils are exposed during site demolition/ concrete break-out, and these soils are to remain within 600mm of the final site levels, as garden or landscaped areas, then chemical analysis of these soils shall be carried out to ensure they will be suitable for use. These details, along with an appropriate human health risk assessment, shall be submitted to the Local Planning Authority for approval. If mitigation is required to render the material suitable for the proposed use, then

a Remediation Method Statement shall be submitted for approval, which details the required works in full. If 600mm of subsoil and topsoil is to be imported to the site to form gardens and landscaped areas, then this condition is negated (although the condition relating to the quality of that imported material continues to apply). Note that the condition relating to the discovery of potential ground contamination is separate from this requirement, and that applies to contamination found at any depth, which may or may not be intended for retention on site.

#### Reason

To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems and to ensure that the development can be carried out safely without unacceptable risks to workers neighbours and other offsite receptors in accordance with Paragraph 178 of the National Planning Policy Framework.

11. The development shall not be occupied until a Validation/ Phase 3 report, confirming that the remedial works have been completed, in accordance with the agreed Remediation Method Statement has been submitted to and approved in writing by the Local Planning Authority.

#### Reason

To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems and to ensure that the development can be carried out safely without unacceptable risks to workers neighbours and other off-site receptors in accordance with Paragraph 178 of the National Planning Policy Framework.

12. Any soil materials imported to site shall be chemically analysed to demonstrate they are suitable for use. These details, along with information on the material source, volume imported and depth of placement shall be included within a Validation Report. This submission shall require approval by the Local Planning Authority before the development can be occupied.

#### Reason

To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems and to ensure that the development can be carried out safely without unacceptable risks to workers neighbours and other off-site receptors in accordance with Paragraph 178 of the National Planning Policy Framework.



**Notes to the Developer:** None

## **Consultations and Publicity**

### **External Consultations**

#### Rugeley Town Council

Object to the proposal. Over development of the area with limited off street parking - difficulty for emergency vehicles and refuse lorries to manoeuvre.

#### Severn Trent Water

No objections

#### Highways

No objection subject to conditions

### **Internal Consultations**

#### Environmental Health

No objections

#### Pollution Control Officer

No objections but conditions are recommended should permission be granted.

#### Landscape Officer

No objection to the principle of development. The Landscape Officer was re-consulted with additional information and on 30<sup>th</sup> October commented that the details submitted are acceptable but that confirmation of ownership of the existing grass area to the front is required. [Members should note that this area has subsequently been removed from the application site].

#### Planning Policy

The re-use of a brownfield site is supported, it is considered that the proposed should respect the character and density of the area, and promote the creation of better places in which to live and work.

The main policy consideration for this application is with regards to the design of the proposed development and impact upon the surroundings, we are happy to leave this to the judgement of the Case Officer.

#### CIL Officer

In respect of the above planning application, based on the plans and CIL additional information form submitted, this development would not be liable to pay CIL. This is

because, even though there is an additional dwelling being created, the floor space of the (in use) garages to be demolished exceeds the residential floor space being created.

### Special Area of Conservation Mitigation Fee

Given that a net increase in dwellings is proposed the development needs to mitigate its impacts upon the Cannock Chase SAC (Local Plan Part 1 Policy CP13). As this development is not liable to pay CIL this will need to be done by entering into a Unilateral Undertaking.

### Response to Publicity

20 letters of representation were received all objecting to the proposal. The main summarised points of objection were:

- Davy place is already congested with a shortage of street parking
- Removing existing garages and building a new dwelling will worsen matters
- The development will affect neighbouring amenity in terms of loss of sunlight and overlooking from a side window
- The proposal will result in the loss of property value of a neighbouring dwelling
- The parking area is not within the applicant's ownership and therefore not deliverable.
- The proposed is not in keeping with the surrounding area and would result in overdevelopment.
- A similar proposal at 38 Flaxley Road was allowed at Committee despite officers recommendation for refusal. This should not be repeated.
- Plans are of insufficient detail.
- Visibility splays are not shown.
- The garages are not disused, they are still available for rent and the frontage area is used for parking
- The cumulative impacts of this loss of park will be severe
- The Highway Authority is failing to address the sustainability of continuing displacement of vehicles
- The Highway Authority don't understand the local parking context
- The dropped kerb crossover is not the entitlement of the applicant as the land is not in their control

- The proposal is an attempt at adverse possession
- The applicant ignores pre-commencement conditions
- The Pear Tree Estate does not benefit from any of the modern planning conveniences and further development is not sustainable.
- There is a lack of good planning in the estate
- The layout in the estate can not cope with further development
- The parking area that fronts Flaxley road is not in private ownership
- Approving more crossovers reduces on street parking capacity
- The slab level is not suitable for a dwelling
- The levels do not respond to the local setting
- The proposed materials are out of character
- An obscure glazed window on the ground floor is not acceptable
- The proposed hedgerow is uncharacteristic
- The applicant has little regard to the effect of development on residents

### **Relevant Planning History**

CH/04/0383: Residential development. Outline-Refuse 12/22/2004.

#### **1 Site and Surroundings**

- 1.1 The application site consists of a plot of land on the prominent corner of Davey Place and Flaxley Road, Rugeley. The plot contains 6 garages for residential parking, set back from both roadways and in line with the building line of both Davey Place and Flaxley Road.
- 1.2 The application site is on Pear Tree housing estate and is approximately 1km from Rugeley Town Centre.
- 1.3 The application site sits in an elevated position above the highway with the site sloping down to the North and to the East. The site is open at the front and southern side with a small wedge of grass to the front, outside the red edged site plan.
- 1.4 The site has an area of approx. 210 sqm.
- 1.5 The surrounding area comprises of dwellings of a similar design and scale; being two storey and finished in pebbledash or render. The existing dwellings

form a rhythmic pattern of development being set behind modest frontages. In 2019 a nearby corner plot (38 Flaxley Road- CH/19/363) was granted permission for a 3 bed dwelling by Committee. The remaining corner plots in this area however remaining undeveloped and help to provide an open and spacious character. The wider street scene rises steeply from north to south resulting in the dwellings being constructed in a staggered design.

- 1.6 The site is within a designated Mineral Safeguarding Area and a Low Risk Coal Authority Designation Boundary.

## **2 Proposal**

- 2.1 The applicant is seeking consent for the residential development of one detached 3 bedroom dwelling on a plot of land on the corner of Davey Place and Flaxley Road, Rugeley.
- 2.2 The proposed development would be sited 11m from the side of No. 2, 2m from the side of No. 44 and would front the main road through the estate.
- 2.3 The site is 210 sqm and the dwelling would have a footprint of 46 sqm. The proposed floor level would be approx. 0.5m above No. 44 to the south. The proposed dwelling would be constructed to a height of 7.7m to the ridge (4.6m to the eaves) and would be orientated with the front elevation facing onto the main highway through the estate.
- 2.4 Two parking spaces would be provided off Flaxley Road, in front of the proposed dwelling. (An amended site plan was received on 24<sup>th</sup> November removing the small section of grass at the front from the red edged site plan).
- 2.5 The private amenity space provided would measure approx.125 sqm and would be set behind a 1.8m high concrete post and timber panel fence. The proposed fence would be set back from the side boundary by 2m with a new landscaping strip proposed to the front of this. The landscaping proposed would comprise of 1No. Silver Birch Trees and a beech hedge along the northern boundary.
- 2.6 The external appearance of the dwelling would be similar to existing properties on this estate. Walls would be cream textured render with tiles. Door and windows would be white upvc. Porous tarmac is proposed for the hardstanding at the front.

### 3 Planning Policy

3.1 Section 38 of the Planning and Compulsory Purchase Act 2004 requires planning applications to be determined in accordance with the provisions of the Development Plan, unless material considerations indicate otherwise.

3.2 The Development Plan currently comprises the Cannock Chase Local Plan (2014) and the Minerals Local Plan for Staffordshire (2015 – 2030). Relevant policies within the Local Plan include: -

CP1 - Strategy – the Strategic Approach

CP3 - Chase Shaping – Design

Minerals Local Plan for Staffordshire

Policy 3.2 of the new Minerals Local Plan

### 3.3 National Planning Policy Framework

3.4 The NPPF (2019) sets out the Government's position on the role of the planning system in both plan-making and decision-taking. It states that the purpose of the planning system is to contribute to the achievement of sustainable development, in economic, social and environmental terms, and it states that there should be "presumption in favour of sustainable development" and sets out what this means for decision taking.

3.5 The NPPF (2019) confirms the plan-led approach to the planning system and that decisions must be made in accordance with the Development Plan unless material considerations indicate otherwise.

3.6 Relevant paragraphs within the NPPF include paragraphs: -

8: Three dimensions of Sustainable Development

11-14: The Presumption in favour of Sustainable Development

47-50: Determining Applications

124, 127, 128, 130: Achieving Well-Designed Places

212, 213 Implementation

3.7 Other relevant documents include: -

Design Supplementary Planning Document, April 2016.

Cannock Chase Local Development Framework Parking Standards, Travel Plans and Developer Contributions for Sustainable Transport.

Manual for Streets.

## 4 Determining Issues

4.1 The determining issues for the proposed development include:-

- i) Principle of development
- ii) Design and impact on the character and form of the area
- iii) Impact on residential amenity.
- iv) Impact on highway safety.
- v) Waste & recycling facilities
- vi) Drainage & flood risk
- vii) Affordable housing provision

### 4.2 Principle of the Development

4.2.1 The proposal is for the construction of one dwelling on the corner of Flaxley Road and Davy Place. Both the NPPF and Cannock Chase Local Plan Policy CP1 advocate a presumption in favour of sustainable development unless material considerations indicate otherwise. Further, Local Plan Policy CP6 seeks to support the creation of new homes within existing urban areas.

4.2.2 The site is located within the urban area of Rugeley. It is a 'windfall site' having not been previously identified within the Strategic Housing Land Availability Assessment (SHLAA) as a potential housing site. Although the Local Plan has a housing policy it is silent in respect of its approach to windfall sites on both greenfield and previously developed land. As such in accordance with Policy CP1 of the Local Plan proposals fall to be considered within the presumption in favour of sustainable development, outlined in paragraph 11 of the NPPF.

4.2.3 In respect to the principle of the proposal it is noted that the site is located within the main urban area of Rugeley and hence broadly conforms to the requirements of Policy CP1. In addition to the above the site is located within a sustainable location with good access by cycle or walking to the town centre where there is a wide range of goods and services to meet the day to day needs of people. As such the proposal would meet the thrust of Policy CP1 to focus investment and regeneration on existing settlements which are expected to accommodate most of the District's housing and it is therefore concluded that the proposal is acceptable in principle.

4.2.4 However, proposals that are acceptable in principle are still subject to all other policy tests. The next sections of this report will consider the proposal in the light of those policy tests and determine what harms or benefits arise from the proposal.

### 4.3 Design and the Impact on the Character and Form of the Area

4.3.1 In respect to issues in relation to design Policy CP3 of the Local Plan requires that, amongst other things, developments should be: -

- (i) well-related to existing buildings and their surroundings in terms of layout, density, access, scale appearance, landscaping and materials; and
- (ii) successfully integrate with existing trees; hedges and landscape features of amenity value and employ measures to enhance biodiversity and green the built environment with new planting designed to reinforce local distinctiveness.

4.3.2 Relevant policies within the NPPF in respect to design and achieving well-designed places include paragraphs 124, 127, 128 and 130. Paragraph 124 makes it clear that the creation of high quality buildings and places is fundamental to what the planning and development process should achieve.

4.3.3 Paragraph 127 of the NPPF, in so much as it relates to impacts on the character of an area goes on to state: -

Planning policies and decisions should ensure that developments:

- a) will function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development;
- b) are visually attractive as a result of good architecture, layout and appropriate and effective landscaping;
- c) are sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change (such as increased densities);
- d) establish or maintain a strong sense of place, using the arrangement of streets, spaces, building types and materials to create attractive, welcoming and distinctive places to live, work and visit;

4.3.4 Finally Paragraph 130 states planning permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions, taking into account any local design standards or style guides in plans or supplementary planning documents. Conversely, where the design of a

development accords with clear expectations in plan policies, design should not be used by the decision taker as a valid reason to object to development.

4.3.5 In this respect it is noted that Appendix B of the Design SPD sets out clear expectations and guidance in respect to space about dwellings. Whilst the title of the SPD refers to extensions the document is also used as guidance for ensuring appropriate levels of amenity is retained for new development.

4.3.6 Having taken all of the above into account it is considered that the main issues in respect to design and the impact on the character and form of the area are: -

- (i) Overall layout
- (ii) Density
- (iii) Materials, scale and external appearance of the dwellings
- (iii) Landscaping

4.3.7 The application site is located within a residential area within Rugeley. The application site occupies an elevated position in relation to the adjacent highways. The character of the wider locality is characterised by the openness of the corner plots. With the exception of ancillary domestic outbuildings and a recent development at 38 Flaxley Road (CH/19/363) the corner plots within this location have not been developed. The form and layout of buildings and gardens spaces in the area follow an established pattern, providing a well defined distinction between public and private space and visual relief from built form on the corner plots. Most corner plots in the estate form garden space for existing dwellings and as such, any development of such land to the side of the existing dwelling would disrupt the continuity of the existing built form and would be at odds with the existing pattern of development. The above mentioned application at 38 Flaxley Road was garden space and went to planning committee with a recommendation for refusal. This recommendation was overturned at Committee and permission was ultimately granted.

4.3.8 The plot for the proposed dwelling differs from 38 Flaxley Road in that it already has 6 garages on it and although of a lower height these garages have more floor space than the proposed dwelling and appear somewhat run down on this prominent corner. The proposed dwelling would be of a high quality design and appropriate scale and therefore would not appear unduly incongruous in terms of the relationship with the adjacent dwellings. Within the immediate vicinity dwellings occupy similar plot sizes; with modest frontages and private gardens. In line with this established urban grain, the proposed dwelling would be set back behind a short frontage in line with existing dwellings, with the private amenity space to the rear and parking to the front. Additional landscaping is proposed in the form of hedgerow and tree planting. The proposed dwelling would be constructed out of materials reflective of this location which is considered appropriate and would be secured via condition. It is considered the



erection of a two storey dwelling in this particular location would, on balance, visually improve the streetscene.

4.3.9 Therefore, having had regard to Policy CP3 of the Local Plan and the above mentioned paragraphs of the NPPF it is considered that the proposal would be well-related to existing buildings and their surroundings, successfully integrate with existing features of amenity value, maintain a strong sense of place and visually attractive such that it would be acceptable in respect to its impact on the character and form of the area.

#### 4.4 Impact on Residential Amenity

4.4.1 Policy CP3 of the Local Plan states that the following key requirements of high quality design will need to be addressed in development proposals and goes on to include [amongst other things] the protection of the "amenity enjoyed by existing properties". This is supported by the guidance as outlined in Appendix B of the Design SPD which sets out guidance in respect to space about dwellings and garden sizes.

4.4.2 Paragraph 127(f) of the NPPF states that planning policies and decisions should ensure that developments [amongst other things] create places with a high standard of amenity for existing and future users.

4.4.3 In general the Design SPD sets out guidance for space about dwellings, stating that for normal two storey to two storey relationships there should be a minimum distance of 21.3m between principal elevations (front to front and rear to rear) and 12m between principal elevations and side elevations. Furthermore, the Design SPD sets out minimum rear garden areas, recommending 40-44sqm for 1 or 2 bed dwellings, 65sqm for 3 bed dwellings and 80sqm for 4 bed dwellings.

4.4.4 However, it should always be taken into account that these distances are in the nature of guidance. When applying such guidance consideration should be given to the angle of views, off-sets and changes in levels.

4.4.5 The layout plan indicates the proposed dwelling to be 2m from the side elevation of No.44. The proposed dwelling would be sited in line with the front and rear elevations of No. 44 and new fencing would delineate the side and rear boundaries. No windows are proposed for the elevation facing No. 44. New low level shrub planting is proposed for the front southern boundary. The proposal indicates two parking spaces to be provided to the front. As such, the proposed dwelling would have no significant impact on the occupiers of No.44.

4.4.6 The proposal would be 11m from the side elevation of No. 2 Davy Place, which comprises of a blank elevation with the exception of a doorway, which is under the cover of a car port and largely unseen. Whilst the proposed development would fall short of the guidance set out within the Design SPD which seeks 12m between principal elevations and side elevations (a shortfall of

1m), the proposed dwelling would be constructed in line with existing dwellings and therefore would not significantly alter the existing situation in terms of overbearing to the occupiers of No.2. Furthermore, the orientation of the sun would result in a negligible loss of sun at the end of the day.

4.4.5 The proposed dwelling would benefit from a side/rear garden comprising of 125m<sup>2</sup> which would provide sufficient amenity space for any future occupiers and is nearly double that indicated in the Design SPD which requires a minimum area of 65m<sup>2</sup> per three bedroom dwelling.

4.4.7 Given the above, overall, having had regard to Council's Design SPD the proposal is considered, on balance, to be acceptable in terms of protecting the amenity of existing occupiers as well as any future occupiers of the site.

#### 4.5 Impact on Highway Safety

4.5.1 Paragraph 109 of NPPF states that development should only be prevented or refused on highway grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.

4.5.2 In this respect Staffordshire County Highways Department were consulted on the proposal and raised no objections subject to a condition. As such, it is concluded that the proposal would not result in an unacceptable impact on highway safety.

#### 4.6 Impact on Nature Conservation Interests

4.6.1 The application site is not subject to any formal or informal nature conservation designation and is not known to support any species that are given special protection or which are of particular conservation interest.

4.6.2 As such the site is not known to have significant ecological value and therefore no obvious direct harm to nature conservation interests is considered to result.

4.6.3 Under Policy CP13 development will not be permitted where it would be likely to lead directly or indirectly to an adverse effect upon the integrity of the European Site network and the effects cannot be mitigated. Furthermore, in order to retain the integrity of the Cannock Chase Special Area of Conservation (SAC) all development within Cannock Chase District that leads to a net increase in dwellings will be required to mitigate adverse impacts. There is a net increase of one dwelling and as such SAC mitigation contributions are required. Given that the proposal would not result in an increase in floor area on the site no CIL would have to be paid. As such the mitigation for the impact on Cannock Chase SAC would need to be secured by means of a unilateral undertaking.

4.6.4 Given the above it is considered that the proposal, subject to a unilateral undertaking, would not have a significant adverse impact on nature conservation

interests either on, or off, the site. In this respect the proposal would not be contrary to Policies CP3, CP12 and CP13 of the Local Plan and the NPPF.

#### 4.7 Drainage and Flood Risk

4.7.1 The site is located in Flood Zone 1 on the Environment Agency's Flood Zone Maps.

4.7.2 In this respect it is noted that paragraph 155 of the NPPF states 'inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk (whether existing or future)' adding 'where development is necessary in such areas, the development should be made safe for its lifetime without increasing flood risk elsewhere'.

4.7.3 The applicant has stated that it is intended to connect to the existing drainage system. It is noted that the site immediately abuts a main road and is within a predominantly built up area. As such it is in close proximity to drainage infrastructure that serves the surrounding area. Therefore, it is considered that reasonable options for draining the site are available.

#### 4.8 Mineral Safeguarding

4.8.1 The site falls within a Mineral Safeguarding Area (MSAs) for Bedrock Sand. Paragraph 206, of the National Planning Policy Framework (NPPF) and Policy 3 of the Minerals Local Plan for Staffordshire (2015 – 2030), both aim to protect mineral resources from sterilisation by other forms of development.

4.8.2 Policy 3.2 of the new Minerals Local Plan states that:

'Within a Mineral Safeguarding Area, non-mineral development except for those types of development set out in Appendix 6, should not be permitted until the prospective developer has produced evidence prior to determination of the planning application to demonstrate:

- a) the existence, the quantity, the quality and the value of the underlying or adjacent mineral resource; and
- b) that proposals for non-mineral development in the vicinity of permitted mineral sites or mineral site allocations would not unduly restrict the mineral operations.

4.8.3 The application site is located within an area identified within the Local Plan as a Mineral Safeguarding Area. Notwithstanding this, the advice from Staffordshire County Council as the Mineral Planning Authority does not require consultation

on the application as the site falls within the development boundary of an urban area and is not classified as a major application.

#### 4.9 Waste and Recycling Facilities

4.9.1 Policy CP16(1) (e) 'Climate Change and Sustainable Resource Use' of the Cannock Chase Local Plan states that development should contribute to national and local waste reduction and recycling targets according to the waste hierarchy'. One of the ways of achieving this is by ensuring development can be adequately serviced by waste collection services and that appropriate facilities are incorporated for bin collection points (where required).

4.9.2 The proposed dwelling would be sited within close proximity to the highway within a residential area where bins are already collected by the Local Authority. The bins would, in this instance, be collected from the adjacent highway within Flaxley Road.

#### 4.10. Ground Conditions and Contamination

4.10.1 The site is located in a general area in which Coal Authority consider to be a development low risk area. As such, the Coal Authority does not require consultation on the application.

4.10.2 However, given that the site was formerly used as a garage court there is the potential for contamination. In this respect the Environmental Health Officer has requested a suite of conditions to deal with any potential issues arising and to ensure that the site is fit for purpose.

#### 4.11 Objections raised not already covered above:

4.11.1 The main points of objection have been addressed in the body of the report. An objector has commented that the proposal would impact on house prices. The impact on house prices is not a material consideration for the determination of planning applications.

4.11.2 In respect to the perceived loss of parking as a result of the proposal it is noted that this site is privately owned and the public have no right to park anywhere in the site and can be prevented from doing so at any time.

4.11.3 Issues raised in respect to the grassed area owned by the Highway Authority have been addressed by removing this area from the application site.

## 5 **Human Rights Act 1998 and Equalities Act 2010**

## **Human Rights Act 1998**

- 5.1 The proposals set out in this report are considered to be compatible with the Human Rights Act 1998. The recommendation to approve the application accords with the adopted policies in the Development Plan which aims to secure the proper planning of the area in the public interest.

## **Equalities Act 2010**

- 5.2 It is acknowledged that age, disability, gender reassignment, pregnancy and maternity, religion or belief, sex and sexual orientation are protected characteristics under the Equality Act 2010.

By virtue of Section 149 of that Act in exercising its planning functions the Council must have due regard to the need to:

Eliminate discrimination, harassment, victimisation and any other conduct that is prohibited;

Advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;

Foster good relations between persons who share a relevant protected characteristic and persons who do not share it

It is therefore acknowledged that the Council needs to have due regard to the effect of its decision on persons with protected characteristics mentioned.

Such consideration has been balanced along with other material planning considerations and it is considered that the proposal is acceptable in respect to the requirements of the Act. Having had regard to the particulars of this case officers consider that the proposal would not conflict with the aim of the Equalities Act.

## **6 Conclusion**

- 6.1 In respect to all matters of acknowledged interest and policy tests it is considered that the proposal, subject to the attached conditions, would not result in any significant harm to acknowledged interests and is therefore considered to be in accordance with the Development Plan.
- 6.2 It is therefore recommended that the application be approved subject to the attached conditions.

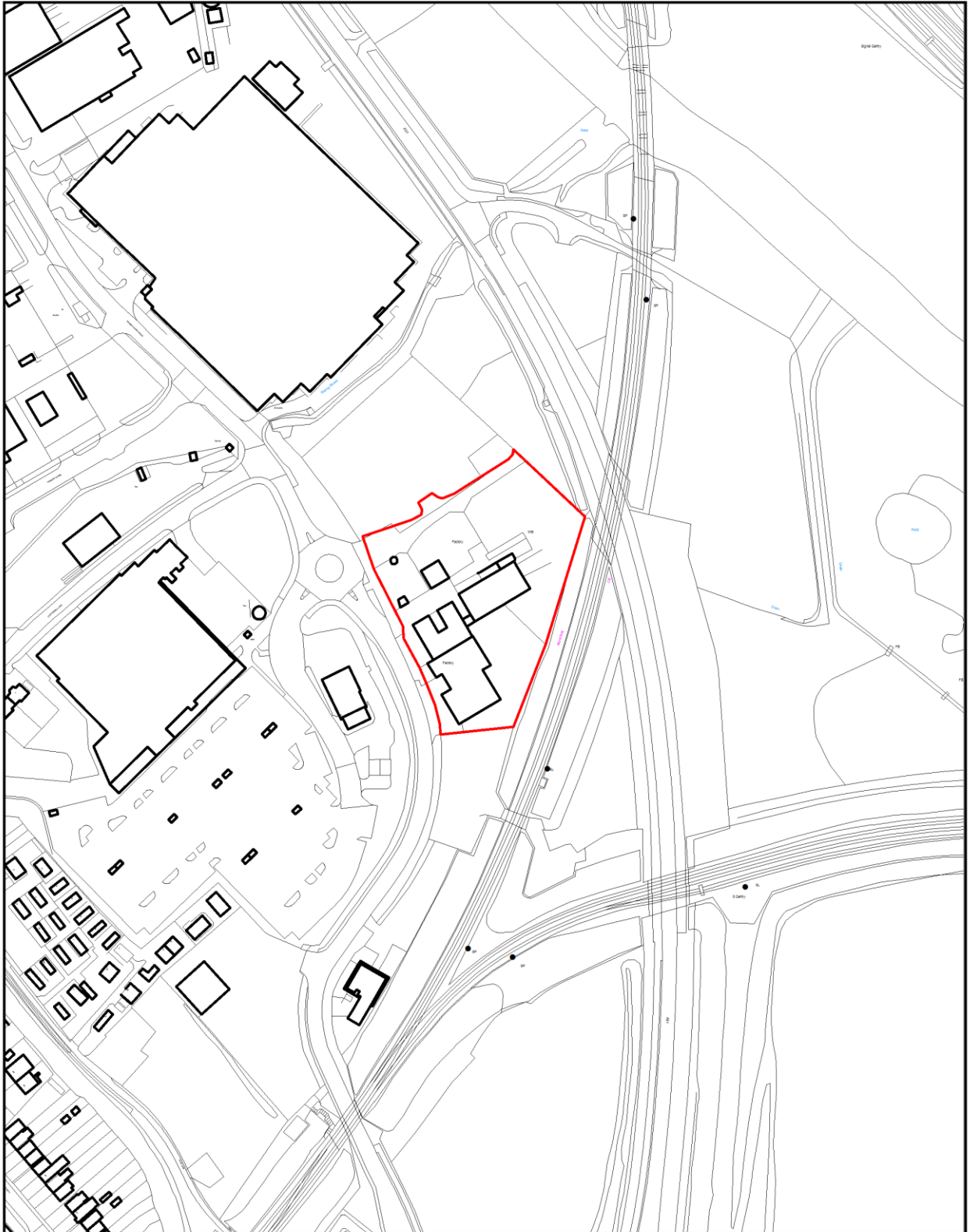


**Application No:** CH/20/218

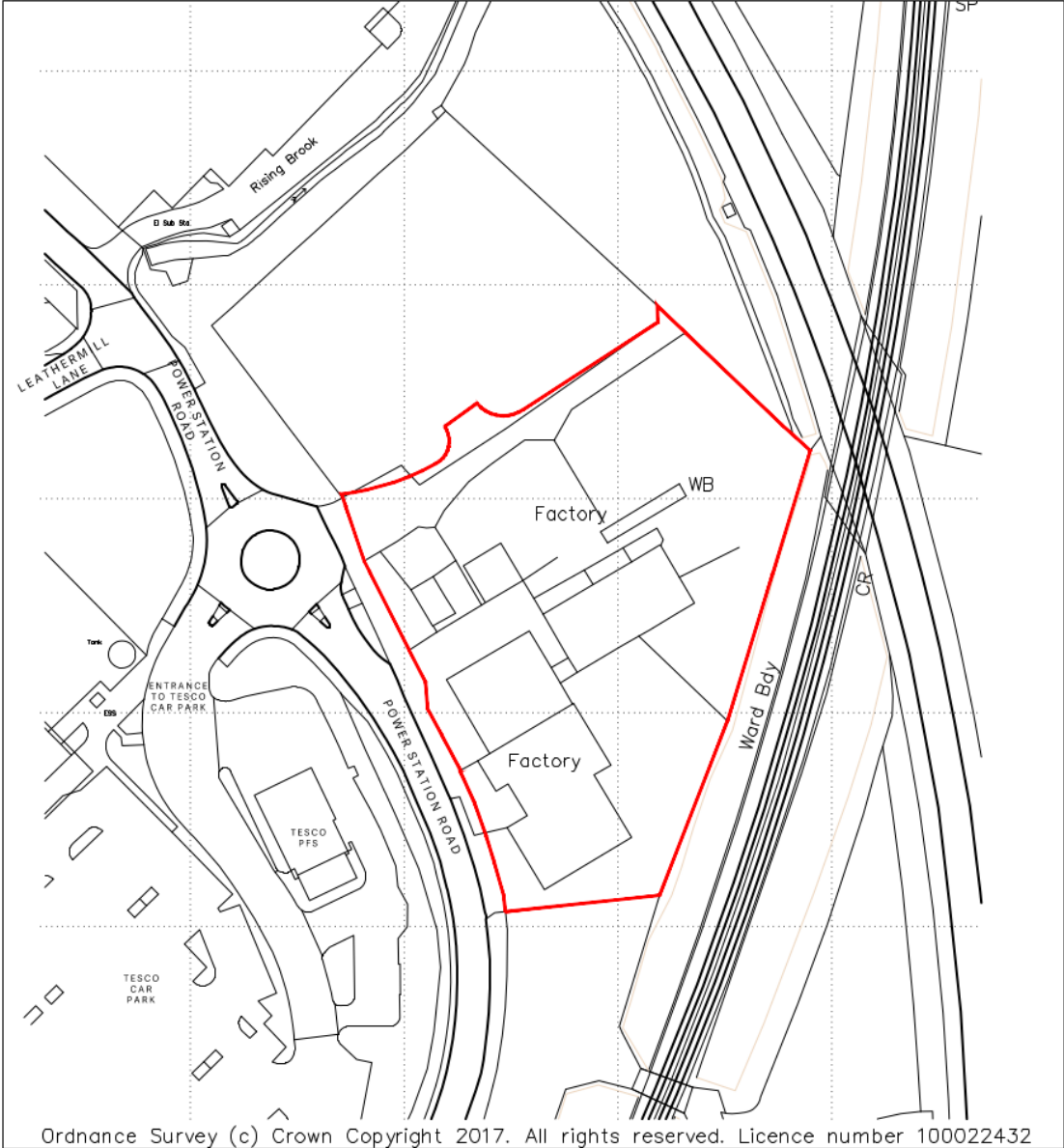
**Location:** Timber Yard, Power Station Road, Rugeley, WS15 2WD

**Proposal:** Demolition of Existing Buildings and the erection of a Class A1 Food Retail Store, with associated car parking and landscaping

Item no. 6.22



# Location Plan



**STOAS Architects Ltd**  
**PLANNING**

Revision	Description	Date	Drawn	Checked
A	Notations and Road Names added	05-06-2020	SPK	SB

CLIENT **ALDI STORES LIMITED**  
 PROJECT **POWER STATION ROAD, RUGELEY**  
 TITLE **SITE LOCATION PLAN**



**STOAS**  
ARCHITECTS

THE LODGE - COLESHILL MANOR - BIRMINGHAM - B46 1DL - TEL 0121 747 1943  
 1 DUNSTON PLACE - DUNSTON ROAD - CHESTERFIELD - S41 8NL - TEL 01246 389 860

SCALE **1:1250 @ A4** DRAWN **SPK**  
 DATE **12-03-2020** CHECKED **SB**

NORTH DWG No. **E17A118 - P001** REV **A**

ALL DIMENSIONS TO BE VERIFIED ON SITE PRIOR TO ANY SHOP OR SITE WORKS BEING COMMENCED. ANY DISCREPANCIES TO BE REPORTED TO STOAS ARCHITECTS BEFORE ANY WORK IS PUT IN HAND. DO NOT SCALE FROM THIS DRAWING. THIS DRAWING IS TO BE READ IN CONJUNCTION WITH RELEVANT CONSULTANTS' AND SPECIALISTS' DRAWINGS. THIS DRAWING IS THE PROPERTY OF STOAS ARCHITECTS. COPYRIGHT IS RESERVED BY THEM AND THE DRAWING IS ISSUED ON THE CONDITION THAT IT IS NOT COPIED, REPRODUCED, RETAINED OR DISCLOSED TO ANY UNAUTHORISED PERSON EITHER WHOLLY OR IN PART WITHOUT THE WRITTEN CONSENT OF STOAS ARCHITECTS.



# Proposed Site Plan

**ACCESS ARRANGEMENTS**

This statement relates to the access arrangements for the Aldi Food Blade Roof and details the arrangements for all modes of transport to and from the store. It also includes details of how level access arrangements are achieved and how the entrance to the store operates. This statement is to be read in conjunction with the separate Design and Access Statement.

There are a total of 115 no. proposed car parking spaces including 7 no. disabled parking spaces, 6 no. Parent and Child parking spaces, 1 no. Electric Vehicle charging spaces and 5 no. cycle hoops (10 no. cycles capacity under canopy for customers) and 4 no. cycle hoops (4 no. capacity under shelter for staff).

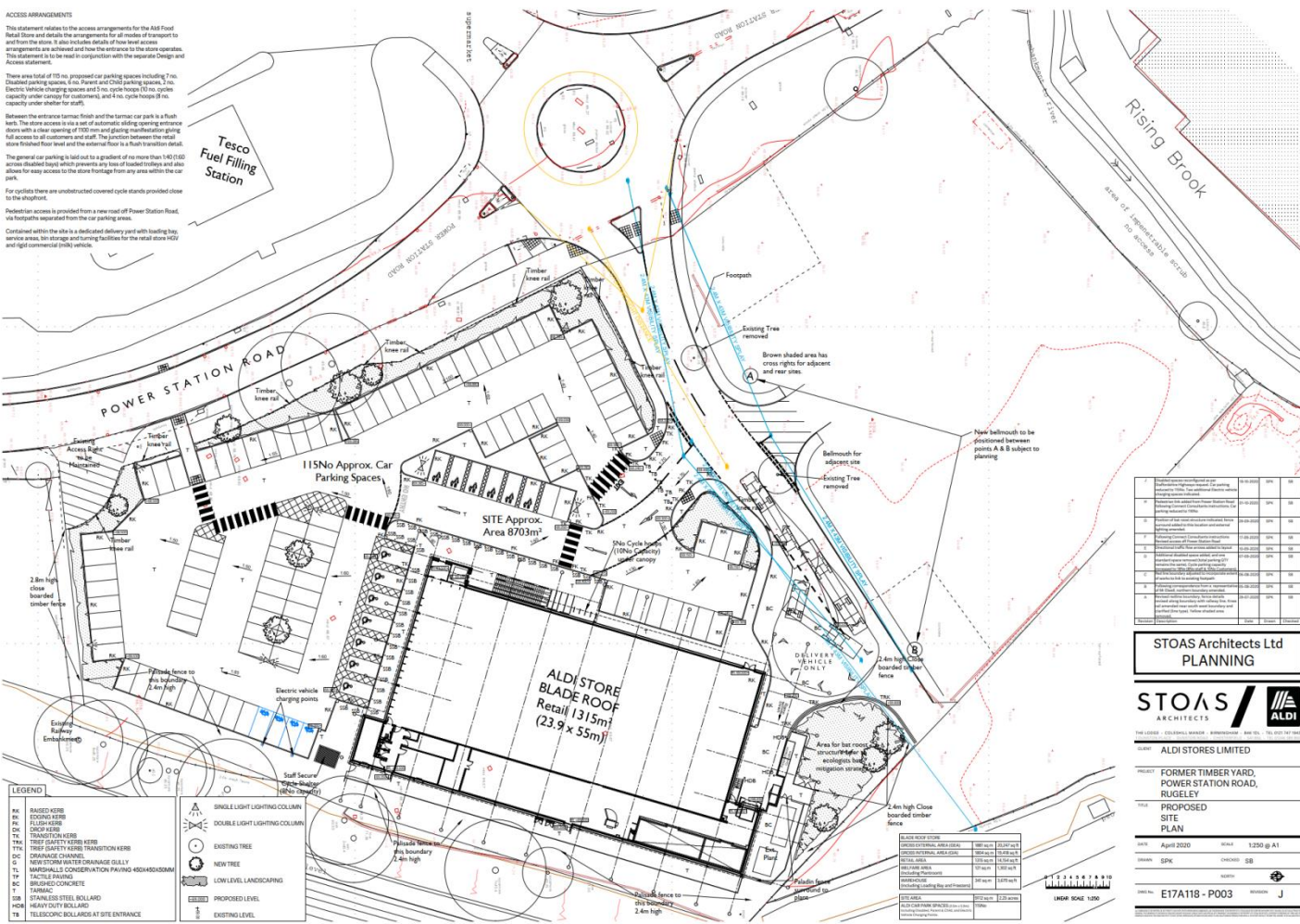
Between the entrance terrace finish and the terrace car park is a Push lock. The store access is via a set of automatic sliding opening entrance doors with a clear opening of 1000 mm and glazing manufacturing going full access to all customers and staff. The position between the retail store finished floor and the external floor is a flush transition detail.

The general car parking is laid out to a gradient of no more than 1:40 (100 access disabled bays) which prevents any loss of loaded trailers and also allows for easy access to the store frontage from any area within the car park.

For cyclists there are unobstructed covered cycle stands provided close to the shopfront.

Pedestrian access is provided from a rear road off Power Station Road, via footpaths and/or from the car parking areas.

Contained within the site is a dedicated delivery yard with loading bay service area, bin storage and turning facilities for the retail store HGV and light commercial delivery vehicles.



**LEGEND**

AK	IMAGED KERB	○	SINGLE LIGHT LIGHTING COLUMN
PK	EDGING KERB	○	DOUBLE LIGHT LIGHTING COLUMN
FL	FILLING KERB	○	EXISTING TREE
CK	CHOP KERB	○	NEW TREE
TK	TRANSITION KERB	○	LOW LEVEL LANDSCAPING
TKH	TRIF GATED KERB	○	PROPOSED LEVEL
TKV	TRIF GATED KERB TRANSITION	○	EXISTING LEVEL
OC	ORANGE CONCRETE	○	
WC	NEW FORM WATER DRAINAGE GULLY	○	
FC	FACTORY FLOORING	○	
TS	TERRAZZO	○	
ST	STAINLESS STEEL BOLLARD	○	
HD	HEAVY DUTY BOLLARD	○	
TS	TELESCOPIC BOLLARDS AT SITE ENTRANCE	○	

**PERMITS AND APPROVALS**

NO.	DESCRIPTION	DATE	STATUS
1	Planning Permission	15/01/2020	APPROVED
2	Building Regulations	15/01/2020	APPROVED
3	Highways Act	15/01/2020	APPROVED
4	Environment Act	15/01/2020	APPROVED
5	Water Act	15/01/2020	APPROVED
6	Electricity Act	15/01/2020	APPROVED
7	Fire Act	15/01/2020	APPROVED
8	Health and Safety Act	15/01/2020	APPROVED
9	Equality Act	15/01/2020	APPROVED
10	Consumer Rights Act	15/01/2020	APPROVED
11	Consumer Protection Act	15/01/2020	APPROVED
12	Consumer Credit Act	15/01/2020	APPROVED
13	Consumer Insurance Act	15/01/2020	APPROVED
14	Consumer Protection (Cancellation of Contracts)	15/01/2020	APPROVED
15	Consumer Protection (Distance Selling)	15/01/2020	APPROVED
16	Consumer Protection (Enforcement)	15/01/2020	APPROVED
17	Consumer Protection (Information)	15/01/2020	APPROVED
18	Consumer Protection (Unfair Terms)	15/01/2020	APPROVED
19	Consumer Protection (Unfair Contract Terms)	15/01/2020	APPROVED
20	Consumer Protection (Unfair Commercial Practices)	15/01/2020	APPROVED

NO.	DESCRIPTION	DATE	STATUS
1	Planning Permission	15/01/2020	APPROVED
2	Building Regulations	15/01/2020	APPROVED
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4	Environment Act	15/01/2020	APPROVED
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6	Electricity Act	15/01/2020	APPROVED
7	Fire Act	15/01/2020	APPROVED
8	Health and Safety Act	15/01/2020	APPROVED
9	Equality Act	15/01/2020	APPROVED
10	Consumer Rights Act	15/01/2020	APPROVED
11	Consumer Protection Act	15/01/2020	APPROVED
12	Consumer Credit Act	15/01/2020	APPROVED
13	Consumer Insurance Act	15/01/2020	APPROVED
14	Consumer Protection (Cancellation of Contracts)	15/01/2020	APPROVED
15	Consumer Protection (Distance Selling)	15/01/2020	APPROVED
16	Consumer Protection (Enforcement)	15/01/2020	APPROVED
17	Consumer Protection (Information)	15/01/2020	APPROVED
18	Consumer Protection (Unfair Terms)	15/01/2020	APPROVED
19	Consumer Protection (Unfair Contract Terms)	15/01/2020	APPROVED
20	Consumer Protection (Unfair Commercial Practices)	15/01/2020	APPROVED

**STOAS Architects Ltd**  
PLANNING

**STOAS ARCHITECTS**

PROJECT: ALDI STORES LIMITED

PROJECT: FORMER TIMBER YARD, POWER STATION ROAD, RUGELEY

TITLE: PROPOSED SITE PLAN

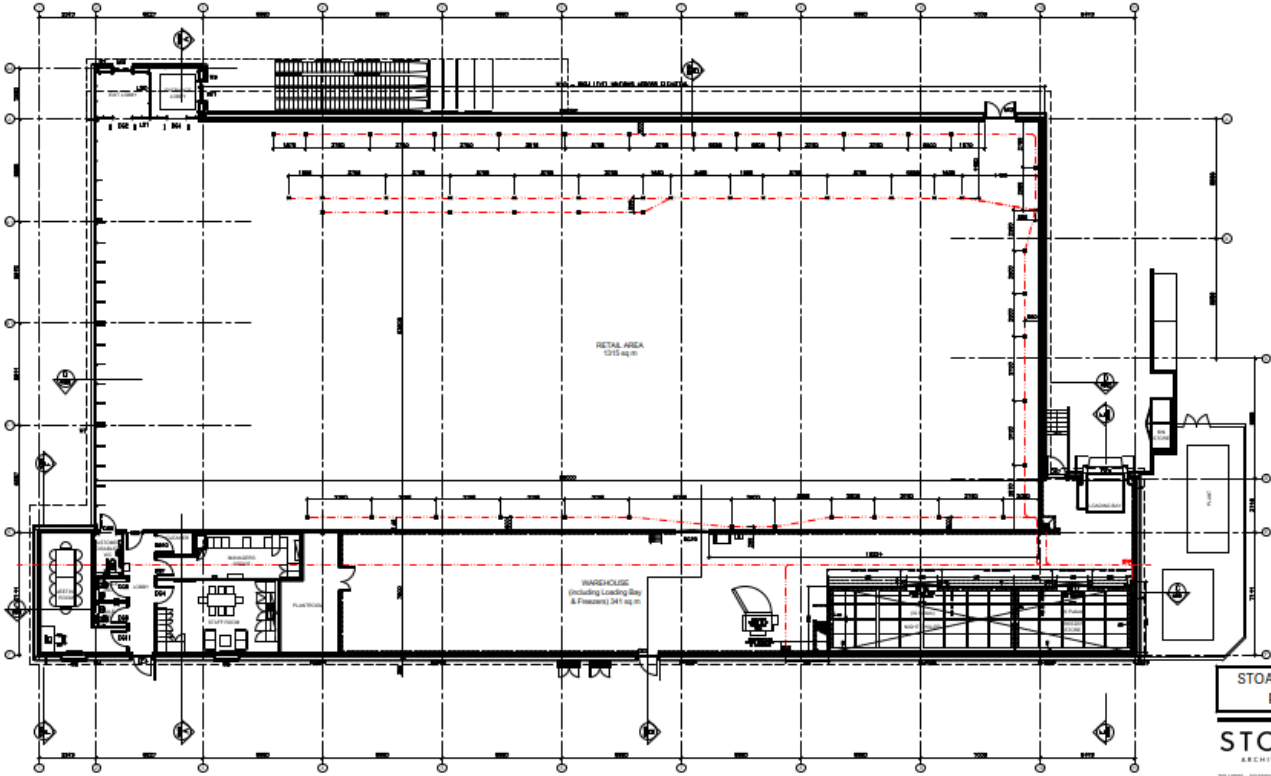
DATE: April 2020 SCALE: 1:250 @ A1

DRAWN: SPK CHECKED: SB

DATE: E17A118 - P003



# Proposed Floor Plan



BLADE ROOF STORE	1881 sq m	20,247 sq ft
GROSS EXTERNAL AREA (GEA)	1881 sq m	20,247 sq ft
GROSS INTERNAL AREA (GIA)	1804 sq m	19,498 sq ft
RETAIL AREA	1215 sq m	13,154 sq ft
WELFARE AREA (Including Plantroom)	121 sq m	1,302 sq ft
WAREHOUSE (Including Loading Bay and Freezers)	341 sq m	3,670 sq ft

STOAS Architects Ltd  
PLANNING

**STOAS**  
ARCHITECTS

ALDI STORES LIMITED

FORMER TIMBER YARD,  
POWER STATION ROAD,  
RUGELEY

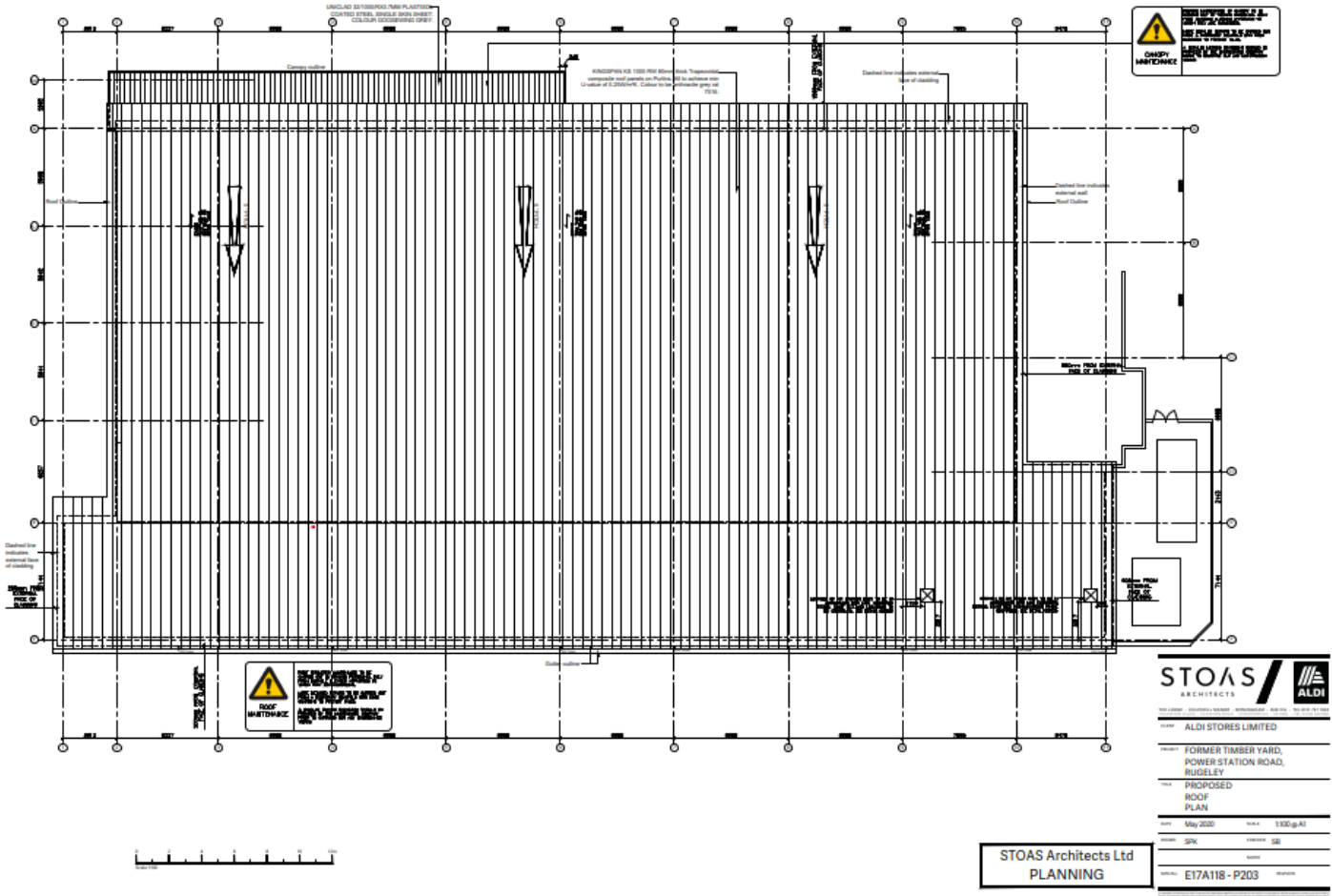
PROPOSED  
FLOOR  
PLAN

April 2020 1:500 (p.4)

SPK

E17A118 - P200

# Proposed Roof Plan



**Contact Officer:** Richard Sunter**Telephone No:** 01543 464481**Planning Control Committee**13<sup>th</sup> January 2021**Application No:** CH/20/218**Received:** 29-Jun-2020**Location:** Timber Yard, Power Station Road, Rugeley, WS15 2WD**Parish:** Rugeley**Ward:** Western Springs Ward**Description:** Demolition of existing buildings and the erection of a Class A1 Food Retail store with associated car parking and landscaping**Application Type:** Full Planning Application**Recommendations:**

Approve subject to section 106 in respect to securing monies for the monitoring of the implementation of the travel plan and the attached conditions.

**Reason(s) for Recommendation:**

In accordance with paragraph 38 of the National Planning Policy Framework the Local Planning Authority has worked with the applicant in a positive and proactive manner to approve the proposed development, which accords with the Local Plan and/ or the National Planning Policy Framework.

**Conditions (and Reasons for Conditions):**

1. The development to which this permission relates must be begun not later than the expiration of three years beginning with the date on which this permission is granted.

## Reason

To comply with the requirements of Section 91 of the Town & Country Planning Act 1990.

## Contamination

2. No development, including site demolition, hereby approved shall commence until
- (i) An intrusive site investigation has been carried out to establish the full extent, depth and cross-section, nature and composition of the contamination on the site. The investigation shall include ground gas, water and chemical analysis, identified as being appropriate by the desktop study, in accordance with current guidance using UKAS/MCERTS accredited methods. The investigation shall also include the presence or absence of contaminants within building footprints; and
  - (ii) The details of the above investigation (including all technical data) has been submitted to and approved in writing by the Local Planning Authority, as a Phase 2 report, for approval prior to any site demolition, remediation or construction works; and
  - (iii) where the Phase 2 report has confirmed the presence of significant contamination, a Remediation Method Statement, detailing the exact manner in which mitigation works are to be carried out, has been submitted to, and approved in writing, by Local Planning Authority,. The Statement shall also include details of validation testing that will be carried out once works have been completed; and
  - (iv) a verification/ validation report that the works in (iii) have been completed has been submitted to and approved in writing by the Local Planning Authority.

## Reason

The Phase 1 report (ref. B1313-Doc-01, dated 9/1/20) has identified potential contamination, which is required to be remediated in accordance with paragraph 178 of the National Planning Policy Framework.

3. If during remediation works, any contamination is identified that has not been considered within the Remediation Method Statement, then additional remediation proposals for this material shall be submitted to and approved in writing by the Local Planning Authority. Any approved proposals shall, thereafter, form part of the Remediation Method Statement.

**Reason**

To ensure that any unforeseen contamination is adequately remediated in accordance with paragraph 178 of the National Planning Policy Framework.

4. No soil materials shall be imported onto the site, until: -
- (i) they have been chemically analysed for contaminants\* to determine and demonstrate they are suitable for use; and
  - (ii) the above details , along with information on the material source, volume imported and depth of placement has been submitted to and approved in writing by the Local Planning Authority.

**Reason**

To ensure that any soils imported on to the site are fit for purpose in accordance with paragraph 178 of the National Planning Policy Framework.

**Drainage**

5. No development shall begin until the following elements of a surface water drainage design have been submitted to and approved by the Local Planning Authority in consultation with the Lead Local Flood Authority. The design must demonstrate:
- Surface water drainage system(s) designed in accordance with the Non-technical standards for sustainable drainage systems (DEFRA, March 2015).
  - SuDS design to provide adequate water quality treatment, in accordance with the CIRIA SuDS Manual Simple Index Approach and SuDS treatment design criteria. This should be provided for all sources of runoff.
  - Limiting the discharge rate generated by all rainfall events up to the 100 year plus climate change in accordance with the guidance in the SCC SUDS Handbook.

- Detailed design (plans, network details and calculations) in support of any surface water drainage scheme, including details on any attenuation system, and the outfall arrangements. Calculations should demonstrate the performance of the designed system for a range of return periods and storm durations.
- Plans illustrating flooded areas and flow paths in the event of exceedance of the drainage system.
- Provision of an acceptable management and maintenance plan for surface water drainage to ensure that surface water drainage systems shall be maintained and managed for the lifetime of the development.  
  
This shall include the name and contact details of the body responsible for carrying out maintenance.
- Evidence of a discharge agreement, Please provide confirmation of an agreed point of discharge – for example a written agreement from the Environment Agency if discharging to a main river.

#### Reason

To reduce the risk of surface water flooding to the development and properties downstream for the lifetime of the development.

6. The development hereby permitted shall not commence until drainage plans for the disposal of foul and surface water flows have been submitted to and approved by the Local Planning Authority. The development shall not be brought into use until the works comprising the approved scheme have been implemented

#### Reason

To ensure that the development is provided with a satisfactory means of drainage as well as to prevent or to avoid exacerbating any flooding issues and to minimise the risk of pollution.

#### **Landscape and Design**

7. The approved landscape works shown on Dwg. No. MEL-448-001 P3 shall be carried out in the first planting and seeding season following the occupation of any buildings or the completion of the development whichever is the sooner.

Reason

In the interest of visual amenity of the area. In accordance with Local Plan Policies CP3, CP12, CP14 and the National Planning Policy Framework.

8. No part of the development shall commence until details of all arboricultural work have been submitted to and approved by the Local Planning Authority. Details shall include a method statement and schedule of works.

Reason

The existing vegetation makes an important contribution to the visual amenity of the area and in accordance with Local Plan Policies CP3, CP12, CP14 and the National Planning Policy Framework.

9. The approved arboricultural work shall be carried out fully in accordance with the submitted details including timetable and to BS 3998 Tree Work & BS 5837 Trees in Relation to Construction, unless otherwise approved in writing by the Local Planning Authority.

Reason

To ensure the retention and appropriate maintenance of the existing vegetation which makes an important contribution to the visual amenity of the area. In accordance with Local Plan Policies CP3, CP12, CP14 and the National Planning Policy Framework.

10. Notwithstanding the details of the approved plans no development shall commence until a detailed method statement for all surfacing and levelling work within the root protection areas of the two Black Poplar Trees situated on the site frontage has been submitted to and approved in writing by the Local Planning Authority. All works undertaken in the root protection areas shall thereafter be undertaken in accordance with the approved scheme.

Reason

To ensure the retention and appropriate maintenance of the existing vegetation which makes an important contribution to the visual amenity of the area. In accordance with Local Plan Policies CP3, CP12, CP14 and the National Planning Policy Framework.

11. The 2.4m palisade fence along the boundary with the railway line shall not be erected until details of the foundation design of the fence has been submitted to and approved in writing by the Local Planning Authority. The fence shall thereafter be erected in accordance with the approved foundation design.

Reason

In the interests of public safety.

12. The palisade fence hereby approved shall be erected with a dark green colour finish.

Reason

In the interest of protecting the amenity of the area in accordance with Policy CP3 of the Cannock Chase Local Plan.

13. The development hereby permitted shall be carried out in accordance with the mitigation and compensation measures outlined in section 6 of the Bat Mitigation Strategy (Reference RT-MME-153022-0) produced by Middlemarch Environmental Ltd and dated 9<sup>th</sup> October 2020.

Reason

In the interests of preventing a high impact on the soprano pipistrelle population in the local and regional area and ensuring that the species is maintained at a favourable conservation status in its range in accordance with Policy CP12 of the Cannock Chase Local Plan and having due regard to the provisions of the Conservation of Habitats and Species Regulations 2017.

14. Prior to the commencement of any construction, including demolition, a Construction Environmental Management Plan (CEMP) shall be submitted to, and approved in writing by, the Local Planning Authority. The approved management plan shall include details relating to construction access, hours of construction, routing of HGV's, delivery times and the location of the contractors compounds, cabins, material storage areas and contractors parking and a scheme for the management and suppression of dust and mud from construction activities including the provision of a vehicle wheel wash. It shall also include a method of demolition and restoration of the site. All site



operations shall then be undertaken strictly in accordance with the approved CEMP for the duration of the construction programme.

Reason

In the interests of highway safety and in accordance with paragraph 109 of the National Planning Policy Framework.

15. Prior to first occupation of the development hereby permitted, the improved site access from the Power Station Road/ Tesco access roundabout shall be completed within the limits of the public highway in accordance with approved Plan 'E17A118 – P003 Rev J Proposed Site Plan'.

Reason

In the interests of highway safety and in accordance with paragraph 109 of the National Planning Policy Framework.

16. Prior to first occupation of the development hereby permitted, details of the proposed off-site highway works, broadly indicated on approved Plan 'E17A118 – P003 Rev J Proposed Site Plan', shall be submitted to and approved in writing by the Local Planning Authority. The works shall thereafter be provided in accordance with the approved details prior to first use of the development hereby permitted:

- New pedestrian crossing with dropped kerbs and tactile paving on Power Station Road.
- New section of footway along the eastern edge of Power Station Road to the north of the site access.
- Improved tactile paving on the eastern side of the Power Station Road/ Tesco access roundabout southern arm pedestrian crossing location.

Reason

In the interests of promoting sustainable transport and in combatting climate change .

17. The development hereby permitted shall not be brought into use until any lengths of existing site accesses made redundant as a consequence of the development hereby permitted are permanently closed with the access crossings reinstated as verge/ footway with full height kerbs in accordance

with details to be first submitted to and approved in writing by the Local Planning Authority.

Reason

In the interests of highway safety and in accordance with paragraph 109 of the National Planning Policy Framework.

18. The development hereby permitted shall not be brought into use until the parking and turning areas have been provided broadly in accordance with approved Plan 'E17A118 – P003 Rev J Proposed Site Plan'. The parking bays shall be clearly delineated and thereafter retained and maintained for the life of the development.

Reason

In the interests of highway safety and in accordance with paragraph 109 of the National Planning Policy Framework.

19. The proposed access, car parking, servicing and circulation areas as shown on approved Plans 'E17A118 – P003 Rev J Proposed Site Plan', '19219 – TR001 Rev B and Swept Path Analysis FTA Design Articulated Vehicle' shall be sustainably drained, hard surfaced in a bound material and marked out prior to the first occupation of the development hereby permitted. Thereafter the parking and servicing areas shall be retained in accordance with the approved plans for the lifetime of the development, unless otherwise agreed in writing by the Local Planning Authority.

Reason

In the interests of highway safety and in accordance with paragraph 109 of the National Planning Policy Framework.

20. Notwithstanding the submitted details, the development hereby permitted shall not be brought into use until full details of safe, secure and weatherproof cycle parking facilities for customers and staff and shower/ locker facilities for staff, have been submitted to and approved in writing by the Local Planning Authority. The cycle parking, shower and locker facilities shall be constructed in accordance with the approved details and thereafter be retained for the life of the development.

Reason

In the interests of promoting sustainable transport and in combatting climate change .

- 21.The development hereby permitted shall not be brought into use until a plan providing details of boundary treatments along the site frontage on Power Station Road has been submitted to and approved in writing by the Local Planning Authority, which shall thereafter be constructed in accordance with the approved details.

Reasons

In the interest of protecting the visual amenity of the area in accordance with Policy CP3 of the Cannock Chase Local Plan.

- 22.Upon commencement of the development, the Travel Plan (Revision B, October 2020) shall be implemented and monitored according to the targets and timescales contained therein.

Reason

In the interests of promoting sustainable transport and in combatting climate change.

- 23.Details of the car park management strategy shall be submitted to and approved in writing by the Local Planning Authority within three months of occupation and shall thereafter be implemented and monitored in accordance with the details contained therein. The car park management strategy shall be implemented to monitor the usage of the parking area to ensure parking within the site remains adequate.

Reason

In the interests of highway safety and in accordance with paragraph 109 of the National Planning Policy Framework.

- 24.The development shall not be brought into use until the electric vehicle charging points shown on drawing E17A118 - P003 Rev J Proposed Site Plan have been installed and have been made available for public use. The charging points shall thereafter be retained and maintained unless otherwise agreed in writing by the Local Planning Authority.

Reason

In the interests of promoting sustainable transport and in combatting climate change .

25. The development hereby permitted shall be carried out in accordance with the following approved plans:

- E17A118 - P001 Rev A Site Location Plan
- E17A118 - P003 Rev J Proposed Site Plan
- E17A118 - P200 Proposed Floor Plan
- E17A118 - P201 Proposed Elevations
- E17A118 - P203 Proposed Roof Plan
- E17A118 - VP1 - 03 Colour Elevations
- E17A118 - VP1 - 04 CGI
- AD5301 - Timber Knee Rail
- AD5302 - Close Boarded Timber Fence Details
- AD5304 - Paladin Fencing Details
- AD5308 - Rev A Palisade Fence Details
- Travel Plan Revision B, October 2020.

Reason

For the avoidance of doubt and in the interests of proper planning.

### **Notes to Developer:**

#### **Severn Trent**

Severn Trent Water advise that there may be a public sewer located within the application site. Although our statutory sewer records do not show any public sewers within the area you have specified, there may be sewers that have been recently adopted under the Transfer Of Sewer Regulations 2011. Public sewers have statutory protection and may not be built close to, directly over or be diverted without consent and contact must be made with Severn Trent Water to discuss the proposals. Severn Trent will seek to assist in obtaining a solution which protects both the public sewer and the building.

Severn Trent Water advise that there is a public 150mm Pressurised Combined sewer located within this site. Public sewers have statutory protection and may not be built close to, directly over or be diverted without consent. You are advised to contact Severn Trent Water to discuss the proposals. Severn Trent will seek to assist in obtaining a solution which protects both the public sewer and the building. Please

note, when submitting a Building Regulations application, the building control officer is required to check the sewer maps supplied by Severn Trent and advise them of any proposals located over or within 3 meters of a public sewer. Under the provisions of Building Regulations 2000 Part H4, Severn Trent can direct the building control officer to refuse building regulations approval.

Please note that there is no guarantee that you will be able to build over or close to any Severn Trent sewers, and where diversion is required there is no guarantee that you will be able to undertake those works on a self-lay basis. Every approach to build near to or divert our assets has to be assessed on its own merit and the decision of what is or isn't permissible is taken based on the risk to the asset and the wider catchment it serves. It is vital therefore that you contact us at the earliest opportunity to discuss the implications of our assets crossing your site. Failure to do so could significantly affect the costs and timescales of your project if it transpires diversionary works need to be carried out by Severn Trent.

#### South Staffordshire Water

South Staffordshire Water advises that from their existing asset records they appear to have a water main asset affected by this scheme. This would need engagement by the developer with South Staffordshire Water to look to divert/protect this asset if it is affected by construction works. The asset affected is a trunk water main which is a large diameter pipe of strategic importance.

Additionally South Staffordshire Water would look to install any new water assets to supply the development through the normal application for new connections process.

Please note that South Staffordshire Water do not keep records of individual water services so this site may well require the existing water service to be disconnected prior to the development being undertaken.

#### **Staffordshire Police**

Staffordshire Police recommend that the fencing securing the rear of the Aldi building itself meets LPS 1175 SR2: Issue 8.

Further information on Secured by Design and accredited security products can be found at [www.securedbydesign.com](http://www.securedbydesign.com) and [www.soldsecure.com](http://www.soldsecure.com).

## **Landscape**

The root protection area (RPA) of the southern of the two Black Poplar trees on the site frontage is noted as 9.60m radius. The car park extends to nearly 5.0m from the trunk thus impacting on the RPA. The levels information supplied appears to indicate that the finished surface level is to be built up in this area, which if on the existing undisturbed surface would not be less of an issue. A detailed method statement is therefore required to ensure that the tree roots are not harmed.

It is strongly recommend that for large sized trees proposed, that is of 14cms girth upwards, that container grown stock is used especially for the trees within the car park area.

## **Consultations and Publicity**

### **External Consultations**

#### Staffordshire County Council Planning and Minerals

No comments received.

#### County Highways

#### Site Visit

A site visit was carried out on 05/08/2020.

#### Background:

The application site is located in the east of Rugeley and lies to the east of Power Station Road. The application site comprises the existing The Timber Yard site and a number of smaller commercial units located to the north of The Timber Yard. There are commercial sites located to the north and south of the application site with vegetation and trees lining the eastern and south-eastern site boundaries. Past the vegetation and tree lined strips, the A51 routes in a north-west to south direction and the Chase railway line routes in a north to south-west direction crossing the A51 to the east of the site. Power Station Road forms the south-western boundary of the site and also provides four existing points of access to the site.

The northernmost access to the site is via the roundabout with Power Station Road and Tesco access.

The site access forms the eastern arm of the roundabout, Power Station Road forms the northern and southern arms of the roundabout and the access to Tesco forms the western arm of the roundabout. The site access from the roundabout also provides access to the commercial site located to the north of the application site.

A second gated access is located approximately 10m to the south of the roundabout access and a third ungated access is located approximately 30m to the south of the roundabout access. The fourth access, located some 50m to the south of the roundabout access, forms the main access to The Timber Yard and also provide access to the commercial site located to the south of the application site.

Within the vicinity of the application site, Power Station Road is a single lane, two-way unclassified road (road number ZU5093) subject to a 30mph speed limit. To the north, Power Station Road forms a mini-roundabout with Station Road (road number B5013). To the south, Power Station Road forms another roundabout, providing access to the Rugeley Amazon Distribution Centre and a number of smaller businesses including Tippers (building materials supplier), McDonalds, Premier Inn and The Colliers Pub and Restaurant.

Power Station Road is lit with footway provision along the western side of the carriageway. Pedestrian crossing points are provided at the roundabout on the southern Power Station Road arm and Tesco access, comprising dropped kerbs with tactile paving. A further crossing point is located approximately 40m north of the roundabout on Power Station Road connecting the western footway to the start of the footway on the eastern side of Power Station Road.

Current records show that there are no personal injury collisions (PICs) on Power Station Road within 50m of the site for the previous five years. Therefore, it does not appear that there are any existing safety problems that would be exacerbated by the proposed development.

#### Review of Planning Application Documents

It is understood that the proposed development is for the relocation of Aldi from Market Street to the application site off Power Station Road in Rugeley. The proposals include the demolition of existing buildings at the application site and erection of a new food store, with associated access, parking and landscaping.

The proposed Aldi would be larger than the existing Aldi on Market Street with a net increase in tradeable floor area of 565 m<sup>2</sup> from 750 m<sup>2</sup> (Market Street) to 1,315 m<sup>2</sup> (Power Station Road); and net increase in gross internal area of 706 m<sup>2</sup> from 1,097 m<sup>2</sup> (Market Street) to 1,803 m<sup>2</sup> (Power Station Road). The future use of the existing Aldi site on Market Street is assumed to remain as an A1 food store.

The primary and only vehicular access to the site would be via an improved access off the Power Station Road/ Tesco access roundabout. This access would also serve the commercial site to the north of the application site. Dropped kerbs with tactile

paving would be provided on the site access arm to the roundabout to aid pedestrians with crossing the site access; a new section of footway would be provided along the eastern side of Power Station Road connecting the new footways within the site with the existing footway to the north of the site; and improved tactile paving would be provided on the eastern side of Power Station Road at the southern arm pedestrian crossing location.

With regard to the other three existing accesses to the site, the middle two would be made redundant with the most southerly access retained to serve the commercial site to the south of the proposed development.

A new pedestrian link will be provided on Power Station Road towards the southern extent of the site, comprising dropped kerbs with tactile paving. This link would reduce the walk distance for future users of the site travelling to and from the south along Power Station Road.

Footways will also be provided within the site on both sides of the access road and dropped kerbs with tactile paving will be provided at the internal site access to the food store. Pedestrian routes will also be provided within the car parking area comprising footways and zebra crossings.

The proposed site access arrangements (apart from the proposed pedestrian link on Power Station Road) were subject to a Stage 1 Road Safety Audit with no issues raised; and therefore, are acceptable in principle from a highway safety perspective.

The existing Aldi on Market Street currently provides 71 car parking spaces. The proposed development off Power Station Road would provide a total of 115 car parking spaces, including seven disabled spaces, six parent and child spaces and four electric vehicle charging spaces. This would result in a net increase of 44 car parking spaces. The proposed level of car parking is within the maximum standards as set out in Cannock Chase Council's parking standards; however, would be monitored as part of a car parking management strategy to ensure on-site car parking remains adequate.

10 cycle parking spaces which also allow space for trailers will be provided for customers to the front of the store. Eight secure cycle storage spaces for staff will be provided in proximity to the staff entrance.

A review of the initial planning documents raised a number of queries associated with sustainable accessibility, visibility splays, site access arrangements, proposed areas for adoption, swept path analysis of vehicles using the adjacent commercial site, car parking provision and layout, cycle parking provision, the methodology adopted for traffic impact assessments and the Travel Plan.

Following the receipt of amended plans and additional information, these queries have now been addressed and it is not considered that the development proposals



would have an adverse impact on the surrounding highway network or on highway safety.

It should be noted that the proposed development is a relocation of a food store, albeit a larger development than the existing, which would serve the population of Rugeley. Therefore, the majority of vehicular trips are already likely to be on the existing highway network and the proposed development would result in re-assignment of these trips on the local highway network. A small proportion may be new trips; however, these are likely to be generated by the consented redevelopment of Rugeley Power Station, trips from which have been considered in the revised traffic impact assessments.

The proposed development is considered acceptable subject to conditions.

Recommendation:

There are no objections on Highway grounds to the proposed development subject to the [attached] conditions being included on any approval:

Many thanks for your email. I can confirm that I have read the comments made by both Exigo and Connect Consultants and am satisfied with the conditional Form X I submitted to you on 28<sup>th</sup> October 2020.

Following a representation made by Exigo on behalf of Morrisons the Highway Authority has stated the following: -

The following may help to clarify my conditional response:

1. Public Transport Accessibility – whilst it is acknowledged that the application site is not as accessible by public transport, namely bus, as the existing Aldi site on Market Street, there are other food retail available (i.e. Morrisons) within a convenient walk distance of bus stops. It is also not uncommon for staff to walk a further distance than the desired commute distance from bus stops to get to work. The site has good accessibility by walking and cycling and further improvements have been proposed to improve access by active modes of transport which also take into account the future residents at the Rugeley Power Station site.
2. Assessment of Existing Food Store Site – it is unfortunate that trip rates from the existing Aldi store were not available; however, the “SCC Sensitivity” assessments made the assumption that the food store was a new development and therefore it is considered that a worst case assessment has been undertaken.
3. Traffic Impact Assessments - further details were subsequently provided including modelling of the Station Road/ Power Station Road mini roundabout which showed this junction to operate within capacity with the proposed development. There are some capacity issues when taking into account the

redevelopment of the Rugeley Power Station site; however, the proportional impact is not considered significant from the proposed Aldi. 31 additional trips during a Saturday is not considered significant at the Colton Road/ A51/ Station Road roundabout given the strategic nature of this roundabout. The most recent flow diagrams for the "SCC Sensitivity" tests show that there are anticipated to be an additional 45 trips in the weekday PM peak and 72 trips during the Saturday peak at the Station Road/ Market Street/ Anson Street/ Wolseley Road double mini roundabout. Should the proposed development have been a new development rather than a relocation, assessment of this junction would have been requested. However, the relocation of the Aldi is more likely to remove trips from this junction rather than add trips which is the reason that further modelling of this junction was not requested.

It should be noted that food retail is unlikely to be a significant new trip generator and the relocation of the store will remove trips from the town centre. The type of development attracts larger proportions of linked, pass-by and diverted trips, therefore these trips are already on the network.

#### County Flood Risk Management (SUDS)

We have no objection to the application at this stage. We would however recommend that the pre-commencement condition [above] is attached to any planning permission, to ensure that the full finalised details of the proposed surface water drainage strategy are provided for review before the commencement of any development.

We ask to be consulted on the details submitted for approval to your Authority to discharge this condition and on any subsequent amendments/alterations.

#### Crime Prevention Officer

The palisade fencing helps to provide a perimeter demarcation for the grounds of Aldi and the railway embankment. For crime prevention purposes, I recommend the fencing securing the rear of the Aldi building itself meets LPS 1175 SR2: Issue 8.

Further information on Secured by Design and accredited security products can be found at [www.securedbydesign.com](http://www.securedbydesign.com) and [www.soldsecure.com](http://www.soldsecure.com).

I trust the constructive observations I have made will be useful to the Planning Committee in considering the application. I would appreciate being informed as to the outcome of this application.

#### Environment Agency

No objection.

#### Severn Trent Water Ltd

I can confirm that we have no objections to the proposals subject to the inclusion of the following condition:

- The development hereby permitted should not commence until drainage plans for the disposal of foul and surface water flows have been submitted to and approved by the Local Planning Authority, and
- The scheme shall be implemented in accordance with the approved details before the development is first brought into use. This is to ensure that the development is provided with a satisfactory means of drainage as well as to prevent or to avoid exacerbating any flooding issues and to minimise the risk of pollution.

Severn Trent Water advise that there may be a public sewer located within the application site. Although our statutory sewer records do not show any public sewers within the area you have specified, there may be sewers that have been recently adopted under the Transfer of Sewer Regulations 2011. Public sewers have statutory protection and may not be built close to, directly over or be diverted without consent and contact must be made with Severn Trent Water to discuss the proposals. Severn Trent will seek to assist in obtaining a solution which protects both the public sewer and the building.

Severn Trent Water advise that there is a public 150mm Pressurised Combined sewer located within this site. Public sewers have statutory protection and may not be built close to, directly over or be diverted without consent. You are advised to contact Severn Trent Water to discuss the proposals. Severn Trent will seek to assist in obtaining a solution which protects both the public sewer and the building. Please note, when submitting a Building Regulations application, the building control officer is required to check the sewer maps supplied by Severn Trent and advise them of any proposals located over or within 3 meters of a public sewer. Under the provisions of Building Regulations 2000 Part H4, Severn Trent can direct the building control officer to refuse building regulations approval.

Please note that there is no guarantee that you will be able to build over or close to any Severn Trent sewers, and where diversion is required there is no guarantee that you will be able to undertake those works on a self-lay basis. Every approach to build near to or divert our assets has to be assessed on its own merit and the decision of what is or isn't permissible is taken based on the risk to the asset and the wider catchment it serves. It is vital therefore that you contact us at the earliest opportunity to discuss the implications of our assets crossing your site. Failure to do so could significantly affect the costs and timescales of your project if it transpires diversionary works need to be carried out by Severn Trent.

#### Inland Waterways Association

No comments received.

#### South Staffordshire Water Plc

I have viewed the application and from our existing asset records we appear to have a water main asset affected by this scheme, this would need engagement by the developer with ourselves to look to divert/protect this asset if it is affected by construction works. The asset affected is a trunk water main which is a large diameter pipe of strategic importance.

Additionally we would look to install any new water assets to supply the development through the normal application for new connections process.

Please note that we do not keep records of individual water services so this site may well require the existing water service to be disconnected prior to the development being undertaken.

### Network Rail

Network Rail is withdrawing the holding objection subject to the following:

2.4m palisade agreed – which is set at 1m off Network Rail boundary fence – the applicant will need to submit foundation design for agreement.

The applicant is proposing to plant new trees within the railway boundary which is a not acceptable – unless they are just showing existing trees. Proposals for the site should take into account the recommendations of, 'BS 5837:2012 Trees in Relation to Design, Demolition and Construction', which needs to be applied to prevent long term damage to the health of trees on Network Rail land so that they do not become a risk to members of the public in the future.

No trees shall be planted next to the boundary with the railway land and the operational railway, except for evergreen shrubs which shall be planted a minimum distance from the Network Rail boundary that is equal to their expected mature growth height. The vegetation planting must be in line with the attached matrix which has been agreed with the Tree Council. This is to prevent long term issues with leaf fall impacting the operational railway.

Tree planting matrix and recommended distances attached.

Network Rail will need to review drainage and designs and RAMS for the main works.

### Rugeley Town Council

No comments received.

### Trent & Mersey Canal Society

No comments received.

### **Internal Consultations**

## Development Plans and Policy Unit

The following advice was provided to the applicant via pre-application discussions:

The application site is located within an industrial estate, outside of the designated Rugeley Town Centre Boundary and the Rugeley Town Centre Area Action Plan Boundary on the Local Plan 2014 Policies Map.

Policy CP11 (page 124) in the Cannock Chase Local Plan 2014 sets out the local retail policy on Rugeley Town Centre including that *“Main town centre uses including retail...should take a sequential approach that gives priority to the regeneration of the town centre within this boundary...”*. Therefore a Sequential Test will need to be submitted with an application to show that there no preferential retail sites within the Town Centre boundary. This should be comprehensive of all relevant sites of an appropriate size and contain reasons for ruling them out. This could include consideration of other sites that may be available e.g. underused car park areas and existing buildings that may be available for rent or sale on property/commercial marketing websites. The Sequential Test should also consider if the current store could be extended (as per NPPF Para 87 on flexibility in store formats). It should be noted that both stores are outside of the designated Town Centre boundary and the new site does not have a closer physical relationship to the Centre than the old store. While both sites are adjacent to the Town Centre boundary the existing site is closer to existing residential areas, the bus station and the main pedestrian area. It is also within the Rugeley Town Centre Area Action Plan Boundary, which encourages investment and regeneration within and on parts of the periphery of the Town Centre. The application site is in an industrial area so could be considered less sustainable and is outside of the Rugeley Town Centre Area Action Plan Boundary.

Policy CP11 also sets out that the Local Plan will help to deliver 4900m<sup>2</sup> (gross) of convenience retail floor space by 2028, with Tesco already accounting for 4000m<sup>2</sup> (net) of this allowance. As the proposal is larger than the remaining 900m<sup>2</sup> allowance a Retail Needs Assessment will be required to outline why the Local Plan threshold should be exceeded in an out of centre location, and how the proposal will limit any impact on the Town Centre. The Cannock Chase Retail Study (Para 7.16, 2015) highlights that there is no need to provide any additional convenience floor space requirement up to 2030, given the choice and range of facilities already available. The applications does not require an Impact Test as it is below the threshold set out in paragraph 89 of the NPPF, but it does require a policy justification for the proposal, given that it exceeds the adopted Local Plan (2014) Policy CP11 and subsequent 2015 retail study evidence base for the requirement for additional Convenience floor space in the Rugeley area.. This relates to the strategic matter of convenience retail in general, not the individual footprint or preferred location of the proposal. This could be evidence to show that there is now additional post 2015 demand within the Rugeley area and reference to the updated 2019 NPPF requirements.

Policy CP8 supports the delivery of an appropriate employment land supply including 8ha at Towers Business Park/ Former Power Station, Rugeley and the NPPF (Para 20, February 2019) sets out that “Local Plans must contain strategic policies that make sufficient provision for employment development within the area...” The most recent Employment Land Availability Assessment (P12, August 2018) sets out there is a shortfall in employment land provision compared to Local Plan targets and this proposal would further reduce employment land provision.

Policy CP3 advocates appropriate design and cohesion with adjacent uses in new development, including the protection of amenity. The Design SPD provides additional guidance.

It should also be noted that Rugeley is within a designated Neighbourhood Area and that Rugeley Town Council is writing a Neighbourhood Plan for Rugeley. The plan is at an early stage of production and does not contain any adopted policies which will impact upon this planning application.

### Conclusion

It is noted that the applicant has undertaken to address the policy issues raised during pre-application discussions.

The Planning Statement considers the following issues: loss of employment land and the sequential test.

The applicant has provided justification to support the loss of employment land within the existing established employment area, noting the Rugeley Power Station application, which will provide additional employment land that exceeds both the existing Local Plan shortfall and that of the application site.

The sequential test is considered comprehensive in considering alternative sites within Rugeley Town Centre and concluding that no alternative sites are available that meet the needs of the applicant. As the scale of the proposed development falls below the threshold of the impact assessment of 2,500m<sup>2</sup> in the NPPF and the Cannock Chase Local Plan (2014) does not contain a locally defined threshold there is no requirement for an impact assessment to be submitted. The statement also sets out the policy rationale for the change of store location.

It is noted that the Transport Assessment considers both the retention of the existing store and the development of the new store.

### Environmental Health

Having reviewed the submissions, I have the following comments:

Submitted document: Land Contamination Phase 1 Environmental Site Assessment, 1313 Aldi Stores Limited, Power Station Road, Rugeley. Ref: B1313-Doc-01, revision: XI, dated 9th January 2020. Authored by Webb Yates Engineers Ltd.

Summarising from available records, the submission adequately describes the site with regards to the surroundings and previous uses of the site. It recommends intrusive site investigation across the site, including within/underneath the current site buildings (pre or post demolition) and the assessment of ground gases. Such investigation(s) will be used to update the risk assessments and conceptual site model, with remediation/mitigation to be carried out as required.

I am in agreement with the findings of the report; conditions are recommended below.

Submitted document: Plant and Delivery Noise Impact Assessment, Aldi store, Power Station Road, Rugeley, WS15 2WD. Ref: 89238, dated 30th April 2020. Authored by Noise Solutions Ltd.

The report makes a good consideration of using modelled/ previously recorded data for those noise-making activities which have been affected (reduced) by Covid-19 pandemic. Proposed plant noise is assumed to have a 24-hour duty cycle. Delivery times (06:30 to 23:00 Mon-Sat, 08:00 to 17:00 Sun) are combined with reference noise data to determine impact.

The nearest sensitive noise receptor is identified as being 275m distance to the southwest, on the Love Lane caravan park, and overall predicted delivery noise levels at this receptor are no more than LAeq 13dB (with a LAfmax of 34B).

A BS4142 assessment gives a rating level of -21dB (daytime) and -14dB (morning) (even after an acoustic feature correction of 6dB). This is strongly indicative of a negligible impact, and I am in full agreement with the conclusions of the report.

The LAfmax levels and LAeq levels are discussed in regards to noise levels for external amenity areas at the noise receptor. Again, the levels predicted are well below stated requirements.

The same procedure is used to calculate the impact of plant noise, which again concludes a negligible impact.

No conditions are recommended with regards to noise.

Other submissions (various) -

Lighting plot/lux plot: acceptable, no comments required.

Soft landscaping plan: where planting is intended. This plan details the process to identify/remediate suitable site soil materials and/or replace them with imported soil materials. This process should have reference to any contamination noted during the intrusive investigation stage. Imported soil materials will need to be chemically analysed to establish they are 'suitable for use', and this will be reflected in the recommended conditions for land contamination [as shown above].

## Parks & Open Spaces

I have the following comments:-

With regard to the amended site plan:-

Both the line of the palisade and 2.4 close board fences is not indicated on the plan however text referring to both is still indicated.

The new pedestrian access point onto Power Station Road is welcomed.

The soft landscape plan needs to be updated to match the revised site layout and outstanding points noted below.

External Lux plot – no comments to make.

The submitted information still does not address the issues previously raised as noted below:-

Landscaping –

The two large black poplars which are just outside the site boundary are key visual features. Crown lifting will be essential to allow construction and use of the proposed site. Ideally this needs to be undertaken all round the tree, not just the store site and to at least 4.0m height. This will also improve visibility of the development from Power Station Road.

The root protection area (RPA) of the southern of the two trees is noted as 9.60m radius. The car park extends to nearly 5.0m from the trunk thus impacting on the RPA. It is not clear as to the surface construction under the exiting container at this location so unable to advise if this would impact on the tree. The levels information supplied appears to indicate that the finished surface level is to be built up in this area, which if on the existing undisturbed surface would not be less of an issue. A detailed method statement would be required to cover this aspect.

Proposed tree planting – generally good. It is strongly recommend that for large sized trees proposed, 14cms girth upwards, that container grown stock is used especially for the trees within the car park area. Full details of the proposed tree planting within the hard paved (Car park) areas are required. The use of metal tree guards would not be recommended in such locations as from experience these are easily knocked by vehicles resulting in damage to the tree



The shrub planting includes a good range of shrubs that if left to develop would provide an attractive display however as these areas are often simply maintained as a block hedge the continuation of the hornbeam hedge along the site frontage may be a better and easier solution.

There ideally needs to be a paved strip along the ends of parking bays that abut shrub areas to prevent trampling/damage to the shrubs or damage to vehicles when opening doors.

The narrow strip of planting between parking bays on the western boundary is totally impractical – paved over.

Hedge planting details acceptable

Timber trip rail – generally acceptable but adds to long term maintenance issues/repair. Use of hedge as noted above would be better alternative.

The palisade fence and gate details are standard. Would recommend it is powder coated in a dark green rather than black.

Summary

Revised site layout acceptable

Remaining issues noted not addressed.

- o Method statement required for works within RPA
- o Confirmation as to any works to the Poplars required.
- o Amendments to the landscape scheme recommended.
- o Recommend palisade fence to be Green

#### CIL Officer

In respect of the above planning application, based on the CIL additional information submitted, this development would not be liable to pay CIL, as there has not been a net increase in floor space.

#### Waste and Engineering Services

No comments received.

#### Environmental Services

No comments received.

#### Economic Development

Economic Development are supportive of the application –It is fantastic to see the investment into the district, and the creation of a large of jobs along side this. We would be well placed to initiate conversations between Aldi and local colleges who would be able to support the recruitment drive, ensuring that local people see the benefit.

### Stantec (the Council's Retail Consultant)

Initial Response Received 7<sup>th</sup> December 2020

#### Overview of the Proposed Foodstores

##### Lidl

Full planning permission is sought for a Lidl foodstore at a site to the east of Power Station Road, close to an existing Tesco store. The application site is situated outside of the defined Rugeley Town Centre boundary (to the south east) and so it is classed as out-of-centre in retail planning policy terms, which the applicant acknowledges in its submissions.

The applicant is Lidl Great Britain Limited, and the agent is Avison Young. The planning application was registered on 3 September 2020 and was assigned the reference CH/20/306.

The proposed Lidl store would have a gross external area of 2,279 sq.m and a sales area of 1,410 sq.m.

##### Aldi

As with the Lidl application, full planning permission is sought for an Aldi foodstore, at a site to the east of Power Station Road, close to the Tesco store referred to above. The Aldi application site is also acknowledged to be out-of-centre.

The applicant is Aldi Stores Limited, and the agent is STOAS Architects Limited, with Turley having produced a Planning and Retail Statement. The planning application was registered on 29 June 2020 and was assigned the reference CH/20/218.

The proposed Aldi store would have a gross external area of 1,881 sq.m and a sales area of 1,315 sq.m.

Each planning application is supported by a raft of documents. Given the focused nature of our instruction, we have confined our review to the Planning and Retail Statements that have been prepared by each applicant's planning consultant, and related correspondence between the Council and the applicants. Our observations and advice is provided below.

#### The Impact Threshold

##### NPPF

Paragraph 89 of the NPPF states:

‘When assessing applications for retail and leisure development outside town centres, which are not in accordance with an up-to-date plan, local planning authorities should require an impact assessment if the development is over a proportionate, locally set floorspace threshold (if there is no locally set threshold, the default threshold is 2,500m<sup>2</sup> of gross floorspace).’

Thus, the national threshold above which an impact assessment is required is 2,500 sq.m of gross floorspace. As noted above, the gross floorspace at each of the proposed Lidl and Aldi stores is below the 2,500 sq.m threshold and so an impact assessment is expressly not required, unless there is a lower, locally set threshold.

The NPPF does not address situations where there are multiple simultaneous proposals which, collectively, have more than 2,500 sq.m of gross floorspace.

#### Planning Practice Guidance

The online Planning Practice Guidance reiterates the content of paragraph 89 of the NPPF, stating as follows [Paragraph: 016 Reference ID: 2b-016-20190722, Revision date: 22 07 2019]:

‘The impact test only applies to proposals exceeding 2,500 square metres gross of floorspace unless a different locally appropriate threshold is set by the local planning authority.’

#### Local Policy

In the case of Cannock Chase, there is no locally set threshold. A retail study that was produced by consultants several years ago suggested that it might be prudent to introduce a locally set threshold in Rugeley but, to date, that has not been carried forward into adopted planning policy. We are also not aware of a locally set threshold in any draft policy document, although if there is such a draft proposal, we note that it would only carry limited weight until it became adopted policy.

#### Advice

As we explained above, each proposed foodstore is below the national default floorspace threshold of 2,500 sq.m gross, and no alternative threshold has been adopted locally. On that basis, the factors that need to be addressed within impact assessments, as set out within criteria a) and b) beneath paragraph 89 of the NPPF, do not apply to either of the current applications.

Whilst the two proposed foodstores have an aggregate gross floorspace that is above the 2,500 sq.m threshold, there is, as noted above, no requirement in the NPPF to require an impact assessment in those situations. It is clear that paragraph 89 of the NPPF applies to individual proposals.

It might also have been expected that the NPPF, and/or the related PPG, would have been updated to incorporate a lower default threshold given that most foodstores which have come forward over recent years are of a size that is below the default threshold. Nevertheless, the current threshold remains at 2,500 sq.m gross.

Accordingly, there is no requirement – at either national or local level – for an impact assessment in support of proposed retail developments which have less than 2,500 sq.m of gross floorspace. We understand that Council officers have confirmed that position in writing to the two applicants.

We also understand, however, that a request was made by Council officers earlier this year for the submission of a ‘Retail Need Assessment’ in support of each application. The applicants’ planning advisors have both rebutted that request and have explained that there is no longer a national ‘need’ test. We confirm that the applicants are both correct in that regard; whilst national policy previously set out three retail tests – need, impact and sequential – the need test has been dropped and the current version of the NPPF only refers to the impact and sequential tests.

The only exception where it might still be appropriate to consider ‘need’ (or ‘expenditure capacity’) for retail proposals is where there is a policy in an extant, adopted local plan, that specifies a requirement to demonstrate need or capacity. Such policies are usually only found in older local plans where a successor local plan has not yet been adopted.

Policy CP11 of the adopted Cannock Chase Local Plan 2014 contains the following text in relation to Rugeley Town Centre, at page 125:

‘The AAP will identify a strategy for regenerating and growing the town centre via the development of key sites to provide a balanced mix of town centre uses and to help deliver up to 10,000sqm (gross) comparison and 4,900sqm (gross) convenience retail floor space by 2028. As part of this strategy work commenced on a Tesco store, 4,000sqm net, in 2012. A town centre boundary and primary retail area is defined on the Policies Map and Key Diagram via the AAP. Non-retail uses will only be permitted where they do not detract from the primary retail function of the town centre.’

The source of the convenience retail floorspace figure of 4,900 sq.m (gross) referred in Policy CP11 is paragraph 3.31 of the Cannock Chase Retail and Leisure Study (November 2015), which is produced below for ease of reference:

‘The role of Rugeley town centre as a market town is also to be retained and strengthened through the incorporation of an Area Action Plan (AAP), which will address the lack of convenience retail and the deterioration of the attractiveness of the town centre. The AAP will help promote retail, commercial, 23 Cannock Chase District Council A090262 25/11/2015 leisure, tourism and transport development within the town centre and, at the time of

publication, the plan was set to deliver up to 10,000 sq.m (gross) comparison and 4,900 sq.m (gross) convenience retail floorspace by 2028.'

In our assessment, Local Plan Policy CP11 does not amount to a 'need' test or a floorspace capacity 'cap'. Instead, the policy refers to floorspace figures that were identified in an evidence base study. Policy CP11 does not require proposed developments to demonstrate that there is sufficient expenditure available, nor does it require an impact assessment in relation to proposals that would result in the overall amount of convenience retail floorspace exceeding the 4,900 sq.m gross figure referred to in the Local Plan.

Paragraph 5.40 of the Local Plan describes the Tesco store that is referred to in Policy CP11 as follows: 'Tesco superstore of 4,000sq.m net sales area.'

Avison Young asserts in paragraph 1.16 of its Planning and Retail Statement in support of the proposed Lidl store that the 4,000 sq.m 'net sales area' figure quoted in the Local Plan for the Tesco store is incorrect, and that the permission that was granted for the Tesco store in 2011 allowed for the development of a foodstore with a net retail sales area of not more than 3,202 sq.m. We have inspected the decision notice for the Tesco store and confirm that condition no. 24 does set a retail sales area cap of 3,202 sq.m.

For the same reason, Avison Young also asserts that the reference to there being a balance of 900 sq.m of convenience retail floorspace in Rugeley – that is, 4,900 sq.m as quoted in Local Plan Policy CP11, and the figure of 4,000 sq.m quoted in relation to the Tesco store – is incorrect. In paragraph 4.18 of its Planning and Retail Statement, Avison Young also asserts that the quantum of convenience retail sales area floorspace at the Tesco store – as quoted within Tesco's planning application submission – is substantially less, at 2,081 sq.m. We note in passing that we have not seen a reference to a 2,081 sq.m cap on convenience retail floorspace within the Tesco decision notice.

In our assessment, a debate regarding the precise amount of convenience floorspace 'capacity' in Rugeley is largely immaterial, however. Even if the amount of convenience retail floorspace proposed in either or both of the currently proposed foodstores did exceed the 4,900 sq.m (gross) convenience retail floorspace figure referred to in Policy CP11, there would be no failure of a 'need' or 'impact' policy (neither of which features in the Local Plan, in our assessment).

We are acutely aware of the pressures and challenges that are facing town centres across the country, and which are set to intensify in the post-pandemic era, and so we have sympathy with local authorities that are rightly striving to protect their defined centres. Against that background, we are pleased to observe that Lidl's agent has sought to consider the vitality and vitality of the town centre, albeit at a high level given the obvious difficulties with trying to assess town centre health in the midst of a pandemic and reduced patronage.

Whilst it is not part of our current instruction to undertake our own health check of the town centre – or indeed to critically review the applicants' submissions in that regard – we note the conclusions reached by both agents that the town centre is still healthy. Officers will be well placed to reach their own conclusion as to the robustness of the town centre. Even if officers were to reach a different conclusion to the applicants, however, we reiterate that there is no requirement for either applicant to undertake a detailed impact assessment of the type set out in paragraph 89 of the NPPF and so in our assessment there is no policy basis for resisting either application on retail impact grounds.

We are similarly not instructed to advise on the sequential approach, but we note that the applicants have concluded that any sequentially preferable sites are not capable of accommodating foodstores of the type and size proposed at Power Station Road. Again, officers will be well placed to reach a conclusion on whether the applicants have satisfied the sequential test, but our initial view is that the reasons put forward by the applicants as to why the various sites are not realistic alternatives appear to be robust.

#### Other Considerations

Turley comments in paragraph 1.2 of its Planning and Retail Statement that the proposed Aldi store will be a replacement for the existing Aldi store to the north of town centre. As officers will be aware, planning permission runs with the land rather than the applicant or the developer/operator, and so the only way the currently proposed Aldi store could be guaranteed to be a replacement for the existing Aldi store is for an appropriate legal mechanism to be put in place to require the closure of the existing store prior to the opening of the new store. We are not instructed to advise on the desirability of or need for such a mechanism and so we offer those observations in the interests of completeness only.

#### Summary

Having reviewed the Planning and Retail Statements that have been submitted in support of the proposed Lidl and Aldi stores, we consider the applicants' submissions to be proportionate insofar as retail impact is concerned and, for the reasons outlined above, we conclude that there is no requirement for either applicant to submit a more formal retail impact assessment.

We have also reviewed relevant parts of the adopted Local Plan and our professional judgment is that there are no retail need/capacity or retail impact policies that could be used to resist the proposed applications. Accordingly, even if the aggregate amount of convenience retail floorspace at the Lidl and Aldi foodstores was to exceed the figures referred to in Local Plan Policy CP11, there is no basis for requiring a Retail Need Assessment.

Further response received 9<sup>th</sup> December 2020

Thanks for forwarding the objection from Tesco's consultant, which I have reviewed. Whilst it is understandable that Tesco is trying to protect its commercial position, my view remains that there is nothing in the Local Plan or the NPPF that can be used as a strong basis to resist the Lidl and Aldi applications, insofar as retail planning policies are concerned.

The objection letter refers extensively to matters that are captured within sub-bullets a) and b) beneath para 89 of the NPPF. As we sought to explain in our advice, however, those factors are only relevant where proposals exceed the 2,500 sq.m (gross) impact threshold. That is not the case here.

Furthermore, the objection letter refers to the recommendation in a consultant's report from several years ago that a lower impact threshold (of 1,000 sq.m gross) should be put in place for Rugeley, but that has not happened. Accordingly, there is no locally set threshold that can be used to require a fuller impact assessment from either applicant.

Whilst I accept that the NPPF is a material consideration (i.e. advice), as opposed to policy, there is nothing in the Local Plan that provides a strong basis for resisting either retail proposal, in my view.

The objection letter refers to a sequentially preferable site (at Wellington Drive) but our instruction relates to advice on impact considerations and it is not for us to pass comment on whether the sequential test has been passed or not.

Response Received 17-12-2020

I have reviewed the objection to the Aldi application from Tesco's consultant, which is very similar to the objection to the Lidl application on behalf of Tesco from the same consultant. My comments in relation to the first objection therefore apply equally to this latest objection. That is, my view remains that there is nothing in the Local Plan or the NPPF that can be used as a strong basis to resist the Lidl and Aldi applications, insofar as retail planning policies are concerned.

The only real difference between Martin Robeson's two objections is the reference in the latest letter to the means of ensuring that the proposed Aldi store would be a replacement for the existing store to the north of the town centre. That point is addressed within paragraph 2.4.1 of our earlier advice, which is attached above for your ease of reference.

### **Response to Publicity**

The application was advertised by neighbour letter and site notice and newspaper advertisement. Four letters of representation have been received. One outlines an error with the site boundary which has been subsequently been resolved.

Two of the other two letters have been submitted on behalf of Morisons and state: -

“We are instructed by our client, Wm Morrison Supermarkets plc (Morrison's), to object to the above-mentioned planning application as the proposal conflicts with the development plan and national policy.

Morrison's trades from an in-centre store in Rugeley Town Centre. It effectively anchors the town centre, generating footfall for the centre's other shops and services. However, the Morrison's store and the wider town centre are vulnerable to trade diversion from the proposed relocation of the Aldi store to a new, out-of-centre site.

This letter considers the findings of the Planning and Retail Statement by the applicant and raises a number of concerns about the assumptions made, the methodology used and the lack of justification for the proposal. In our view, consideration has not been given to an extension of the existing site and therefore fails to pass the sequential test; the proposal would result in a loss of employment land which given the identified shortfall in the District is in conflict with planning policy; and, the impact of the proposal on Rugeley town centre could be significantly adverse given the loss of footfall in the town centre. The National Planning Policy Framework (NPPF) 2019 and the local development plan are clear that where an application is likely to have significant adverse impact on town centres, it should be refused.

We also raise issues with the transport implications of the proposal and attach an objection from Exigo Project Solutions. The letter concludes that based on the supporting information submitted with the planning application; the application is contrary to the local development plan and to Para 32 of the National Planning Policy Framework and should be refused.

### The Proposal

The application proposes a new Aldi store measuring 1,881 sq.m gross with 117 parking spaces on an industrial site outside of the town centre boundary. The site is also outside of the Rugeley Town Centre Area Action Plan (RTCAAP). The site is an allocated employment site and is currently in employment use.

The application also proposes to close the existing store on Market Street in the northern part of the town centre which although outside of the town centre boundary, it is located within the RTCAAP boundary – designated in 2014. It is not known what will become of the existing site if planning permission is granted.

### The Sequential Test

Para. 86 of the NPPF states that:



“Local planning authorities should apply a sequential test to planning 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 local planning authorities should demonstrate flexibility on issues such as format and scale, so that options to utilise suitable town centre or edge of centre sites are fully explored.”

It is unclear from the application submission whether any meaningful consideration has been given to the potential of an extension to the existing site. For example; to the east of the site is Rugeley Progressive Working Mens Club and if this site was to be available; it would be sequentially preferable to the proposed site and would show that the applicant had demonstrated flexibility. An extension to the east of the existing site would result in the new store having full visibility along the frontage of Market Street and would enable the quantum of floorspace and car parking spaces proposed on the out of centre site to be achieved. Furthermore by remaining in its existing location, the footfall between the Aldi store and the town centre would be retained or even enhanced by an improved and enlarged town centre retail offer.

Although both sites are located outside of the town centre boundary, we agree with the Planning Policy team’s pre-application comments that the existing site has a closer physical relationship to the town centre given its proximity to the main pedestrianised area, the bus station and nearby residential area.

Furthermore; the existing site is within the defined town centre boundary of the Rugeley Town Centre Area Action Plan which encourages investment and regeneration within and on parts of the periphery of the town centre. If planning permission was to be granted it would leave a vacant site on the main road into the town centre from the north and would be contrary to the RTCAAP aims of encouraging investment.

In our view, the sequential test has not been satisfied as there is a more centrally located site that could potentially accommodate the proposed development. As such we request that the applicants confirm whether an extension to the existing site has been considered.

Retail Impact

We agree with the Planning Policy team's comments that a policy justification is needed for the increase in floorspace. The applicants have failed to consider the impact the proposal will have on the town centre. Indeed, they have failed to even mention the town centre's main anchor – the Morrisons store.

In addition to this the applicants have failed to address the Lidl planning application which has been submitted. Although it wasn't a live planning permission at the time of submission, the application (ref: CH/20/306) has been validated and is pending consideration. The Lidl application proposes a 2,279sq.m gross store adjacent to the proposed site. Together the Aldi application and the Lidl application propose 3,460 sq.m gross floorspace in an out of centre location. Given its proximity to the existing and established Tesco Superstore, these new proposals have the potential to create a new alternative shopping destination – with hundreds of free parking spaces – to Rugeley Town Centre.

Para. 89 of the NPPF states that:

'When assessing applications for retail and leisure development outside town centres, which are not in accordance with an up-to-date plan, local planning authorities should require an impact assessment if the development is over a proportionate, locally set floorspace threshold (if there is no locally set threshold, the default threshold is 2,500 sq. m of gross floorspace). This should include assessment of:

- a) the impact of the proposal on existing, committed and planned public and private investment in a centre or centres in the catchment area of the proposal; and
- b) the impact of the proposal on town centre vitality and viability, including local consumer choice and trade in the town centre and the wider retail catchment (as applicable to the scale and nature of the scheme).'

In light of this, we urge the Council to consider the cumulative impact of both of these current proposals together on the town centre and its existing stores. Given the uncertain times and economic struggles retailers and town centres are currently experiencing (from out of town retail, online shopping and potential further closures as a result of the Covid 19 pandemic); decisions on further out of centre retail need to be robust and justified. No healthcheck assessment of the town centre has been provided which would be helpful to understand how the town centre is currently performing.

We therefore conclude that the justification put forward for the application is weak and that the applicants should seek to address the concerns

highlighted, particularly with regards to the planned private investment of the Lidl store and the impact on existing town centre stores.

### Employment Land

The application site is currently in employment use with an existing business on site. The application proposal will result in the loss of this employment site which is within an established industrial estate.

Furthermore, the latest Employment Land Availability Assessment (ELAA) (August 2018) concludes that there is a shortfall of employment land provision across the District. This proposal would further reduce the employment land provision which is contrary to planning policy.

### Summary and Conclusions

The proposal does not satisfy either the sequential or impact tests, so planning permission should be refused in accordance with Para. 90 of the NPPF. Furthermore, the application is in conflict with the RTCAAP and the ELAA.”

“This letter refers directly to the supporting transport information provided by Connect Consultants Ltd (CCL) on behalf of Aldi Stores Ltd. The transport information includes the following documents:

- Transport Assessment: June 2020;
- Technical Note 002 – Response to Stafford County Council Transport Comments (Transport Assessment): 18th September 2020;
- Technical Note 003 – Response to Stafford County Council Transport Comments (Travel Plan): 18th September 2020;
- Technical Note 004 – Stafford County Council Sensitivity Test: 18th September 2020.

The three Technical Notes (TN) provide a direct response to Staffordshire County Council (SCC) Highway Comments dated 20th August 2020. It is our opinion that the applicant has not fully addressed the comments of SCC and the application in its current state does not meet local and national policy. Specifically, Exigo outlines several fundamental issues within the supported transport information:

- Public Transport Accessibility;
- Assessment of Existing Aldi Food Store Site;
- Traffic Impact Assessment.

## Public Transport Accessibility

CCL acknowledge at Response 7 of TN 002, that the development site has poor public transport accessibility. As raised by SCC, the development site is served by a bus stop located outside the Amazon Warehouse, providing bus services to Lichfield. This stop is located further than 400m from the site and would take approximately 7 minutes on foot.

The services available from the nearest stops do not benefit customers and staff residing in Rugeley who wish to access the site by bus. The relocated store therefore negates the accessibility requirements of residents who have no access to a vehicle or may have restricted mobility preventing them walk or cycle to the store. In accordance with the National Planning Policy Framework (NPPF) para 108:

“In assessing sites that may be allocated for development in plans, or specific applications for development, it should be ensured that:

- a) appropriate opportunities to promote sustainable transport modes can be - or have been - taken up, given the type of development and its location;
- b) safe and suitable access to the site can be achieved for all users; and...”

Based on para. 108b, the application fails to provide “safe and suitable access to the site...for all users” and should be refused until suitable public transport accessibility is provided. Despite this, the applicant provides no mitigation or any measures to ensure full accessibility for customers and staff who rely on public transport as a means of access.

NaPTAN (National Public Transport Access Nodes, DfT) data outlines that two bus stops did exist near to the site access roundabout on Power Station Road, but the status of the stops were modified to ‘deleted’ in 2018. It is Exigo’s opinion that the applicant must investigate whether stops could be reinstated on Power Station Road; simply acknowledging that there is no public transport accessibility does not satisfy NPPF nor does it constitute a thorough and robust accessibility assessment.

Exigo agree with SCC observations on the sites accessibility by bus, with the proposed store only being accessible from stops outside of a convenient walking distance and from services to/from areas outside of Rugeley where Aldi Stores already exist. The existing Aldi Store was better placed and closer to the Rugeley Bus Station where all local services can be accessed. The relocation of the store to a less accessible site would therefore undermine the aspirations of local and national policy to reduce travel by single occupancy vehicles.

In summary, the applicant acknowledges that the site is not fully accessible by bus and provides no mitigation or measures to ensure customers and staff can access the site by bus or public transport. The application therefore falls contrary to local and national policy, notably in respect to para.108 of the NPPF.

### Assessment of Existing Store

The trip generation of the existing Aldi Store on Market Street has been estimated using survey sites contained within the TRICS database. This approach is likely to underestimate trip generation and will not accurately reflect local traffic conditions. This issue was raised by SCC, but hasn't been fully addressed in CCL TN 002. CCL refer to a previous Technical Note dated May 2020 at Appendix 6, where they have compared the TRICS outputs to proxy sites provided by Aldi Stores. However, no detailed analysis of the stores by location type, facilities, proximity to complimentary land uses, store size has been provided by CCL.

Therefore, SCC cannot be sure if the existing stores are fully representative and can be relied upon. Further information on the current assessment of the existing and proposed Aldi Store must be provided by CCL; the information provided in TN002 and TN004 does not indicate a robust approach has been undertaken.

Notwithstanding the above, given that the store is operational, it is not understood why the applicant has not provided traffic information for the existing store.

Although traffic on the wider network is likely to be reduced due to home working, there has been no restriction on trips to food retail during this period. An investigation into the traffic levels at the store would have provided a good indication of current demand, which could then be compared to historic sales figures (i.e. compare current trading figures with that of the previous year).

Nevertheless, in light of applicants use of ParkingEye data to predict traffic related to the relocated store, it is questioned why the same approach hasn't been applied to the existing store rather than a blanket uplift of 25%, as currently used in the assessment presented in CCL TN004. Until an updated assessment provided, the current supporting information cannot be relied upon.

### Traffic Impact Assessments

Traffic impact assessments have not be undertaken at the following junctions within the proposed study network, despite showing a net increase in traffic exceeding 30 no. 2-way trips (Table 5, Connect TN004):

- CCL Junction ref: (4) Power Station Road / Station Road – Mini Roundabout (+79 Weekday PM, +118 Saturday);
- CCL Junction ref: (5) Power Station Road / Station Road / Cotton Road / A51 Roundabout Junction – Roundabout Junction (+31 Saturday).
- CCL Junction ref: (6) Station Road / Market Street / Anson Street / Wolseley Road – Double mini roundabout (+45 Weekday PM, +61 Saturday).

It is acknowledged that given the current restrictions on movements due to COVID-19 pandemic, traffic surveys have not been possible for the most of 2020.

However, there should have been attempts to determine traffic levels based on existing figures, such as previous planning applications, notably, surveys undertaken in support of the Rugeley Power Station development. Referring to Appendix A of the Mode TA, weekday traffic flows can be estimated for the above junctions to provide the basis of junction impact assessments. The absence of any assessment means that the application falls contrary to para. 109 and cannot demonstrate that there would not be an “unacceptable impact on highway safety, or the residual cumulative impacts on the road network would [not] be severe” (NPPF, para. 109, p.32).

Based on an uplift in trips totalling 118 at some untested junctions, there must be an assessment to demonstrate this will not result in a severe impact. The Department for Transport in their publication “Guidance for Transport Assessments”, outlines that any development that results in a net increase of more the 30 2-way trips during the network peak must be assessed. Based on the lack of a quantitative assessment at these junctions, as outlined above, the applicant fails to provide a robust assessment of likely impacts of the proposed development.

In its current state the CCL TA and subsequent Technical Notes do not fully demonstrate that the application will not result in a detrimental and severe effect on the operation of junctions in the study network.

## Conclusion

This correspondence concurs with Staffordshire County Council highways comments on the application, which identified significant flaws in the assessment of the proposed food store and as a result it has been demonstrated that the application material significantly underestimates the effect of the proposed development on the highway network.

The results of the junction impact assessments should not be relied upon and must be undertaken with representative trip generation figures. Junctions that are predicted to be affected by an uplift of more than 30 trips must be subject to full junction impact assessments using suitable baseline traffic data and representative proposed and existing trip generation figures.

As such the application in its current state should be refused in line with the Local Development Plan and the NPPF as the application has not demonstrated that the cumulative impacts of this application would not lead to a severe impact on the public highway network.”

Further letter dated 18 November 2020 states: -

We are instructed by our client, Wm Morrison Supermarkets plc (Morrison's), to object to the above-mentioned planning application as the proposal conflicts with the development plan and national policy. This letter follows [sic] our original objection letter dated 14 October 2020 and the response from the Agents of the application dated 26 October 2020.

To confirm Peacock + Smith do not have a 'national remit to submit objections to any applications from competitors within their existing store catchments' as the letter claims. Rather, we receive instructions to object to carefully considered applications where there is a clear policy reason for refusal – as is this case with this planning application.

Morrison's trades from an in-centre store within Rugeley Town Centre. It effectively anchors the town centre, generating footfall for the centre's other shops and services. However, the Morrison's store and the wider town centre are vulnerable to trade diversion from the relocation of the Aldi store to a new, out-of-centre site.

#### The Sequential Test

We maintain that the existing Aldi store is an edge of centre store that is well connected to the town centre and that it is sequentially preferable to the proposed out of centre relocation site.

Helpfully the Agents confirm that 'yes' they have considered an extension to the existing store and that various proposals were drawn up over a period of two years. Given the amount of work that has been undertaken on this matter, it is surprising that this information wasn't included as part of the application. WE therefore request that this information is submitted to demonstrate that flexibility has been shown by the applicants and that Para.87 of the NPPF has been satisfied.

By way of reminder, 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 local planning authorities should demonstrate flexibility on issues such as format and scale, so that options to utilise suitable town centre or edge of centre sites are fully explored.”

By remaining [sic] in its existing location, the footfall between the Aldi store and the town centre would be retained or even enhanced by an improved and enlarged town centre retail offer.

Although both sites are located outside of the town centre boundary, we agree with the planning policy team’s pre-application comments that the existing site has a closer physical relationship to the town centre given its proximity to the main pedestrianed [sic] area, the bus station and nearby residential area. Furthermore; the existing site is within the defined town centre boundary of the Rugeley Town Centre Area Action Plan which encourages investment and regeneration within and on parts of the periphery of the town centre. If planning permission was to be granted it would leave a vacant site on the main road into the town centre from the north and would be contrary to the RTCAAP aims of encouraging investment.

In our view, the sequential test has still not been satisfied as there is a more centrally located site that could potentially accommodate the proposed development.

#### Retail Impact

We agree with the planning policy team’s comments that a policy justification is needed for the increase in floorspace. The applicants have failed to consider the impact the proposal will have on the town centre. Indeed, they have failed to even mention the town centre’s main anchor – the Morrisons store. In their letter, the agents fail to address this matter, again quoting the policy threshold and disregarding the current Lidl planning application. If the impact of both of these schemes isn’t considered, it could have a significantly adverse impact on the town centre.

Again, we would strongly urge the Council (and the Planning Policy team) to consider the cumulative impact of both of these current proposals on the town centre and its existing stores. Given the uncertain times and economic struggles retailers and town centres are currently experiencing (from out of town retail, online shopping and potential further closures as a result of the Covid 19 pandemic); decisions on further out of town retail need to be robust and justified.



We maintain that the justification put forward for the application is weak and that the applicants should seek to address the concerns highlighted, including the Council's own Planning Policy officers' comments.

#### Employment Land

The Agent's letter quotes our statement that the application is 'contrary to planning policy' – it is! The application site is currently in employment use with an existing business on site. The application proposal will result in the loss of this employment site which is within an established industrial estate. Furthermore, the latest Employment Land Availability Assessment (ELAA) (August 2018) concludes that there is a shortfall in employment land provision across the District. This proposal would further reduce the employment land provision which is contrary to planning policy.

#### Summary and Conclusions

The proposal does not satisfy either the sequential or impact tests, and accordingly planning permission should be refused in accordance with Para. 90 of the NPPF. Furthermore, the application is also in conflict with the RTCAAP and the ELAA.

The fourth letter of objection is from Tesco's and states: -

We act on behalf of Tesco Stores Limited. Tesco operate a superstore in Rugeley town centre which opened in September 2013.

#### Delivering the Regeneration of Rugeley Town Centre

Tesco's development was in response to the then emerging Local Plan and the Rugeley Town Centre Area Action Plan (both adopted in 2014) which set a challenging framework to address the town centre's need for regeneration, attract investment, and to resolve its vulnerability to larger competing centres. Such was the significance of the problems that a statutory Area Action Plan was required. These are produced in circumstances where "... significant regeneration or investment needs to be managed". It identified the specific problems and opportunities, proposed solutions, and promoted land use planning and related initiatives to help secure and deliver the necessary new investment in facilities and infrastructure. Working in parallel with the Council's retail consultant, the Local Plan identified a need for 49,000ft<sup>2</sup> gross of supermarket space to 'claw back' local spending that was being lost to the town. The retention of that spend at an appropriately located facility would be a key, long term solution – "part of the strategy for the plan period and beyond" - to improve the centre's fortunes.

Tesco, as part of its positive engagement with the plan-led system, recognised the opportunity to invest in the town centre and play a central role in turning its fortunes around.

It engaged with the Council and assembled its current site and worked hard to deliver its part of the necessary solutions to the centre's structure and performance. Tesco has invested many tens of millions of pounds in its store and continues to invest in its local workforce with earnings recirculating in the local economy. The financial payback on store development is long term - in excess of 20 years.

Tesco has also provided about £500k to the Council, through a series of s106 contributions to ensure that important local infrastructure and connections with the centre help optimise the benefits it has brought for other retailers in the rest of the centre. Tesco also committed to "support the delivery of (other) key town centre sites" (see paragraph 5.40 of the A.A.P) and hence this representation.

Tesco recognised that there were other, smaller sites in the centre that would also need to come forward in order for the Plan's objectives to be eventually met. The Plan recognises the catalytic, signals of confidence that come from proposals such as Tesco's and that, over time, there would be an expectation that it's and other initiatives would help facilitate the many remaining elements of desired and necessary change. However, many of these sites have still not come forward despite the Area Action Plan's firm encouragement. The Development Plan led regeneration of Rugeley Town Centre is thus far from complete.

Indeed, the relevant policy – SP11 requires that new retail development not only takes a sequential approach but "...gives priority to the regeneration of the town centre within its boundary". The policy explains that the development of the Area Action Plan's key sites should "...provide a balanced mix of town centre uses and help deliver (the identified shopping requirements) by 2028". Strategic Policy RTC1 and the specific retail policy RTC11 are thus continuing policies that seek to maintain existing and future investment in order to secure the best prospects for the town centre to 2028 and potentially beyond.

Proposals for development such as the Aldi supermarket, located outside of the defined town centre and beyond the Area Action Plan's boundary, will serve to significantly prejudice the continuing and future effectiveness of investment streams in the town centre.

The Council's retail consultants specifically identified the benefits that the Tesco development had in creating new shopping trips that linked with the town centre. The proposal is thus directly in conflict with the relevant development plan policies, ie, CP1 and CP11.

## Assessment of Retail Effects

It is not therefore surprising that the Council's retail consultants firmly recommended the establishment of a lower threshold above which retail assessment ought to always be undertaken. And it is instructive to recognise that in setting a locally appropriate threshold Government policy makes it clear that: "...it will be important to consider:

- The existing viability and vitality of town centres
- Cumulative effects of recent developments
- Whether local town centres are vulnerable
- Likely effects of development on any town centre strategy
- Impact on any other planned investment".

All of the above factors are fundamental considerations for new retail development that will have the potential to harm a town centre regeneration strategy. That the Council's consultant recommends setting a threshold that is only 1000m<sup>2</sup> gross rather than the default 2,500m<sup>2</sup> gross serves to confirm the real concern about the fragility of the town centre, the risks associated with failure of its regeneration strategy and the erosion of beneficial past and future investment.

The applicants could have provided, such an assessment of the extent of the relevant effects on regeneration, investment and trading impact in order to judge whether any exceptional circumstance might be able to be prayed in aid. Such an assessment would have identified the quantum of trade that will be withdrawn from the defined town centre, the scale of significant harm that arises and would then serve to quantify the damage to the plan-led, town centre strategy. That the applicants chose not to, is telling. Whilst the NPPF recognises the need to assess town centre trade diversion and impacts on existing investment, that is guidance that sits outside the statutory development plan that specifically applies here. And thus, notwithstanding the threshold in the NPPF, there is nothing to prevent an applicant from submitting (or a local planning authority from requiring) such an assessment.

The local planning authority is however, faced with two planning applications which between them have a gross floorspace of 4,160m<sup>2</sup>. That is nearly 70% above the default threshold. Paragraph 89 of the NPPF is couched as follows:

"When assessing applications for retail and leisure development, outside town centres which are not in accordance with an up-to-date plan, local planning authorities should require an impact assessment if the development... is over... the default threshold..."

There is therefore no doubt that the NPPF's approach is to require assessment when a decision maker finds itself assessing more than one application where the development exceeds the threshold. In interpreting the policy, it is also, if necessary, relevant to consider the "purpose" of the impact test. The NPPG helpfully explains that it "...is to consider the impact over time of certain out of centre and edge of centre proposals on town centre vitality/viability and investment" (paragraph 014 Ref ID: 2b-014-20190722). It is, therefore, not a mechanism designed necessarily only for a single application.

In any event it would be necessary for the local planning authority in determining two, out of centre retail applications to take account of the cumulative impacts that arise. Neither Lidl nor Aldi have sought to address those in their superficial and qualitative reviews of retail impact.

Officers have chosen not to commission a retail and regeneration consultant to review the proposal including any cumulative impacts that might arise. This is, in our opinion, very unusual and raises issues concerning lack of adequate scrutiny and the availability of independent advice to the authority. There must therefore be considerable merit in the Council now commissioning such work.

Finally, whilst Aldi assert that the impact would arise only from the net change in floorspace between the size of their proposal and their existing Market Street premises, such an approach only has validity where the future of the existing premises can be controlled, for example through a s.106 obligation, so as to remove its lawful retail use or at least limit this to exclude the sale of food and convenience goods. No such proposition appears to have been offered.

#### The Suitability of a Key Town Centre Regeneration Site (Sequential Test)

Aldi accept that the Area Action Plan site RTC 7: Land at Wellington Drive "... would be a suitable site... to meet the requirements of an Aldi store", on the basis that it exceeds the company's stated minimum site requirement. It advances two "suitability" issues. Firstly, that the site does not have a "prominent location" and "development on the land would be hidden behind existing development". Whilst Aldi's "minimum requirements" include being "visible from the main road network" that is something that becomes necessary when locating outside of the town centre where there is little, if any, existing footfall. The objective of the sequential test is to accommodate development, where possible, within town centres where it can "support the role that town centres play at the heart of local communities" (paragraph 85 of the NPPF). It is entirely inappropriate to have such a parameter that essentially causes the rejection of most town centres opportunities. The site is

therefore suitable in terms of a proper interpretation of the sequential test policy.

Secondly, Aldi assert that a number of buildings currently in occupation would need to be acquired. However, there is no evidence produced to demonstrate that the site is not 'available'. Indeed, the "availability" of this site ought not be in question. As the redevelopment of the site would be wholly "suitable" to meet the development plan's objectives, there must be an expectation that a local planning authority would act to secure its "availability". Indeed, the Area Action Plan specifically recognises the "possible need for CPO powers to facilitate development" which when stated within a statutory development plan provides a clear message of likely availability.

This site is one of the three that are seen as "fundamental to delivering the (town centre) strategy" and thus the suitability of a single use development that reinforces the attractiveness of the town centre's retail offer and delivers investment and employment would seem unlikely to be resisted in principle. This would be consistent with the overarching Regeneration Strategy policy that "...seeks to improve vitality and viability by encouraging greater representation of high street 'names'..." and that this will "...be enabled through prioritising the development of key sites identified in the Plan, which are of sufficient size to allow the development of substantial units which can meet the needs of modern retailers". It is in this context that Wellington Drive is identified as one of the three key sites that will "...encourage locally generated expenditure to also be spent in the town".

However, it is not only a question of meeting the retail, sequential test. There is the important prejudice to the statutory development plan's policies CP1 and CP11 that exist to facilitate development on that site.

## Conclusions

Having regard to all of the above our client, Tesco Stores Limited, objects on the following grounds:

1. There has been no adequate assessment of retail impact on the vitality and viability of the town centre, whether in terms of the application proposal or its cumulative effects with the Lidl proposal.
2. The applicant's suggestion that their relocation has the effect of reducing the likely level of impact is erroneous. Without a s.106 obligation removing the lawful retail use of Aldi's existing Market Street premises or limiting it to exclude the sale of food and convenience goods, such a submission cannot be entertained.

Even then, the impact of the new store will be significant because of its much larger format and extensive car parking.

3. The proposed development is prejudicial to the adopted town centre strategy and will diminish the effects of current, long term, continuing investment in its future health. It is therefore contrary to policies CP1, CP11 of the Local Plan and RTC1 and RTC2 of the Area Action Plan.
4. The proposed development can be suitably accommodated on the RTC7: Land at Wellington Drive site (with due regard to the requirement to demonstrate flexibility) it separately:
  - i) causes prejudice the health of the town centre because of its failure to be a future contributor to town centre investment and,
  - ii) fails the sequential test,

### **Relevant Planning History**

CH/17/174:	Change of use of land for retail sales of timber utbuildings and storage of timber Full - Approval with Conditions 11/02/2017.
CH/09/0041	Proposed two storey office development. Full - Approval with Conditions 04/09/2009.
CH/08/0481	Change of use from offices (B1) to hotel (C1). Full - Approval with Conditions 11/27/2008
CH/07/0587	Waste Transfer Station. County Matter - No objection. 10/09/2007
CH/07/0693	Siting of a portacabin office building and erection of a fence with gates County Matter - No objection. 10/23/2007.
CH/06/0217	Proposed two storey office development. Full - Approval with Conditions. 05/31/2006.
CH/05/0409:	Use for the importation, storage, processing and sale of ash. Approved. 09/02/2005.
CH/04/0893:	Waste
CH/03/0740:	Waste Transfer Station CR3 - Approved Subject to Conditions 11/07/2003.
CH/03/0837:	Change of use. Full - Approval with Conditions. 06/02/2004

CH/01/0328: Installation of an animals remains rendering plant. County Reg 3 - No Objections. 09/26/2001.

Older applications relate to use of the site as an abattoir or for waste transfer.

## **1.0 Site and Surroundings**

- 1.1 The application site comprises some 0.83ha of land, located off Power Station Road, Rugeley used as a timber yard. The site comprises areas of hard standing and arrange of buildings of varying styles and most of which are in a poor state of repair. The frontage is particularly unattractive and detracts from the character of the area.
- 1.2 The site is bound by Power Station Road to the west, across which is the Tesco Store, to the south by Elwell Transport and a railway line which borders the southeast of the site. To the north the site is bound by other land within employment use.
- 1.3 The site is immediately adjacent to but outside of the Rugeley Town Centre Boundary and Rugeley Town Centre Area Action Plan Boundary as shown on the Local Plan Proposals Map.
- 1.4 The site lies within a Mineral SafeGuarding Area, a Local Plan Highway Scheme, Coal Authority Low Risk Boundary, Env Agency FloodZone2 Boundary, Env Agency Historic Landfill Boundary, Site Investigation Boundary and a Landmark Contaminated Land Boundary.

## **2.0 Proposal**

- 2.1 The Applicant is seeking consent for Demolition of Existing Buildings and the erection of a Class A1 Food Retail Store, with associated car parking and landscaping.
- 2.2 The applicant's Planning Statement sets out that
 

"This planning application proposes the development of a Use Class A1 foodstore, comprising a Gross External Area of 1,881sqm, with a retail area of 1,315sqm"
- 2.3 The Planning Statements goes on to explain that
  - the proposed foodstore building would occupy the north eastern area of the Site;
  - The shopfront façade has been designed to face towards the western area of the Site, where the main car parking area is located.
  - The proposed ancillary service yard and delivery area is located to the east and north of the Site

- This layout is intended to ensure that the most active parts of the operational store (around the store entrance) and the elevations that present the most visual interest architecturally are the most visible from the road frontage and access.
- Anthracite grey composite panels form the contemporary elevations with fenestration. The roof canopy projects from the front façade, whilst the roof line has a horizontal emphasis.
- Access to the Site is proposed to be provided via a new link created from an existing roundabout on Power Station Road. A new roadway will be created from the existing roundabout. Customer access to the Site will be provided from this link road.
- A secondary access is proposed to the east of the customer access, which will be utilised for delivery vehicles and connects directly to the delivery area for the foodstore. This will ensure that deliveries to the Site are kept separate from customers accessing the proposed development.
- The proposed development will provide for a total of 117 car parking spaces in total, which are located to the south and west of the proposed store. The 117 car parking spaces include six disabled spaces, six parent and child spaces and two electric vehicle charging spaces. Pedestrian areas near the store entrance and between the entrance and accessible car parking spaces (disabled and parent and child spaces) are laid at gradients not exceeding 1:60, with dropped/ flush kerbs between road areas and paths.
- In addition, four cycle hoops, which provide capacity for up to eight bikes is proposed to be located near to the shopfront. The cycle hoops are to be located under a covered and illuminated shelter, which due to its location adjacent to the shopfront will benefit from advantageous natural surveillance.
- In areas surrounding the built development, extensive landscaping is proposed within the Site. This is intended to comprise a mix of both hard and soft landscaping. In this regard, surface treatments are differentiated between areas, according to their function.

2.4 In response to issues raised by Morrisons and Tesco's the Turley on behalf of the applicant has provided additional information in respect to the Sequential Test and Retail Impact Assessment which are set out in Appendices 1 and 2 of this report.

### 3.0 Planning Policy



3.1 Section 38 of the Planning and Compulsory Purchase Act 2004 requires planning applications to be determined in accordance with the provisions of the Development Plan, unless material considerations indicate otherwise.

3.2 The Development Plan currently comprises the Cannock Chase Local Plan (2014) and the Minerals Local Plan for Staffordshire (2015-2030).

3.3 Relevant Policies within the Local Plan Include: -

CP1: -	Strategy
CP3: -	Chase Shaping-Design
CP10: -	Sustainable Transport
CP11:	Centres Hierarchy
CP12: -	Biodiversity
CP16: -	Sustainable Resource Use

3.4 The relevant policies within the Minerals Plan are: -

#### 3.2 Mineral Safeguarding

3.5 National Planning Policy Framework

3.6 The NPPF (2019) sets out the Government's position on the role of the planning system in both plan-making and decision-taking. It states that the purpose of the planning system is to contribute to the achievement of sustainable development, in economic, social and environmental terms, and it states that there should be 'presumption in favour of sustainable development' and sets out what this means for decision taking.

3.7 The NPPF (2019) confirms the plan-led approach to the planning system and that decisions must be made in accordance with the Development Plan unless material considerations indicate otherwise.

3.8 Relevant paragraphs within the NPPF include paragraphs: -

8:	Three dimensions of Sustainable Development
11-14:	The Presumption in favour of Sustainable Development
47-50:	Determining Applications
86, 87, 89, 90	Town Centre Uses
109, 110, 111:	Highways
124, 127, 128, 130:	Achieving Well-Designed Places
155, 165:	Drainage
178, 179:	Ground Conditions
181:	Air quality
212, 213	Implementation

3.9 Other relevant documents include: -

Design Supplementary Planning Document, April 2016.

Cannock Chase Local Development Framework Parking Standards,  
Travel Plans and Developer Contributions for Sustainable Transport.

#### 4.0 Determining Issues

4.1 The determining issues for the proposed development include:-

- i) Principle of development
- ii) Design and impact on the character and form of the area
- iii) Impact on residential amenity.
- iv) Impact on highway safety.
- v) Impact on nature conservation
- vi) Drainage and flood risk
- vii) Mineral safeguarding
- viii) Crime and the fear of crime
- ix) Waste and recycling facilities
- x) Ground conditions and contamination

#### 4.2 Principle of the Development

4.2.1 Both the NPPF and the Cannock Chase Local Plan (Part 1) contain a presumption in favour of sustainable development, the latest version of which is contained within the NPPF (2019) and states: -

“For decision-taking this means:

- c) approving development proposals that accord with an up-to-date development plan without delay; or
- d) where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless:
  - i. the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or
  - ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.

4.2.2 The first stage in the determination of the application is to determine whether it is in accordance with the development plan. In this respect it is noted that as the proposal is for a retail unit it constitutes a town centre use that is

located outside of the Rugeley Town Centre boundary as shown on the Policies Map.

#### Retail Sequential Test

4.2.3 Policy CP11 of the Cannock Chase Local Plan 2014 sets out the local retail policy on Rugeley Town Centre stating that “Main town centre uses including retail...should take a sequential approach that gives priority to the regeneration of the town centre within this boundary...”.

4.2.4 This approach is reflected with in the NPPF which at paragraph 86 states

“Local planning authorities should apply a sequential test to planning 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”; and which goes on to state at paragraph 87

“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 local planning authorities should 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.”

4.2.5 In response to the above policy requirement the applicant has submitted information to enable the local planning authority to undertake a retail sequential test.

4.2.6 The information submitted is based on the principle that the Primary Catchment Area (PCA) for an ALDI development is based on a five minute off-peak drive time from the application site, which is typical for an ALDI PCA within an urban location and that on this basis, the only centre within the authority of Cannock Chase is Rugeley Town Centre.

4.2.7 The applicant has stated that within the Local Plan Area Action Plan there are five opportunity sites identified for redevelopment. These consist of the following:

- Alefgar Centre/ Former Squash Courts, Taylors Lane (ref. RTC4);
- Market Street Garages (ref. RTC5);
- Rugeley Market Hall/ Bus Station and Surrounding Area (ref. RTC6);

- Land at Wellington Drive (ref. RTC7); and
- Leathermill Lane/ Trent and Mersey Canal Corridor (ref. RTC8).

4.2.8 The applicant, in addition, has stated that by utilising available market data, in the form of CoStar Suite and Experian Goad surveys, they have sought to identify further available sites within Rugeley Town Centre. However, based on an assessment being undertaken in May 2020, no further available or vacant sites, other than those identified within the AAP have been identified.

4.2.9 Officers note that the applicant's submission includes an appraisal of current policy and case law in respect to application of the sequential test with reference to the Planning Practice Guidance, the decision handed down by the Supreme Court in *Tesco Stores Ltd v Dundee City Council*: SC 21 Mar 2012, *Lidl (UKGmbH) v Scottish Ministers* [2006], *Aldergate Properties vs Mansfield DC* [2016] and a Secretary of State decision (*LXB RP (Rushden) Limited*, 11 June 2014. Ref. APP/G2815/V/12/2190175). Of particular note is that the judgement in Dundee held that the term 'suitable' means 'suitable for the development proposed by the applicant', subject to the qualification that flexibility and realism must be shown by developers.

4.2.10 Having regard to the above it is noted that the applicant, ALDI, as a discount foodstore operator has stated that any potential sites would need to have the following minimum requirements:

- Size - a rectangular site of at least 0.6 ha is (subject to site conditions) just large enough, in principle, to accommodate a store large enough to sell the standard range of goods that each LAD store sells, together with a level of customer car parking and space for the HGV delivery vehicles to safely manoeuvre. However, where possible, ALDI seek to build stores of around 1,900 sq m GIA served by at least 100 car parking spaces, normally requiring a site of around 0.8 ha;
- A single storey, open and unrestricted sales floor area which benefits from a level/ flat topography, or which has the ability to be developed as such;
- Access - direct and/or easy vehicular access to the main road network is required; and
- Visibility - the store needs to be directly visible from the main road network.

4.2.11 In addition it is noted that Paragraph: 010 (Reference ID: 2b-010-20190722; Revision date: 22 07 2019 sets out the matters that need to be considered when using the sequential approach as part of plan-making:

- has the need for main town centre uses been assessed? The assessment should consider the current situation, recent up-take of land for main town centre uses, the supply of and demand for land for main town centre uses, forecast of future need and the type of land needed for main town centre uses;
- can the identified need for main town centre uses be accommodated on town centre sites? When identifying sites, the suitability, accessibility, availability and viability of the site should be considered, with particular regard to the nature of the need that is to be addressed;
- If the additional main town centre uses required cannot be accommodated on town centre sites, what are the next sequentially preferable sites that they can be accommodated on?

4.2.12 Turning to the specific sites mentioned in paragraph 4.2.7 above the applicant has made the following comments.

Alefgar Centre/ Former Squash Courts, Taylors Lane (ref. RTC4)

The site of Alefgar Centre/ Former Squash Courts, Taylors Lane (ref. Site RTC4) is a brownfield site located to the north of the Town Centre boundary.

Although Site RTC4 is recognised as an opportunity site within the AAP, it is identified for residential development. Furthermore, Site RTC4 is located outside of the Town Centre boundary. On this basis Site RTC4 has been discounted as being sequentially preferable.

Market Street Garages (ref. RTC5)

Market Street Garages (ref. Site RTC5) is located within the northern extent of the Town Centre. Site RTC5 currently comprises an existing Kwik Fit garage and associated car parking area.

Site RTC5 has an area of c.0.2ha, the site is therefore significantly too small to accommodate the proposed ALDI development. Furthermore, Site RTC5 is located directly adjacent to existing residential dwellings. The development of an ALDI store in this location is therefore likely to conflict with the existing surrounding uses.

Site RTC5 is therefore unsuitable for the development proposed within this application and has been discounted as a sequentially preferable site.

Rugeley Market Hall/ Bus Station and Surrounding Area (ref. RTC6)

Rugeley Market Hall/ Bus Station (ref. Site RTC6) is located parallel to Elmore Lane, within the southern area of Rugeley Town Centre.

6.35 Site RTC6 provides an area of c.1ha. Within that area we note the requirements for any intended regeneration scheme as set out in Policy RTC6. These include the retention of key existing uses on the site- the indoor market (to be replaced by a new market); replacement car parking for that which would be lost from the existing market hall roof top; replacement of the taxi rank facility and car parking for market traders; replacement and 'revised' bus station facility including bus parking bays. In addition we note the requirement for an anchor store to meet the needs of modern day operators. Furthermore, we note the aspiration for residential development on upper floors "where feasible".

In the context of those policy requirements, although a site of 1 ha would be more than adequate to accommodate a stand- alone ALDI store plus appropriate levels of surface level customer car parking, it is certainly not large enough to accommodate an ALDI sized store footprint plus all of the other uses to be retained and provided within the allocation site. Moreover, the inclusion within a mixed use foodstore led scheme of many of the individual required elements of the allocation proposal would create unsurmountable issues in terms of the operational efficiency of the foodstore- eg the bus station (which would have to operate at ground floor level, creating a requirement for the foodstore to be at first floor level with no surface level car parking provision); residential development on upper floors (with its own requirements for parking provision and the likelihood of restrictions on trading hours and deliveries due to potential impact on residential amenity); the space requirements for an indoor market (and associated parking) which it is assumed would have to be a ground floor operation to be viable. None of those development options would be viable for any supermarket operator, particularly in the local market context.

Relocating various existing uses to make way for a foodstore development is not an acceptable option in principle within the scope of the allocation and would be extremely difficult to achieve given the need for such uses to be centrally located (especially the bus station and indoor market).

Although Site RTC6 has a frontage along Elmore Lane, this positioning is not considered to be prominent and would not meet the requirements of ALDI. Furthermore, there are a number of existing residential uses located on Elmore Lane, these could cause a potential conflict with the uses proposed by ALDI in their operations of the site.

Site RTC6 is therefore considered to be unsuitable and unviable for the proposed development of an ALDI store, due to the insurmountable constraints associated with the need to accommodate existing uses within the

allocation site. Site RTC6 has therefore been discounted as a sequentially preferable site.

Land at Wellington Drive (ref. RTC7)

The site of land at Wellington Drive (ref. Site RTC7) is located towards the southern extent of the Town Centre. The northern, southern and western boundaries of Site RTC7 are formed from the rear extents of existing Main Town Centre Uses.

The extent of Site RTC7 as indicated within the AAP measures an area of c.0.7ha. This would be a suitable site area to meet the requirements of an ALDI store. However, to achieve this total development area it would require the demolition of a number of buildings within the southern area of the site, all of which are currently in occupation by existing businesses. Even if it was possible to assemble ownership of all the land required, Site RTC7 does not have a prominent location and any development on the land would be hidden behind existing development.

The entirety of Site RTC7 is therefore not considered to be available, it is also not suitable for the development of an ALDI store. Site RTC7 has therefore been discounted as a sequentially preferable site.

Leathermill Lane/ Trent and Mersey Canal Corridor (ref. RTC8)

The site of Leathermill Lane/ Trent and Mersey Canal (ref. Site RTC8) is located directly parallel to the west of the Site, on the opposite side of Power Station Road. Site RTC8 is no longer available, having been developed out for a Tesco supermarket. The site therefore been discounted as a sequentially preferable site.

- 4.2.13 Officers having had regard to the above agree with the applicant's assessment of potential suitable sites and also conclude that at the current time there are no suitable sequentially preferable sites available within Rugeley Town Centre, which could accommodate the development of the ALDI store proposed within this application. As such it is also concluded that the sequential test has been passed.
- 4.2.14 Officers note the comments made on behalf of Morrisons that the applicant has not considered whether it could expand using the land occupied by the adjacent working mens' club and that the applicant has not considered the suitability of its Aldi existing site.
- 4.2.15 In response Aldi has stated that the "short answer as to whether consideration has been given to the existing ALDI store site at Market St to accommodate the new store requirements for the operator is "yes". The applicant goes on to expand on this this stating: -

“Between 2016 and 2018, various proposals were drawn up to try to incorporate an extension to the existing store by STOAS Architects. It quickly became apparent that to bring the store quality and scale up to the standard that ALDI was seeking to achieve at that time would require the acquisition of land from the adjoining occupiers- the Club, particularly since there were intractable constraints to expansion further to the east due to the adjacent Listed Church and associated listed walls and to the north in the form of protected playing fields. Active discussions then took place with the Club over a period of over two years and numerous potential schemes were drawn up that sought to provide a circa 1,000 sq m net sales floorspace store with additional circa 20 spaces customer car parking, plus a new clubhouse for the Club (including parking for its members), plus a new bowling green (the Club incorporates an active bowling club).

Pre-app consultation was carried out with the LPA who confirmed that the bowling green would need to be replaced within the scheme to a standard at least as good as the existing. The constraints associated with the potential for impact on the adjoining listed historic assets and associated protected trees (and their root systems), were highlighted.

In the event, it proved impossible to achieve a scheme that met the requirements of both ALDI and the Club without potentially harming important historic assets and the discussions were abandoned. In that respect it is important to note that the current floorspace and parking requirements for a new ALDI store are substantially greater than they were in 2016-18, for reasons relating to an increased standard product range, a demand for more spacious shopping aisles and greater store popularity, leading to more demand for car parking. It is therefore even more unlikely now that ALDI’s requirements could be met at the existing site plus the Club site. Therefore we conclude that the existing ALDI store site is unsuitable as an alternative option to accommodate the proposal.”

4.2.16 Officers therefore note it is clear that the Rugeley Progressive Working Mens Club is an active club that is currently in use and is not being marketed for sale and can confirm that discussions for alternative solutions for accommodating Aldi on their existing site (with or without the club) have not resulted in the identification of an acceptable scheme.

4.2.17 In addition in respect to the assertion by Tesco's that the applicant has not properly assessed the suitability of the Wellington Drive site as a sequentially preferable site Members attention is drawn to the comments made by Turley in their letter dated 11 December 2020 which is included at Appendix 2 of this report. It is considered that the comments provided by Turley set out a



compelling and cogent case as to why having regard to policy, guidance and case law the Wellington Street site is not acceptable as a sequentially suitable alternative site. This case is accepted by officers.

4.2.18 As such officers conclude that the sequential test has been passed.

#### Impact on the Town Centre

4.2.15 Policy CP11 of the Local Plan sets out that the Local Plan will help to deliver 4900m<sup>2</sup> (gross) of convenience retail floor space by 2028, with Tesco already accounting for 4000m<sup>2</sup> (net) of this allowance. As the proposal is larger than the remaining 900m<sup>2</sup> allowance a Retail Needs Assessment would normally be required to outline why the Local Plan threshold should be exceeded in an out of centre location, and how the proposal would limit any impact on the Town Centre. It is also noted that the Cannock Chase Retail Study (Para 7.16, 2015) highlights that there is no need to provide any additional convenience floor space requirement up to 2030, given the choice and range of facilities already available.

4.2.16 Notwithstanding the above it is noted that paragraph 89 of the NPPF states

“When assessing applications for retail and leisure development outside town centres, which are not in accordance with an up-to-date plan, local planning authorities should require an impact assessment if the development is over a proportionate, locally set floorspace threshold (if there is no locally set threshold, the default threshold is 2,500m<sup>2</sup> of gross floorspace).”

4.2.17 As the scale of the proposed development falls below the threshold of the impact assessment of 2,500m<sup>2</sup> in the NPPF and the Cannock Chase Local Plan (2014) does not contain a locally defined threshold there is no requirement for an impact assessment to be submitted. Notwithstanding this it is noted that the Planning Statement sets out the policy rational for the change of store location.

4.2.18 Officers note the comments made by Morrisons and Tescos in respect to the fact that the applicant has failed to mention the town centre’s main anchor – the Morrisons store, the Lidl application and that taken cumulatively the Aldi and Lidl proposal combined propose 3,460 sq.m gross floorspace in an out of centre location. However, it is considered that paragraph 89 of the NPPF refers to individual applications and their individual floor areas. It does not require the cumulative floor areas of two or more schemes to be taken cumulatively when determining whether the threshold has been exceeded. It is officer’s opinion that to do so would be a misapplication of policy. Had the paragraph intended that cumulative floor areas of two or more schemes

should be taken into account in looking at the threshold it would have stated so. This stance is supported by the Council's retail consultant Stantec.

#### Loss of Employment Land

4.2.120 The site is on and that is on a long established industrial estate off Power Station Road. Policy CP8 "Employment Land" states

"Proposals which involve the redevelopment or conversion of employment uses to alternative uses will be considered on their merits, based upon other Core Strategy policies and having primary regard to the following criteria:

- The ongoing availability of land supply at other locations and ability of existing businesses on site to relocate to suitable alternative sites within the District.
- Benefits arising from the proposal including improvements to local residential and environmental amenity, supporting existing businesses on site (See Policy CP9), or enabling funding for the relocation of an existing business within the District;
- The quality of the site / unit and the extent to which the site/ unit is no longer viable for employment use taking into account any information on vacancy rates and the potential for modernisation. This will be based upon the sites/ units market attractiveness (taking into account its portfolio offer to locally based investors) and the viability of any potential employment redevelopment scheme."

4.2.21 In respect to the issues of ongoing availability of land supply at other locations and ability of existing businesses on site to relocate to suitable alternative sites within the District it is noted that the site is presently occupied by an existing business called The Timber Yard, which is a small scale timber merchants. This business would have to be relocated to make way for the proposed development and therefore it is important to determine whether there are any other sites available to which the existing business could relocate.

4.2.22 The latest Employment Land Availability Assessment [the 'ELLA'] was published by the Council in August 2018 and confirms that within the authority area there is a supply of 85.95ha of available employment land, which compares to a requirement of 88ha confirmed within Policy CP8 of the Local Plan (Part 1), equating to a shortfall of 2.05ha. In addition the applicant's Supporting Statement highlights that the redevelopment of the former Rugeley Power Station Site would add a further a further 5ha of employment land over time, although this will not be available for some time.

4.2.23 In respect to the benefits arising from the proposal it is noted that the site presents a poor visual image which substantially detracts from the character of an important commercial area fronting onto Power Station Road within Rugeley. Power Station Road will become increasingly important in the medium to longer term as the redevelopment of the former Rugeley Power Station progresses as it will become a major pedestrian and vehicular link between the town centre and the substantial new residential communities. At present the site in its current state presents a poor image and environment to pedestrians. The proposal however would enhance the environment to pedestrians and by increasing footfall, lighting and overlooking would create a more pleasant and safe environment to the enhanced pedestrian routes that the Rugeley Power Station seeks to provide. As such the environmental benefits of redeveloping a somewhat dilapidated site weigh significantly in favour of the proposal.

4.2.24 The Policy Officer has considered the case put forward by the applicant and as concluded that the applicant has provided justification to support the loss of employment land within the existing established employment area, noting the Rugeley Power Station application, which will provide additional employment land that exceeds both the existing Local Plan shortfall and that of the application site. However, ultimately it is the improvement of the immediate environment and the way it would work in respect to improved pedestrian access to and from the town centre and the Rugeley Power Station site which outweigh all other factors and lend overwhelming support in favour of the proposal.

4.2.25 Having regard to all of the above it is concluded that the proposal is acceptable in principle. However, although a proposal may be considered to be acceptable in principle it is still required to meet the provisions within the development plan in respect to matters of detail. The next part of this report will go to consider the proposal in this respect.

#### 4.3 Design and the Impact on the Character and Form of the Area

4.3.1 In respect to issues in relation to design Policy CP3 of the Local Plan requires that, amongst other things, developments should be: -

- (i) well-related to existing buildings and their surroundings in terms of layout, density, access, scale appearance, landscaping and materials; and
- (ii) successfully integrate with existing trees; hedges and landscape features of amenity value and employ measures to enhance biodiversity and green the built environment with new planting designed to reinforce local distinctiveness.

4.3.2 Relevant policies within the NPPF in respect to design and achieving well-designed places include paragraphs 124, 127, 128 and 130. Paragraph 124 makes it clear that the creation of high quality buildings and places is fundamental to what the planning and development process should achieve.

4.3.3 Paragraph 127 of the NPPF, in so much as it relates to impacts on the character of an area goes on to state: -

Planning policies and decisions should ensure that developments:

- a) will function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development;
- b) are visually attractive as a result of good architecture, layout and appropriate and effective landscaping;
- c) are sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change (such as increased densities);
- d) establish or maintain a strong sense of place, using the arrangement of streets, spaces, building types and materials to create attractive, welcoming and distinctive places to live, work and visit;

4.3.4 Finally Paragraph 130 states planning permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions, taking into account any local design standards or style guides in plans or supplementary planning documents. Conversely, where the design of a development accords with clear expectations in plan policies, design should not be used by the decision taker as a valid reason to object to development.

4.3.5 Having taken all of the above into account it is considered that the main issues in respect to design and the impact on the character and form of the area are: -

- (i) Overall layout
- (ii) Materials, scale and external appearance of the unit
- (iii) Landscaping

4.3.6 The proposed foodstore building would occupy the north eastern area of the Site and has been designed such that the shop facade would face towards the western area of the Site, where the main car parking area is located.

Furthermore, the proposed ancillary service yard and delivery area is proposed to be located to the east and north of the Site which is not readily seen from Power Station Road. This would ensure that the proposed building presents an active frontage towards Power Station Road.

4.3.7 The building would be modern in design and the external materials would be comprised of metallic silver and anthracite cladding which in combination would provide a very contemporary appearance. As such the building by virtue of its size, scale and materials would be well-related to its immediate commercial/ industrial context.

4.3.8 In respect to the landscaping of the site the comments of the Landscape Officer are noted in particular: -

The colour of the palisade fencing (green rather than black).

Retention of and works to two large black poplars on the frontage and works within the Root Protection Area.

Proposed tree planting.

The use of a timber trip rail.

4.3.9 However, none of the above would make the proposed landscaping scheme unacceptable in the public interest and, in respect to works to, or within, the RPA of the Black Poplars this could be secured through the imposition of an adequately worded conditions.

4.3.10 As such, subject to the attached conditions, it is considered that the proposal would be well-related to existing buildings and their surroundings and successfully integrate with existing trees and therefore would be in accordance with Policy CP3 of the Cannock Chase Local Plan and the Design section of the NPPF.

#### 4.4. Impact on Residential Amenity

4.4.1 Policy CP3 of the Local Plan states that the following key requirements of high quality design will need to be addressed in development proposals and goes on to include [amongst other things] the protection of the "amenity enjoyed by existing properties".

4.4.2 Paragraph 127(f) of the NPPF states that planning policies and decisions should ensure that developments [amongst other things] create places with a high standard of amenity for existing and future users.

4.4.5 In this respect it is noted that the site is located on the edge of a commercial/ industrial area centred on Power Station Road and is currently not in proximity to residential properties. However, it should also be noted that the former

Rugeley Power Station site does benefit from a resolution to grant for a predominantly residential development, which will introduce residential areas across the A51 and hence the potential for conflicts in respect to noise.

- 4.4.6 In order to inform the application the applicant has submitted a “Plant and Delivery Noise Impact Assessment”, dated 30th April 2020. The Environmental Health Officer has stated

“the report makes good consideration of using modelled/ previously recorded data for those noise-making activities which have been affected (reduced) by Covid-19 pandemic. Proposed plant noise is assumed to have a 24-hour duty cycle. Delivery times (06:30 to 23:00 Mon-Sat, 08:00 to 17:00 Sun) are combined with reference noise data to determine impact.”

- 4.4.7 The report identifies that the nearest sensitive noise receptor is 275m to the southwest, on the Love Lane caravan park, and that the overall predicted delivery noise levels at this receptor are no more than LAeq 13dB (with a LAfmax of 34B). The Environmental Health Officer has stated “A BS4142 assessment gives a rating level of -21dB (daytime) and -14dB (morning) (even after an acoustic feature correction of 6dB)” which is “strongly indicative of a negligible impact” and he is “in full agreement with the conclusions of the report”.
- 4.4.8 As such it is concluded that the proposal would not have a significant impact on the standard of residential amenity in the area and that the proposal would be in accordance with Policy CP3 of the Cannock Chase Local Plan and Paragraph 127(f) of the NPPF.

#### 4.5 Impact on Highway Safety

- 4.5.1 Paragraph 109 of the NPPF states that development should only be prevented or refused on highway grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe adding at paragraph 110: -

Within this context, applications for development should:

- a) give priority first to pedestrian and cycle movements, both within the scheme and with neighbouring areas; and second – so far as possible to facilitating access to high quality public transport, with layouts that maximise the catchment area for bus or other public transport services, and appropriate facilities that encourage public transport use;
- b) address the needs of people with disabilities and reduced mobility in relation to all modes of transport;

- c) create places that are safe, secure and attractive – which minimise the scope for conflicts between pedestrians, cyclists and vehicles, avoid unnecessary street clutter, and respond to local character and design standards;
- d) allow for the efficient delivery of goods, and access by service and emergency vehicles; and
- e) be designed to enable charging of plug-in and other ultra-low emission vehicles in safe, accessible and convenient locations.

4.5.2 In order to achieve the above requirements paragraph 111 of the NPPF goes on to state: -

‘All developments that will generate significant amounts of movement should be required to provide a travel plan, and the application should be supported by a transport statement or transport assessment so that the likely impacts of the proposal can be assessed.’

4.5.3 In this respect it is noted that access to the Site is proposed to be provided via a new link created from an existing roundabout on Power Station Road. In addition the proposed development would provide a total of 117 car parking spaces which would include six disabled spaces, six parent and child spaces and two electric vehicle charging spaces and four cycle hoops, which provide capacity for up to eight bikes. The cycle hoops would be located under a covered and illuminated shelter.

4.5.4 In order to inform the application the applicant has provided a Transport Assessment which has been further amended and subject to addenda in a series of Technical Notes.

4.5.5 Two letters of objection have been received from Exigo on behalf of Morrisons which have raised a number of technical issues in respect to the information submitted by the applicant referenced above.

4.5.6 The Highway Authority has stated that having taken into account the information provided by the applicant and the representations made by Exigo that they have no objections to the proposal subject to the attached conditions and the completion of a section 106 agreement to secure monies in respect to the monitoring of the travel plan.

4.5.7 The comments of the Highway Authority are accepted and it is therefore concluded that subject to the attached conditions and the signing of a section 106 agreement the proposal would not have an unacceptable impact on highway safety and that its residual cumulative impacts on the road network would not be severe. As such the proposal would accord with the provisions of Paragraph 109 of the NPPF.

#### 4.6 Impact on Nature Conservation Interests

4.6.1 Policy and guidance in respect to development and nature conservation is provided by Policy CP12 of the Local Plan and paragraphs 170 and 174 of the NPPF.

4.6.2 Policy CP12 of the Local Plan states that the District's biodiversity and geodiversity assets will be protected, conserved and enhanced via

'the safeguarding from damaging development of ecological and geological sites, priority habitats and species and areas of importance for enhancing biodiversity, including appropriate buffer zones, according to their international, national and local status. Development will not be permitted where significant harm from development cannot be avoided, adequately mitigated or compensated for;

- support for the protection, conservation and enhancement of existing green infrastructure to facilitate robust wildlife habitats and corridors at a local and regional scale (particularly to complement Policy CP16);
- supporting and promoting initiatives for the restoration and creation of priority habitats and recovery of priority species and the provision of new spaces and networks to extend existing green infrastructure;
- supporting development proposals that assist the delivery of national, regional and local Biodiversity and geodiversity Action plan (LBAP/GAP) targets by the appropriate protection, incorporation and management of natural features and priority species;
- the promotion of effective stewardship and management across the district to contribute to ecological and geological enhancements.

4.6.3 Paragraph 170 of the NPPF states [amongst other things] that

- 'Planning policies and decisions should contribute to and enhance the natural and local environment by:
- protecting and enhancing valued landscapes, sites of biodiversity or geological value and soils (in a manner commensurate with their statutory status or identified quality in the development plan); [and]
- minimising impacts on and providing net gains for biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures;'



#### 4.6.4 Paragraph 174 goes on to state

When determining planning applications, local planning authorities should apply the following principles:

- a) if significant harm to biodiversity resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused;
- b) development on land within or outside a Site of Special Scientific interest, and which is likely to have an adverse effect on it (either individually or in combination with other developments), should not normally be permitted. The only exception is where the benefits of the development in the location proposed clearly outweigh both its likely impact on the features of the site that make it of special scientific interest, and any broader impacts on the national network of Sites of Special Scientific Interest;
- c) development resulting in the loss or deterioration of irreplaceable habitats (such as ancient woodland and ancient or veteran trees) should be refused, unless there are wholly exceptional reasons and a suitable compensation strategy exists; and
- d) development whose primary objective is to conserve or enhance biodiversity should be supported; while opportunities to incorporate biodiversity improvements in and around developments should be encouraged, especially where this can secure measurable net gains for biodiversity.

#### Site Specific Impacts on Ecology

4.6.5 The site does not benefit from any formal or informal designation for nature conservation purposes, nor is it located immediately adjacent to such a site.

4.6.6 In order to inform the application the applicant has submitted a Preliminary Ecological Appraisal (Including Preliminary Bat Roost and Badger Survey) (Report No: RT-MME-152480). This sets out that as Building 1a and 2 have been identified as having low potential to support roosting bats and to 'ensure compliance with wildlife legislation and relevant planning policy, at least one survey (consisting of either a dusk emergence survey or a dawn re-entry survey) should be undertaken during the peak season for emergence/ re-entry surveys (May to August) to determine the presence/ absence of roosting bats within the structures. The report goes on to state: -

“Should this survey confirm the presence of roosting bats, it will be necessary to undertake additional surveys in order to inform a Natural England licence application. In addition, should the survey identify the presence of significant levels of bat activity at the site, it may be necessary to undertake further survey visits to comprehensively assess the value of the site to bats.”

- 4.6.7 A subsequent report outlining the findings of a dusk emergence and dawn re-entry bat survey has been received dated September 2020 which states

“Dusk emergence and dawn re-entry surveys were undertaken between 26th June 2020 and 10th August 2020. During the two dusk emergence surveys, soprano pipistrelles were recorded emerging from a roost location high in the south-eastern corner of Building B1a from beneath the wooden fascia and from behind a section of lifted metal covering adjacent to the fascia. 138 soprano pipistrelles emerged during the June survey and 129 during the August Survey.

During the dawn survey, soprano pipistrelles swarmed around the roof area on its southern side before entering a roost via the same section of wooden fascia and lifted metal high on the south-eastern corner of Building B1a.

The emerging bats generally left the roost to the east/south-east and then followed a tree-lined railway line to the north and south. During the dawn survey bats entered the roost location from the east and south-east, again having followed the railway corridor back to the roost location.

No bats were noted to have emerged from any of the other buildings/structures within the surveyed area.”

- 4.6.8 It is noted that the national conservation value of a maternity roost for soprano pipistrelle bats is moderate.
- 4.6.9 All species of native British bat are protected under the 1981 Wildlife and Countryside Act and the Habitats Regulation 2017. The presence of a protected species is a material consideration. Furthermore, in respect to European Protected Species (EPS) the applicant will be required to obtain a license to undertake the development proposed and the local planning authority as a competent authority has duty in the exercise of its powers to have regard to the provisions of the Habitats Regulations 2017
- 4.6.10 The Habitat Regulations allow for derogation from the provisions of the EU Council Directive 92/43/EEC of 21 May 1992 on the grounds of reasons

"to preserve public health and safety or other imperative reasons of overriding public interest including those of a social or economic nature

and beneficial consequences of primary importance for the environment."

provided that

"there is no satisfactory alternative"

and the development

"will not be detrimental to the maintenance of the populations of the species concerned at a favourable conservation status in their natural range.

4.6.11 In respect to whether "there is no satisfactory alternative" it is noted that the applicant has demonstrated that there are no sequentially preferable sites within the town centre. Furthermore, the redevelopment of the site would be unviable and unachievable should the building containing the roost be retained on the site. In addition the redevelopment of the site would, by virtue of removing old and what appear to be dilapidated buildings and by increasing footfall and activity within the area, contribute towards making of a safe and attractive route between the proposed development on the former Rugeley Power Station site and the town centre. The forgoing of these benefits by not allowing the development to proceed is not considered a satisfactory alternative.

4.6.12 Notwithstanding the loss of the existing business on the site the proposal would allow for the expansion of an existing business within town and retain and enhance the economic contribution, including employment and customer choice, that business makes to the town.

4.6.13 It is therefore considered that the impact of regenerating a run down plot of land which would add extra vitality to the area and improve its visual environment, adds moderate weight in favour of the proposal and that the significant economic benefits in job retention and generation also add moderate weight in favour of the proposal. It is therefore concluded that the substantial economic and environmental benefits constitute imperative reasons of overriding public interest that outweigh the harm that would result from the loss of the maternity roost of the Soprano Pipistrelle on site, which is a relatively common and widespread species, the maternity roost of which is considered to have a moderate national conservation value".

4.6.14 On turning to the issue of whether the proposal would be detrimental to the maintenance of the population of the species concerned at a favourable conservation status in its natural range it is noted that the applicant has submitted a Bat Mitigation Strategy, dated October 2020. The strategy goes on to state

"Overall, in the absence of mitigation, the potential harm and fatalities, combined with the loss of the maternity roost on site, as a result of any uncontrolled demolition works, would have a high impact on the

soprano pipistrelle population in the local and regional area. However, the mitigation provided within this report will remove the potential for bats to be harmed and will provide replacement roosting locations suitable to maintain the favourable conservation status of the soprano pipistrelles within the local area”.

4.6.15 The Mitigation Strategy goes on to identify the following works: -

- (i) As the building is being demolished, the replacement roosting location will be created prior to the building being demolished. Ideally the bats will be given time to naturally find the new location prior to the existing roost being removed. All features with potential to support roosting bats present on the building will be removed under supervision of a licensed ecologist.
- (ii) The permanent mitigation for the maternity soprano pipistrelle roost will be in the form of a bat tower situated in the ecology area. The ecology area is approximately 100 m from the existing roost and is situated adjacent to the railway line. The commute routes from the bat mitigation to the surrounding landscape will not be subject to any additional lighting, therefore the bats will be able to commute to and from their new roosting location as they currently do. The location of the bat tower is shown on Stoas Architects Ltd Drawing E17A118-P003 Rev G Proposed Site Plan, Chapter 7.
- (iii) The dimensions of the tower will be 2 m wide by 2 m in length. The height of the tower will be 4 m with a 1 m high pitched roof on top of that. This height will be roughly that of a traditional two storey building and will give the bats the height which they can safely swarm at whilst being observant for predators.
- (iv) The ecology area around the bat tower, within in the area fenced off will be sown with a wildflower meadow mix. Internally, the fences will be planted with honeysuckle *Lonicera periclymenum*. This planting will attract a range of pollinating insects as well as providing a food source to attract the bats.
- (v) Monitoring the bat tower in years one, three and five post development. The monitoring will include both daytime and nocturnal emergence surveys.

4.6.16 Officers consider that subject to the above mitigation, which can be controlled through a suitably worded condition, the proposal would maintain the favourable conservation status of the soprano pipistrelles within the local area.

#### Impacts of Cannock Chase Special Area of Conservation

4.6.17 Under Policy CP13 development will not be permitted where it would be likely to lead directly or indirectly to an adverse effect upon the integrity of the European Site network and the effects cannot be mitigated.

4.6.18 The applicant's Preliminary Ecological Appraisal notes that Cannock Chase SAC is located 3.2 km west of the survey area but concludes that that given the spatial separation between the survey area and the conservation sites and the built-up nature of the intervening habitats, the risk of significant impacts to this statutory site is considered negligible. It goes on to note that notwithstanding the details of Policy CP13 of the Local Plan and that the development site falls within the 8 km influence zone for Cannock Chase SAC, given this development is not residential, the risk of significant impacts to the statutory site is considered negligible.

4.6.19 The conclusions of the report are accepted. It is also noted that due to the localised nature of the most of the traffic generated by the development that the proposal would not have any significant likely impact through nitrogen oxide(s) deposition on the SAC.

4.6.20 Therefore having had regard to all of the above it is concluded that the proposal would be in accordance with Policy CP12 of the Local Plan and paragraphs 170 and 174 of the NPPF.

#### 4.7 Drainage and Flood Risk

4.7.1 The site is located in Flood Zone 1 on the Environment Agency's Flood Zone Maps, and therefore is in the zone which is at the least risk of flooding .

4.7.2 In this respect it is noted that paragraph 155 of the NPPF states 'inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk (whether existing or future)' adding 'where development is necessary in such areas, the development should be made safe for its lifetime without increasing flood risk elsewhere'.

4.7.3 In addition to the above it is paragraph 165 of the NPPF states 'Major developments should incorporate sustainable drainage systems unless there is clear evidence that this would be inappropriate. The systems used should:

- a) take account of advice from the lead local flood authority;
- b) have appropriate proposed minimum operational standards;
- c) have maintenance arrangements in place to ensure an acceptable standard of operation for the lifetime of the development;

4.7.4 In order to inform the application the applicant has submitted a Flood Risk Assessment and Drainage Strategy. The report states: -

"The Flood Map for Planning shows the site to be located in Flood Zone 1 (Low Probability). Flood Zone 3, associated with the River Trent, is situated on the opposite side of the railway embankment, while Flood Zone 2 extends along the A51 up to the north-eastern site

boundary. Consequently, there is no significant risk of fluvial flooding on the site and no need to consider the NPPF Sequential and Exception Tests”

4.7.5 The proposed drainage system would collect future runoff on site and discharge the outflow to the Rising Brook close to the culvert headwall on the east (near) side of Power Station Road. This would do so by collecting runoff from the roof, car park, service bay and access road into a cellular storage tank beneath the carpark. The attenuated flow is proposed to be discharged to the Rising Brook via a flow control device at the greenfield runoff rate for the site, calculated to be 4.4 l/s.

4.7.6 The Lead Local Flood Authority, Severn Trent and the Environment Agency have no objections to the proposal subject to the attached conditions.

4.7.7 Therefore subject to the attached conditions the proposal would be acceptable in respect to flood risk and drainage.

#### 4.8 Mineral Safeguarding

4.8.1 The site falls within a Mineral Safeguarding Area (MSAs) for superficial sand and gravel deposits. Paragraph 206, of the National Planning Policy Framework (NPPF) and Policy 3 of the Minerals Local Plan for Staffordshire (2015 – 2030), both aim to protect mineral resources from sterilisation by other forms of development.

4.8.2 Policy 3.2 of the new Minerals Local Plan states that:

‘Within a Mineral Safeguarding Area, non-mineral development except for those types of development set out in Appendix 6, should not be permitted until the prospective developer has produced evidence prior to determination of the planning application to demonstrate:

- a) the existence, the quantity, the quality and the value of the underlying or adjacent mineral resource; and
- b) that proposals for non-mineral development in the vicinity of permitted mineral sites or mineral site allocations would not unduly restrict the mineral operations.

4.8.3 Table 7 of Appendix 6 outlines “Exemptions Criteria for Mineral Safeguarding” and includes, amongst other things, “

Applications that fall within the development boundary of urban areas and rural settlements identified in an adopted development plan document, other than:

- a) non- exempt applications that fall within the mineral consultation zones around mineral sites, mineral site allocations and mineral infrastructure sites; and,
- b) non- exempt applications that fall within the coal and fireclay safeguarding areas (see 13 below);

4.8.4 In this respect it is noted that the site is small in area and located within the main urban area of Rugeley and as such is considered to constitute an exemption from Mineral Safeguarding Policy.

4.8.5 It is therefore concluded that the proposal is therefore acceptable in respect to mineral safeguarding.

#### 4.9 Crime and the Fear of Crime

4.9.1 Section 17 of the Crime and Disorder Act 1998 places a duty on each local authority 'to exercise its various functions with due regard to the likely effect of the exercise of those functions on, and the need to do all that it reasonably can do to prevent crime and disorder in its area to include anti-social behaviour, substance misuse and behaviour which adversely affects the environment'.

4.9.2 In addition to the above paragraph 127(f) of the NPPF states planning policies and decisions should ensure that development create places which [amongst other things] create places that are safe and where crime and disorder, and the fear of crime, do not undermine quality of life, social cohesion and resilience.

4.9.3 In this respect it is noted that the building has been designed to provide a high degree of natural surveillance to the car park and the highway beyond whilst the service areas are protected by a 2.4m high palisade fence.

4.9.4 It is further noted that the Crime Prevention Officer, whilst making recommendations, has no objections to the proposal. The comments raised by the Officer are more appropriately dealt with by way of an informative rather than condition as they are advisory in nature.

4.9.5 Given the above it is concluded that the proposal would create a place that is safe and where crime and disorder, and the fear of crime, would not undermine quality of life, social cohesion and resilience and therefore is in accordance with Policy 127(f) of the NPPF.

#### 4.10 Waste and Recycling Facilities

4.10.1 Policy CP16(1) (e) 'Climate Change and Sustainable Resource Use' of the Cannock Chase Local Plan states that development should contribute to

national and local waste reduction and recycling targets according to the waste hierarchy'. One of the ways of achieving this is by ensuring development can be adequately serviced by waste collection services and that appropriate facilities are incorporated for bin collection points (where required).

4.10.2 The unit would be served by a service yard to the rear which would be adequately served by vehicular access to enable waste and recycling facilities to be accommodated and disposed of appropriately.

4.10.3 In this respect it is considered that the proposal is in accord with Policy CP16(1) (e) of the Cannock Chase Local Plan.

#### 4.11 Ground Conditions and Contamination

4.11.1 The site is located in an area which has been subject to several industrial activities which could have caused potential issues in respect to land contamination.

4.11.2 In this respect paragraph 170 of the NPPF states: -

“Planning policies and decisions should contribute to and enhance the natural and local environment by [amongst other things]:

- e) preventing new and existing development from contributing to, being put at unacceptable risk from, or being adversely affected by, unacceptable levels of soil, air, water or noise pollution or land instability. Development should, wherever possible, help to improve local environmental conditions such as air and water quality, taking into account relevant information such as river basin management plans; and
- f) remediating and mitigating despoiled, degraded, derelict, contaminated and unstable land, where appropriate.

4.11.3 In addition to the above paragraph 178 of the NPPF states: -

Planning policies and decisions should ensure that:

- a) a site is suitable for its proposed use taking account of ground conditions and any risks arising from land instability and contamination. This includes risks arising from natural hazards or former activities such as mining, and any proposals for mitigation including land remediation (as well as potential impacts on the natural environment arising from that remediation);
- b) after remediation, as a minimum, land should not be capable of being determined as contaminated land under Part IIA of the Environmental Protection Act 1990; and



- c) adequate site investigation information, prepared by a competent person, is available to inform these assessments.

4.11.4 Finally paragraph 179 of the NPPF makes it clear that where 'a site is affected by contamination or land stability issues, responsibility for securing a safe development rests with the developer and/or landowner'.

4.11.5 In order to inform the application the applicant has submitted a Land Contamination Phase 1 Environmental Site Assessment which has been appraised by the Environmental Health Officer (EHO). The EHO has stated that he is in agreement with the findings of the report and has recommended conditions.

4.11.6 The comments of the EHO are accepted and it is considered that subject to the attached conditions the proposal would be acceptable in respect to the requirements of paragraphs 170, 178 and 179 of the NPPF.

#### 4.12 Economic Benefits of the Proposal

4.12.1 The applicant's Planning Statement states that

"New Aldi stores generally employ between 30 - 50 staff. It is Aldi's preference to recruit staff locally. The company's remuneration and training policy reflects Aldi's firm belief that a well-trained and highly motivated workforce is essential to the success of the business. All hourly paid wages for store employees exceed the Government's National Living Wage and the Living Wage Foundation's recommended national rate.

4.12.2 Although this would be a new store in reality it would not generate between 30-50 new staff as it would involve some relocation of existing staff from the existing store within Rugeley. Nevertheless the proposal would facilitate the presence of the business within the town and would therefore enable an existing successful business to expand thereby safeguarding existing jobs. This contribution to safeguarding the local economy weighs in favour of the proposal.

4.12.3 In addition to the above the Planning Statement goes on to state: -

"The construction of an extended store requires the services of local building trade contractors which provides employment opportunities during the build out period. Usually a range of skills such as ground works, steel, brick and block work and shop fitting are sourced locally, as well as cleaners and labourers."

4.12.4 As such the construction phase of the development also lends weight in favour of the proposal even though the jobs created during the construction phase will be temporary.

4.12.5 Taken together it is considered that both the above factors in combination lend moderate weight in favour of the proposal.

## **5.0 Human Rights Act 1998 and Equalities Act 2010**

### **Human Rights Act 1998**

5.1 The proposals set out in this report are considered to be compatible with the Human Rights Act 1998. The recommendation to approve the application accords with the adopted policies in the Development Plan which aims to secure the proper planning of the area in the public interest.

### **Equalities Act 2010**

5.2 It is acknowledged that age, disability, gender reassignment, pregnancy and maternity, religion or belief, sex and sexual orientation are protected characteristics under the Equality Act 2010.

By virtue of Section 149 of that Act in exercising its planning functions the Council must have due regard to the need to:

Eliminate discrimination, harassment, victimisation and any other conduct that is prohibited;

Advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;

Foster good relations between persons who share a relevant protected characteristic and persons who do not share it

It is therefore acknowledged that the Council needs to have due regard to the effect of its decision on persons with protected characteristics mentioned.

Such consideration has been balanced along with other material planning considerations and it is considered that the proposal is acceptable in respect to the requirements of the Act. Having had regard to the particulars of this case officers consider that the proposal would not conflict with the aim of the Equalities Act.

## **6.0 Conclusion**

6.1 The Applicant is seeking consent for demolition of existing buildings and the erection of a Class A1 Food Retail Store, with associated car parking and

landscaping. Whilst outside of the town centre boundary the store would be located immediately abutting the town centre boundary as drawn on the Policies Plan. It is noted that the proposal meets the sequential test and is not required by local or national policy to be supported by a retail impact assessment. It is therefore concluded that having had regard to the Local Plan and national policy that the proposal is on balance acceptable in respect to its impact on the town centre. In addition it is also considered that although the proposal would result in the loss of employment land and the displacement of an existing business on the site this would be clearly outweighed by the improvement of the environment along Power Station Road on what will be come an important link between the development on the Rugeley Power Station site and the town centre.

- 6.2 Subject to the attached conditions it is considered, on balance, that the proposal would not have any significant harmful impacts on other acknowledged interests.
- 6.3 Furthermore, it is recognised that the proposal would regenerate a run down plot of land adding extra vitality to the area and improving its visual environment, which is important in securing an attractive link between the future development on the former Power Station site and the town centre, factors which add moderate weight in favour of the proposal. In addition there would be significant economic benefits in job retention and generation that, even given the displacement of the existing business, which would also add moderate weight in favour of the proposal.
- 6.4 It is therefore concluded that any adverse impacts of approving the application would not significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.
- 6.5 As such it is recommended that the application be approved subject to the attached conditions.

## **Appendix 1: Extract of Letter from Turley, on Behalf of Aldi, dated 26 October 2020**

As you are aware we are planning consultants acting for ALDI Stores Ltd (ALDI) in the Midlands region. We write to respond to an objection submitted by Peacock and Smith (P&S) on behalf of Wm Morrison Supermarkets plc (Morrisons) dated 14 Oct 2010 which has been forwarded to us by STOAS Architects, agents for the ALDI application.

At the outset, we should state that it comes as no surprise that such objections have been submitted (and relatively late in the determination process), since P&S have a national remit from Morrisons to submit objections to any applications from competitors within their existing store catchments. We have received numerous late objections by P&S in respect of ALDI proposals within this Region over the last few years. The representations should be seen as commercially driven and are ultimately designed to try to maintain market share for Morrisons.

For legibility we address the matters raised in P&S letter in order. In summary, they raise matters relating to the sequential test, retail impact and loss of employment land.

In respect of the sequential test, the only matter raised is a query as to whether “meaningful consideration” has been given to the option of extending the existing ALDI store in situ, potentially incorporating additional land adjoining that site, occupied by the Rugeley Progressive Working Man’s Club (the Club). P&S assert that the existing ALDI store site is sequentially preferable to the proposed replacement store site at Power Station Road.

In respect of retail impact, P&S assert that ALDI should carry out a cumulative assessment of impact of the proposed replacement ALDI store and the proposed Lidl store on Power Station Rd (application ref CH/20/306) which was submitted after the ALDI application and is, as yet, undetermined.

Turning to loss of employment land, P&S assert that the proposal will result in the loss of employment land in an established industrial estate when the latest published ELAA indicates a shortfall of employment land provision in the District.

We address each of those concerns below.

### **SEQUENTIAL TEST – CONSIDERATION OF EXISTING ALDI SITE**

The short answer as to whether consideration has been given to the existing ALDI store site at Market St to accommodate the new store requirements for the operator is “yes”. Between 2016 and 2018, various proposals were drawn up to try to

incorporate an extension to the existing store by STOAS Architects. It quickly became apparent that to bring the store quality and scale up to the standard that ALDI was seeking to achieve at that time would require the acquisition of land from the adjoining occupiers- the Club, particularly since there were intractable constraints to expansion further to the east due to the adjacent Listed Church and associated listed walls and to the north in the form of protected playing fields. Active discussions then took place with the Club over a period of over two years and numerous potential schemes were drawn up that sought to provide a circa 1,000 sq m net sales floorspace store with additional circa 20 spaces customer car parking, plus a new clubhouse for the Club (including parking for its members), plus a new bowling green (the Club incorporates an active bowling club).

Pre-app consultation was carried out with the LPA who confirmed that the bowling green would need to be replaced within the scheme to a standard at least as good as the existing. The constraints associated with the potential for impact on the adjoining listed historic assets and associated protected trees (and their root systems), were highlighted.

In the event, it proved impossible to achieve a scheme that met the requirements of both ALDI and the Club without potentially harming important historic assets and the discussions were abandoned. In that respect it is important to note that the current floorspace and parking requirements for a new ALDI store are substantially greater than they were in 2016-18, for reasons relating to an increased standard product range, a demand for more spacious shopping aisles and greater store popularity, leading to more demand for car parking. It is therefore even more unlikely now that ALDI's requirements could be met at the existing site plus the Club site. Therefore we conclude that the existing ALDI store site is unsuitable as an alternative option to accommodate the proposal.

Notwithstanding the above, we take issue with the P&S assertion that the existing ALDI site is sequentially preferable to the proposed replacement store site. While the existing store site is within the Rugeley Town Centre Area Action Plan (AAP), that has no bearing on the sequential test. The relevant parameters for the sequential test are set out at paras 86-87 (and Annex 2) of the NPPF and paras 009 Reference ID: 2b-009-20190722, 011 Reference ID: 2b-011-20190722 and 012 Reference ID: 2b-012-20190722 of the PPG. The only specified relevant factors are the Town Centre boundary and the Primary Shopping Area (PSA), with the latter being used to help define "edge of centre". Both the existing ALDI store and the proposed replacement store sites are outside the defined Rugeley TC boundary. They are both adjacent to the TC boundary, separated from it in each case by a road. However, the character of the area within which the existing store is located is different to that within the defined Primary Shopping Area (PSA) and the store feels physically detached from the PSA. Moreover the nature of the journey on foot to the PSA from the existing ALDI store and the nature of the intervening uses is such that the existing ALDI store generates very few linked trips on foot to the PSA. In our view,

the existing store is not “well connected to” the PSA (in respect of the Annex 2 ‘edge of centre’ definition) and the existing ALDI store effectively functions as an out of centre store.

The Tesco store at Power Station Road falls within the TC and is a major attractor of trade to the TC. From observation, there appears to be a good level of linkage on foot between the Tesco store and the defined PCA. The Tesco store is the dominant feature of the character of the immediate area within which the new ALDI store would fit. The new ALDI store is likely to have a close symbiotic relationship with the adjacent Tesco store in terms of how the two businesses operate, in that there is a strong likelihood ALDI store customers visiting the Tesco store (and vice versa) on foot. ALDI customers are also likely to visit other shops and services in the PSA on foot via the Tesco store. Therefore the proposed replacement ALDI store would have a closer functional relationship with the TC than does the existing store and would better fulfil an edge of centre role than does the existing store.

#### POTENTIAL FOR RETAIL IMPACT

P&S suggest that a cumulative impact assessment is required to assess the effects of the proposed replacement ALDI store and the new proposed Lidl store at Power Station Rd (application ref CH/20/306). We disagree for the following reasons:

- The relevant threshold in this case for RIA is 2,500 sq m gfa. Neither of the two proposals is larger than that threshold.
- The Lidl proposal is just that- it has not been determined so that there is no certainty that it will come forward.
- There is no requirement in the NPPF to have to carry out a cumulative impact assessment involving two proposed developments.
- One of the reasons given in the P&S objection letter as to why they believe a cumulative assessment should be prepared is as follows “ Given its proximity to the existing and established Tesco Superstore, these new proposals have the potential to create a new alternative shopping destination – with hundreds of free parking spaces – to Rugeley Town Centre.” The phrasing of that sentence suggests to us that P&S have not realised that the Tesco store is within the TC. The out of centre Lidl application will be determined on its merits in due course. However, the ALDI proposal, if permitted, will have a close functional relationship with the existing TC Tesco store, so that it will form a logical extension of the TC boundary next time this is reviewed.
- P&S refer to the Lidl application as “planned private investment”. The context for that is the quote in their letter from Para 89 of the NPPF, which refers, in respect of impact assessment, of the need to consider “the impact of the proposal on existing, committed and planned public

and private investment in a centre or centres in the catchment area of the proposal” (Para 89 a)-our emphasis). In our view, Para 89 of the NPPF makes no reference to any requirement to provide a cumulative impact assessment under any circumstances. Moreover, the use of the term “planned private investment’ by P&S in the context of the Lidl application is a misinterpretation of the NPPF. Planned investment (private or public) as referenced in the NPPF relates to development on allocated sites or other proposals within centres, the intention of which is that out of centre proposals should consider (depending on their scale) the potential impact on such town centre investment. P&S appear to suggest that the ALDI proposal should consider the potential impact on the proposed out of centre Lidl development. This is not the intention of retail policy.

On the subject of impact, P&S also state that Turley has not carried out a health check assessment in order to assess how the TC is performing. That is correct since there is no requirement for ALDI to submit a retail impact assessment in this case. However, we note that the Retail and Planning Statement by Avison Young (AY) accompanying the Lidl proposal refers to the Council’s evidence base Retail Study (dated 2015) and incorporates a basic health check of the TC. That assessment concludes that the proportion of TC vacant units (at 6% based on their visit) is currently at a similar level or lower than to the rate identified in the Retail Study in 2015 (8%), subject to caveats relating to the current Coronavirus pandemic. Those identified vacancy rates were lower than the UK average at equivalent dates. AY therefore concludes, on the basis of that indicator plus the recognised strong convenience sector provision in the TC, that the TC is reasonably healthy.

We have also now visited the centre to confirm whether or not the assessment by AY is valid and we conclude that, notwithstanding the uncertainties affecting all centres due to the current pandemic, Rugeley TC appears to be performing reasonably well, with relatively low vacancy rates (we estimate, from our centre visit last week, a vacancy rate of 7% including 2 units being refurbished), retention of the key attractors to the centre and a strong convenience sector representation, notably from Morrisons and Tesco and also an Iceland store.

#### LOSS OF EMPLOYMENT LAND

We have fully addressed the issue of loss of employment at the subject site in the submitted Planning and Retail Statement (paras 5.3 to 5.14) and we do not intend to reiterate those points here. P&S submits no evidence to substantiate their claim that the proposal would be “contrary to planning policy” in respect of employment land. It suffices to say that the LPA’s Policy team have reviewed the evidence provided on this matter by Turley and have accepted that the issue has been satisfactorily addressed.

## CONCLUSIONS

P&S put forward a number of assertions that the proposed replacement ALDI store at Power Station Road, Rugeley fails to comply with policy relating to retail development and employment land. We have duly considered the objections by P&S, which are ultimately commercially driven and designed to protect the market share of an existing retail operator – Morrisons. Each of the objection points raised have been addressed in this letter, either through submission of further information- in respect of the sequential test – or by clarifying that there is no basis in policy for the requested further evidence ( concerning the cumulative impact and employment land matters raised).



## **Appendix 2: Extract of Letter from Turley, on Behalf of Aldi, dated 11 December 2020**

As you are aware we are planning consultants acting for ALDI Stores Ltd (ALDI) in the Midlands region. We write to respond to an objection submitted by Martin Robeson Planning Practice (MRPP) on behalf of Tesco Stores Ltd, submitted on 9th December 2020 which has been forwarded to us by STOAS Architects, agents for the ALDI application.

We note that the objection letter essentially raises four grounds of objection:

1. MRPP indicate that both the ALDI proposal and Lidl proposal at Power Station Road should have to submit a Retail Impact Assessment (RIA), including a cumulative impact assessment, of the two proposals on Rugeley Town Centre, in the context of NPPF advice and the suggestion made by retail consultants about the potential future introduction of a local floorspace threshold for RIA in a Retail Study intended as evidence base for the emerging Local Plan Review.
2. MRPP state that Turley have suggested that the proposed ALDI development, involving a relocation from its existing store in Rugeley, would have the effect of reducing the level of impact on the town centre and that this assertion is erroneous, due to the lack of any stated commitment to extinguishing the use rights associated with the existing store.
3. MRPP suggest that site ref Policy RTC.7 in the Rugeley Town Centre Area Action Plan (AAP) is a sequentially preferable location for the proposed ALDI store in that it is (considered by MRPP) to be suitable and available for the proposed ALDI development.
4. MPRR indicate that the ALDI proposal, by not locating on any of the sites identified as investment opportunities in the AAP, would adversely affect the investment potential the adopted town centre strategy and will diminish the effects of current, long term, continuing investment in its future health.

We address each of those matters directly below.

In respect of 1) the need for submission of an RIA and need for a cumulative impact assessment in association with the current Lidl objection, we have set out our reasoned response to that matter in our letter dated 26th Oct 2020, made in response to an objection by Morrison's on the same grounds. We do not think the Tesco objection letter raises any new points to consider on this matter. In any case we understand that you have sought independent advice on this specific question and we are content to abide by the outcome of that independent arbitration.

Turning to point 2), we set out a proportionate, qualitative assessment of the potential trading effects of the proposed ALDI replacement store in Section 7 of the submitted Planning and Retail Statement. We add further information about the potential future use of the existing ALDI store site in our response letter to the Morrison's objection. From that submitted evidence, it is clear that the existing store unit will cease to trade as an ALDI foodstore on opening of the replacement store and that the existing site will be marketed for alternative use or potentially redevelopment, depending on the nature of market interest in it. The re-occupation of the unit could be by a variety of E-class uses and it may have the potential for redevelopment for a non- E class use such as housing.

As for the effects of the new store we point out that any effects relating to trade diversion from existing town centre stores will be counterbalanced, to an extent, by the enhanced opportunities afforded by the location of the new ALDI store next to the existing town centre Tesco store, to generate linked trips on foot. Something that is not evident at the existing ALDI store due to the poor linkage with the town centre main shopping area. We do not state that the new store would reduce the impact on the town centre compared to the existing store. We do, however, consider, that the impact of the replacement store will be insubstantial and certainly not anywhere close to the threshold of "significant adverse impact" on the centre as a whole, which is the 'bar' set by para 90 of the NPPF.

Turning to objection point 3), we considered the Policy RTC.7 site in the submitted Planning and Retail Statement.

In addition to the evidence proved there we would add that:

- Having reviewed again the suitability of this site to accommodate a development of the scale and type of that proposed at Power Station Road we conclude that there are a number of site constraints which would prevent such a scheme from being realised. This can be seen with reference to the drawing attached to this letter (ref E17A118) which shows a proposed foodstore of approximately the scale proposed at Power Station Road superimposed onto the Policy RTC.7 site and adjoining land.
- The issues identified include the following- the scale and configuration of the allocation site is such that it prevents the effective accommodation of the foodstore unit within it. The development would therefore have to use land outside the allocation site, requiring demolition of a substantial existing retail frontage on Horse Fair. The store would effectively turn its back on any customer car parking area which could be created from the residual area. Experience from ALDI's 800 store plus estate has demonstrated that in any locations where ALDI have had to build a store with car parking mainly or entirely at the rear of the store, those units have been the some of the worst trading stores in the operator's portfolio and indeed a number have been closed. Even with the additional land beyond the allocation site, the residual area available for car parking falls substantially short of what is required

to adequately service this scale of store. It is also highly unlikely that the tracking manoeuvre for delivery vehicles could be made to work.

□ Turning to availability, as indicated above a substantial area of additional land would be required beyond the Policy RTC.7 allocation site to accommodate a medium sized foodstore. However, it is our understanding from the wording of Policy RTC.7 that even within the allocation site there are a number of land ownerships. This is recognised in the text under “Issues” under the box entitled “Site Policies”.

Reference is made to the complexity of land assembly and potential need for CPO to deliver any development on this site. The drawing attached to this letter demonstrates that the actual level of land assembly complexity to deliver a foodstore development on this site is more anticipated under Policy RTC.7. It is important to note also that reference is made in Policy RTC.7 to a resolution to grant planning permission CH/03/0744, for mixed use development comprising retail, business, office and residential, with associated car parking, subject to completion of a legal agreement or new planning application.

Therefore, during the preparation of the now adopted Local Plan there was the expectation that a development proposal would be approved that would deliver the aspirations of Policy RTC.7. However, with the passage of time that potential development scheme has withered and died. It appears from the Council's on line website that the outline planning permission was approved on 1 June 2005. If that is so, the outline planning permission has now lapsed. There is no new/alternative scheme, in the form of a planning application, on the allocation site. In our view, the prospects of successful CPO of the land and property required to deliver any scheme at this site currently are vanishingly small, particularly if it involves acquisition of land and property outside the allocation site.

In assessing the concepts of availability and also potential impact on town centre investment (MRPP point 4), it is important to be aware of an up to date planning appeal precedent to address those issues, namely the Secretary of State call in appeal decision relating to proposed extension of the shopping mall at Cribbs Causeway, near Bristol (ref APP/P0119/V/17/3170627). In dismissing the appeal the SOS agreed with his Inspector's conclusions that to be considered available as a sequentially preferable site, in the circumstances of that case (which involved a very large scale redevelopment proposal in Bristol City centre), a period of around 3 years was considered acceptable for an alternative, sequentially preferable, site to be 'available within a reasonable timescale'.

That appeal decision also gives helpful guidance on the interpretation of potential impact on a sequentially preferable investment opportunity. The SoS clarified that to qualify, the alternative investment opportunity had to be – allocated for similar uses to those proposed in the appeal application; planning permission had to have been

granted (and still extant) for a proposed development similar in scale and type to that proposed at appeal; there had to be evidence of genuine attempt to acquire the land necessary to deliver the alternative proposed investment scheme and there should be a resolution by the LPA to make a CPO to assemble any residual land needed to deliver the investment proposal.

We consider that the evidence produced above demonstrates that there is no substance to the MRPP assertion that there is a real threat to the investment strategy for Rugeley TC or to any identified investment opportunity site within the AAP. There are no current investment proposals of a kind or scale similar to that proposed by ALDI at Power Station Road within Rugeley Town Centre and certainly none of the key opportunity sites have progressed to the point where they meet all of the criteria established in the relevant appeal decision recited above.

## CONCLUSIONS

MRPP set out a number of objections to the proposed replacement ALDI store at Power Station Road, Rugeley which we address in detail in this letter. We conclude that none of the points raised in objection stand up to closer scrutiny. We trust that the contents of this letter will be given due consideration in preparing your planning report on the ALDI application.

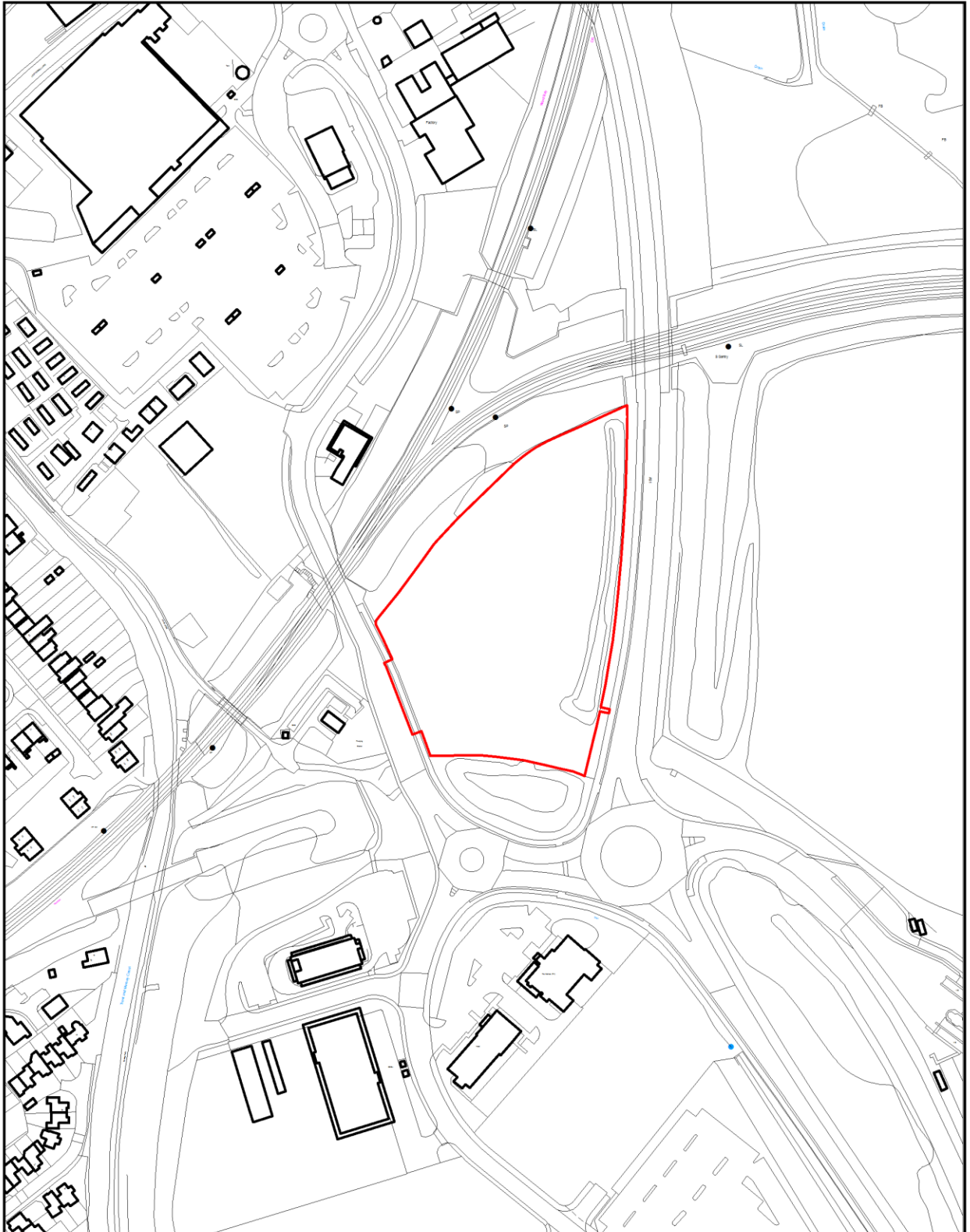


**Application No:** CH/20/306

**Location:** Land at, Power Station Road, Rugeley

**Proposal:** Removal of existing hardstanding and erection of a retail foodstore with associated car parking, access, landscaping and associated engineering works

Item no. 6.109



# Location Plan



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**Key**  
 Application boundary  
 3.675 acres / 1.487 hectares

1	Proposed	Approved	DC
2	Existing	Approved	DC

Lidl Great Britain Limited

**PROJECT**  
 Power Station Road  
 Rugeley

**TITLE**  
 Location Plan

**DRAWING STATUS**

<b>Planning</b>	
DESIGN	DC
SCALE	1:1250 @ A1
DATE	August 2020



DATE	DRAWING NO.	REV.
190343	PL-01	A

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# Existing Site Plan



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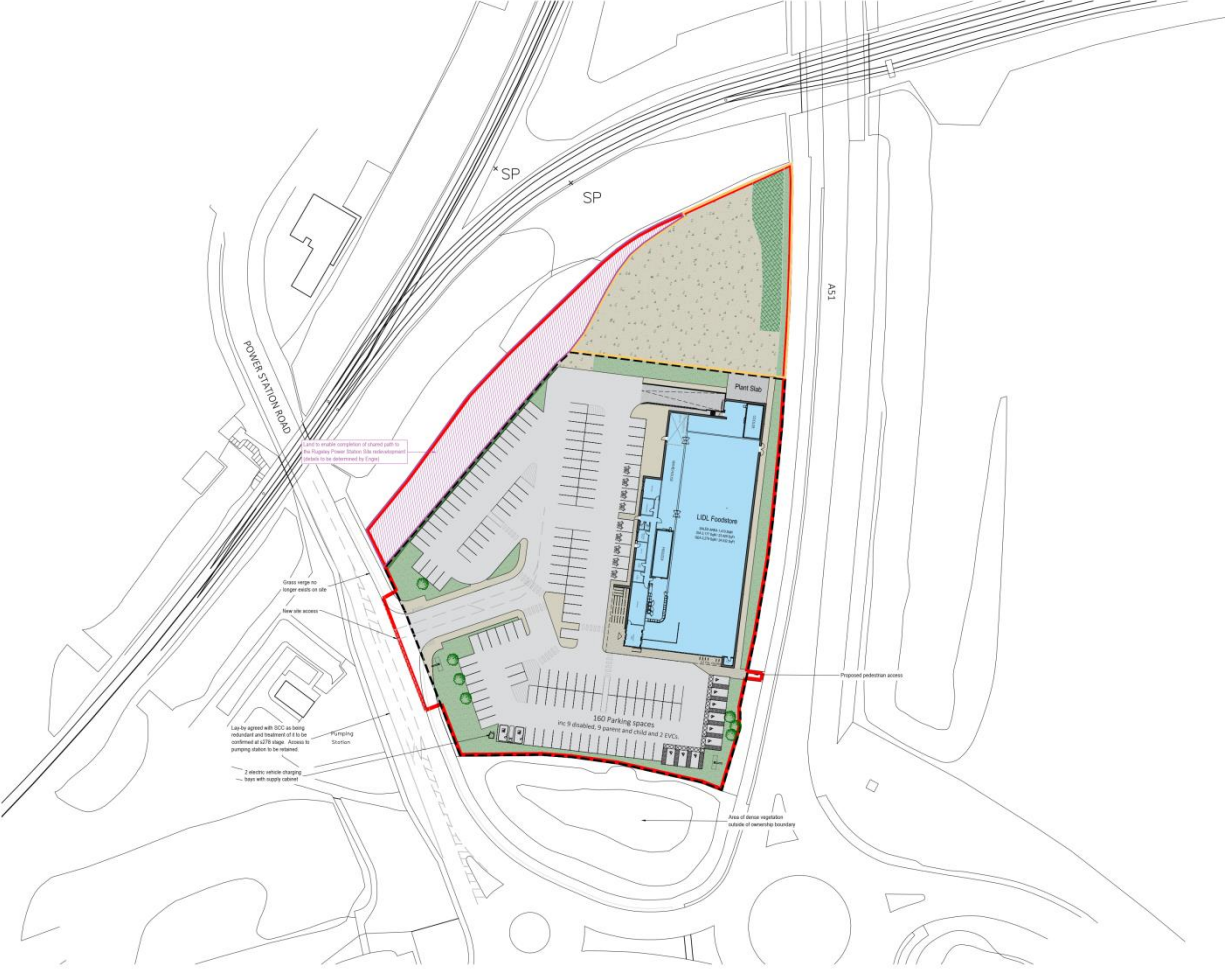
WSP | Parsons Brinckerhoff  
L01 Great Britain Limited

Plotter: Station Road  
Rugby  
Date: 14/02/2024  
Drawing: Existing Site Plan

Information	
Planning	
Drawn by	WSP   PB
Checked by	WSP   PB
Date	14/02/2024
Scale	1:1000
Sheet No.	1



# Proposed Site Plan



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<b>Key</b>	
Application boundary	5.67 acres / 2.447 hectares
LDI boundary	2.076 acres / 0.843 hectares
Potential future development area	0.628 acres / 0.254 hectares
Land to enable completion of shared path	0.168 acres / 0.144 hectares
<b>LDI Parking Numbers</b>	160 Proposed parking spaces inc. 9 disabled (5.0m), 8 parent & child and 2 EVCS bays
<b>LDI Areas - B66 30001</b>	
Sales floor	1,412 SQM (15,177 SQFT)
Warehouse	418 SQM (4,485 SQFT)
Ancillary	33,345 SQM (358,897 SQFT)
GLA	2,175 SQM (23,341 SQFT)
GIA	1,779 SQM (19,053 SQFT)

Project Manager	Whittam Cox Architects
Project Engineer	Whittam Cox Architects
Project Architect	Whittam Cox Architects
Project Designer	Whittam Cox Architects
Project Planner	Whittam Cox Architects
Project Surveyor	Whittam Cox Architects
Project Photographer	Whittam Cox Architects
Project Writer	Whittam Cox Architects
Project Printer	Whittam Cox Architects
Project Distributor	Whittam Cox Architects
Project Archivist	Whittam Cox Architects
Project Librarian	Whittam Cox Architects
Project Curator	Whittam Cox Architects
Project Exhibitor	Whittam Cox Architects
Project Installer	Whittam Cox Architects
Project Maintainer	Whittam Cox Architects
Project Restorer	Whittam Cox Architects
Project Reconstructor	Whittam Cox Architects
Project Refurbisher	Whittam Cox Architects
Project Renovator	Whittam Cox Architects
Project Repairer	Whittam Cox Architects
Project Replacer	Whittam Cox Architects
Project Rebuilder	Whittam Cox Architects
Project Reconstructor	Whittam Cox Architects
Project Refurbisher	Whittam Cox Architects
Project Renovator	Whittam Cox Architects
Project Repairer	Whittam Cox Architects
Project Replacer	Whittam Cox Architects
Project Rebuilder	Whittam Cox Architects

PROJECT  
 Power Station Road  
 Rugeley

TITLE  
 Proposed Site Plan

DATE OF ISSUE  
 Planning  
 08/08/20 WF 04/08/20 DC  
 SCALE 1:500 @ A1 / 1:1000 @ A3  
 DATE August 2020

**Whittam Cox**  
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JOB NO. 190343 DRAWING NO. PL-03 REV. 1

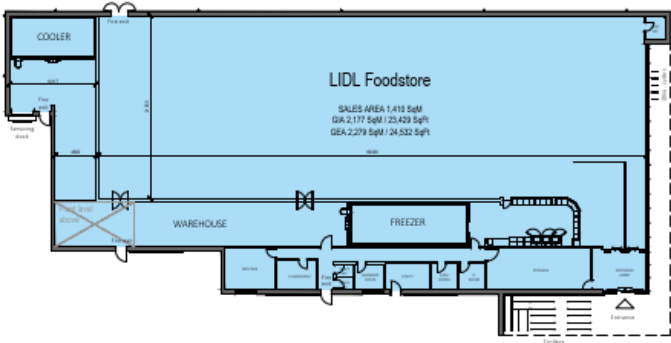


# Proposed Floor Plan

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**Areas**

Sales floor	-	1,410 SqM
		(15,177 SqFt)
Warehouse	-	440 SqM
		(4,736 SqFt)
Ancillary	-	328 SqM
		(3,531 SqFt)
GIA	-	2,177 SqM
		(23,429 SqFt)
GEA	-	2,379 SqM
		(25,532 SqFt)



Client	Lidl Great Britain Limited
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Project  
Power Station Road  
Rugeley

File  
Proposed Building Plan

Project Details  
Planning

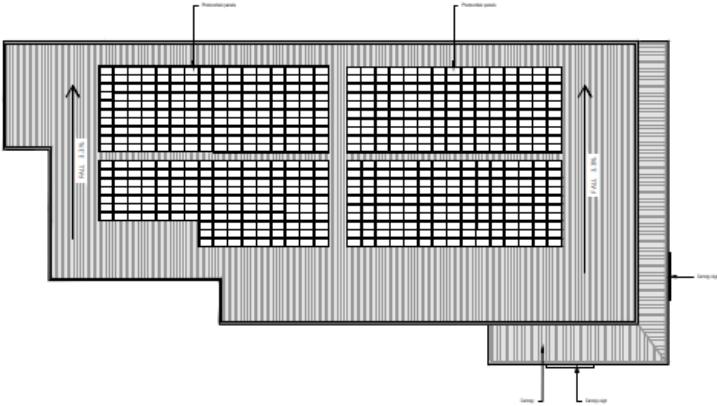
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Scale	1:200 @ A3 / 1:800 @ A4
Date	August 2023

Author	WSP Parsons   Onyiah
Check	WSP Parsons   Onyiah
Date	15/08/23

Project Name	Power Station Road, Rugeley
Client	Lidl Great Britain Limited
Scale	1:200 @ A3 / 1:800 @ A4
Date	August 2023
Author	WSP Parsons   Onyiah
Check	WSP Parsons   Onyiah
Date	15/08/23

# Proposed Roof Plan

**Whitman Cox Architects**  
 25, Abchurch Lane, London, EC4A 3DF  
 Tel: 020 7404 2120  
 www.whitmancox.com



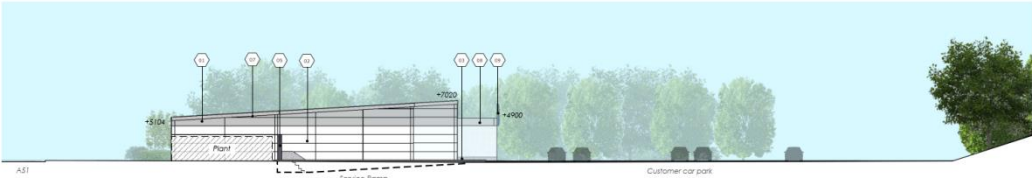
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LiD Great Britain Limited  
 Power Station Road  
 Rugeley

Planning  
 1:200 @ A3 | 1:400 @ A4  
 August 2023

Project Name	Power Station Road Rugeley
Client	LiD Great Britain Limited
Architect	Whitman Cox Architects
Date	August 2023
Scale	1:200 @ A3   1:400 @ A4
Drawn by	[Name]
Checked by	[Name]
Approved by	[Name]
Discipline	Architectural
Sheet No.	6.114
Total Sheets	1

# Proposed Elevations



NORTH ELEVATION - RAILWAY LINE



EAST ELEVATION - A 51



SOUTH ELEVATION - POWER STATION ROAD



WEST ELEVATION - POWER STATION ROAD

**KEY**

- 01 - Aluminium composite cladding panel  
Colour: Silver (RAL 9006)
- 02 - Aluminium composite cladding panel  
Colour: White (RAL 9003)
- 03 - Reinforced plaster  
Colour: Grey (RAL 9005)
- 04 - PFC Steel Door  
Colour: Dark Blue (RAL 5003)
- 05 - Spawning door/window  
Colour: Dark Blue (RAL 5003)
- 06 - Aluminium framed glazing system  
Colour: Dark Blue (RAL 5003)
- 07 - PFC Aluminium Trim  
Colour: Silver (RAL 9003)
- 08 - PFC Aluminium Canopy  
Colour: Dark grey (RAL 9006)
- 09 - Internally illuminated sign
- 10 - Photovoltaic panels

Signage shown is indicative and will be sought through a separate advertisement application.

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Client	Lidl Great Britain Limited
Project	Rugeley Power Station Road
Type	Proposed Elevations
Drawing Status	Planning
Scale	1:200 @ A1
Date	August 2020
Whittam Cox Architects	Whittam Cox Architects
Drawn By	DC
Checked By	DC
Date	19/08/2020
Scale	1:200 @ A1
Sheet No.	190343 PL-06
Rev	A

**Contact Officer:** Richard Sunter  
**Telephone No:** 01543 464481

**Planning Control Committee**  
**13<sup>th</sup> January 2021**

**Application No:** CH/20/306  
**Received:** 03-Sep-2020  
**Location:** Land at Power Station Road, Rugeley  
**Parish:** Brereton and Ravenhill  
**Ward:** Brereton and Ravenhill Ward  
**Description:** Removal of existing hardstanding and erection of a retail foodstore with associated car parking, access, landscaping and associated engineering works  
**Application Type:** Full Planning Application Major

**Recommendations:**

Approve subject to a section 106 agreement and the attached conditions

**Reason(s) for Recommendation:**

In accordance with paragraph 38 of the National Planning Policy Framework the Local Planning Authority has worked with the applicant in a positive and proactive manner to approve the proposed development, which accords with the Local Plan and/ or the National Planning Policy Framework.

**Conditions (and Reasons for Conditions):**

1. The development to which this permission relates must be begun not later than the expiration of three years beginning with the date on which this permission is granted.

Reason

To comply with the requirements of Section 91 of the Town & Country Planning Act 1990.

#### Materials

2. The external materials of the building hereby approved shall only be as shown in Drawing 190343-PL-06 Revision A and 190343-PL-05 Revision A..

#### Reason

In the interests of visual amenity and to ensure compliance with Policy CP3 of the Cannock Chase Local Plan (Part 1) and the National Planning Policy Framework.

#### Drainage

3. The development hereby permitted shall not commence until drainage plans for the disposal of foul and surface water flows have been submitted to and approved by the Local Planning Authority, and

The scheme shall be implemented in accordance with the approved details before the development is first brought into use.

#### Reason

This is to ensure that the development is provided with a satisfactory means of drainage as well as to prevent or to avoid exacerbating any flooding issues and to minimise the risk of pollution in accordance with the National Planning Policy Framework.

4. No development shall begin until the following elements of a surface water drainage design have been submitted to and approved by the Local Planning Authority in consultation with the Lead Local Flood Authority. The design must demonstrate:

1. Surface water drainage system(s) designed in accordance with the Non-technical standards for sustainable drainage systems (DEFRA, March 2015).
2. Provision of an acceptable management and maintenance plan for surface water drainage to ensure that surface water drainage systems will be maintained and managed for the lifetime of the development. To include the name and contact details of the party(-ies) responsible.
3. Evidence of an agreement to discharge to the public surface water sewer system.

#### Reason

To reduce the risk of surface water flooding to the development and properties downstream for the lifetime of the development.

5. No development shall commence until a Construction Management Plan (CMP) has been submitted to, and approved in writing by, the Local Planning Authority. The CMP shall have regard to relevant guidance; including, but not limited to, Control of Dust and Emissions during Construction and Demolition (Greater London Authority 2014), Guidance on Assessment and Monitoring of Dust from Demolition and Construction (two documents, Institute of Air Quality Management 2014 & 2018), and BS 5228 with regards to noise and vibration management. The submission shall also include the mitigation measures proposed in the previously submitted Air Quality Assessment (ref. MCP2327-001, dated 29 July 2020, authored by BWB).

The submitted document shall specify:

- Hours of working.
- The parking of vehicles for site operatives and visitors.
- Routing and timing of delivery vehicles to and from the site.
- Onsite provision for loading/unloading and storage of plant and materials.
- Measures to control the emission of dust and dirt during construction, including minimising the track-out of any material onto the public highway, and how this will be monitored (e.g. with recorded daily inspections or similar).
- Noise and vibration management procedures, including how complaints will be handled.
- Details of piling method to be used, should piling be undertaken.

The CMP shall be adhered to throughout the construction period.

#### Reason

In the interest of protecting the amenity of the surrounding area in accordance with the National Planning Policy Framework.

6. Any external lighting brought into use shall only be installed in accordance with a scheme that has been submitted to and approved in writing by the Local Planning Authority. Thereafter the approved lighting shall not be replaced with any alternative lighting unless otherwise first agreed in writing with the Local Planning Authority.

Reason

In the interest of protecting the amenity of the surrounding area in accordance with the National Planning Policy Framework.

7. The development shall be undertaken in accordance with the mitigation outlined in the site investigation report (ref. AG3079-19-AK41 issue 1, dated 20<sup>th</sup> May 2020., authored by Applied Geology Ltd) in that gas protection measures consistent with Characteristic Situation 2 (CIRIA C665) shall be installed in line with BS8485:2015+A1:2019.

Reason

The submitted site investigation (ref. AG3079-19-AK41 issue 1, dated 20<sup>th</sup> May 2020. Authored by Applied Geology Ltd) has confirmed the presence of ground gases requiring mitigation in accordance with the National Planning Policy Framework.

8. If during remediation works, any unknown contamination is identified, then additional remediation proposals for this material shall be submitted to and approved in writing by the local Planning Authority. Any approved proposals shall, thereafter, form part of the Remediation Method Statement.

Reason

To ensure that the ground conditions are suitable for their intended purpose in accordance with the National Planning Policy Framework.

9. The development shall not be occupied until a Validation/ Phase 3 report has been submitted to, and approved in writing by, the Local Planning Authority this Department. A Validation Report shall confirm that all remedial works have been completed and validated in accordance with the requirements of conditions 7 and 8.

Reason

To ensure that the ground conditions are suitable for their intended purpose in accordance with the National Planning Policy Framework.

10. Any soil materials imported to site shall be chemically analysed to demonstrate they are suitable for use. These details, along with information on the material source, volume imported and depth of placement shall be included within a Validation Report. The validation report shall be submitted to and approved in writing by the Local Planning Authority before the development is brought into use.

Reason

To ensure that the ground conditions are suitable for their intended purpose in accordance with the National Planning Policy Framework.

11. Prior to the occupation of the development hereby approved, a scheme detailing the external environment-landscape, including planting, fencing, walls, surface treatment for the site shall be submitted to and approved in writing by the Local Planning Authority. The details shall be in the form as specified in Annex C of the Supplementary Planning Guidance 'Trees, Landscape and Development'. Thereafter the approved landscape works shall be carried out in the first planting and seeding season following the occupation of any buildings or the completion of the development whichever is the sooner.

Reason

In the interest of visual amenity of the area and in accordance with Policy CP3 of the Cannock Chase Local Plan (Part 1) and the National Planning Policy Framework.

12. Before the development hereby approved is brought into use a scheme for the provision of an access gate into the land to be transferred to Cannock Chase District Council shall be submitted to, and approved in writing by, the Local Planning Authority and the works comprising the approved scheme shall be implemented in full.

Reason

To enable access to the land for the purposes of maintenance.



13. Before the development hereby approved is brought into use the electric vehicle charging points shown on 190343-PL-03RevF shall be installed and made available for use by the public. Thereafter the electric vehicle charging points shall be retained and maintained for their intended purposes unless otherwise approved in writing by the Local Planning Authority.

14. The development hereby permitted shall be carried out in accordance with the following approved plans:

- 190343 PL-01A - Location Plan-A3
- 190343 PL-02A - Existing Site Plan-A1
- 190343 PL-03F - Proposed Site Plan-A1
- 190343 PL-04A - Proposed Building Plan-A1
- 190343 PL-05A - Proposed Roof Plan-A1
- 190343 PL-06A - Proposed Elevations-A1
- L-03 Rev F Proposed Site Plan
- SCP/190752/F01 Rev C Ghost-Island Right Turn Site Access Proposal
- SCP/190752/F02 Rev B Proposed Site Layout and Ghost-Island Right Turn Site Access Solution
- SCP/190752/F03 Rev B Proposed Site Layout and Ghost-Island Right Turn Site Access Solution
- Illustrated Against RPS S278 Works
- SCP/190752/ATR01 Rev D Site Access Proposal and Swept Path of Maximum Legal Articulated HGV
- (Inbound)
- SCP/190752/ATR02 Rev D Site Access Proposal and Swept Path of Maximum Legal Articulated HGV
- (Outbound)

#### Reason

For the avoidance of doubt and in the interests of proper planning.

#### Highway Conditions

15. Prior to the commencement of any construction, a Construction Environmental Management Plan (CEMP) shall be submitted to, and approved in writing by, the Local Planning Authority. The approved management plan shall include details relating to construction access, hours of construction, routing of HGV's,

delivery times and the location of the contractors compounds, cabins, material storage areas and contractors parking and a scheme for the management and suppression of dust and mud from construction activities including the provision of a vehicle wheel wash. All site operations shall then be undertaken strictly in accordance with the approved CEMP for the duration of the construction programme.

Reason

In the interest of highway safety and in accordance with paragraph 109 of the National Planning Policy Framework.

16. Prior to first occupation of the development hereby permitted, the proposed site access from PowerStation Road shall be completed within the limits of the public highway in accordance with approved Plans 'SCP/190752/F01 Rev C Ghost-Island Right Turn Site Access Proposal' and 'SCP/190752/F02 Rev B Proposed Site Layout and Ghost-Island Right Turn Site Access Solution'.

Reason

In the interest of highway safety and in accordance with paragraph 109 of the National Planning Policy Framework.

17. The development hereby permitted shall not be brought into use until the existing site access from the A51 made redundant as a consequence of the development hereby permitted, is permanently closed to vehicles with the access crossing reinstated as footway with full height kerbs in accordance with details to be first submitted to and approved in writing by the Local Planning Authority.

Reason

In the interest of highway safety and in accordance with paragraph 109 of the National Planning Policy Framework.

18. The development hereby permitted shall not be brought into use until the access, parking, servicing and turning areas have been provided broadly in accordance with approved Plan 'PL-03 Rev F Proposed Site Plan'. The proposed access, parking, servicing and turning areas, shall be sustainably drained, hard surfaced in a bound material and clearly delineated prior to the first occupation of the development hereby permitted. Thereafter these areas shall be retained in accordance with the approved plans for the lifetime of the

development, unless otherwise agreed in writing by the Local Planning Authority.

Reason

In the interest of highway safety and in accordance with paragraph 109 of the National Planning Policy Framework.

19. The development hereby permitted shall not be brought into use until a signage and directional strategy for the car parking area has first be submitted to and approved in writing by the Local Planning Authority. The strategy shall thereafter be implemented in accordance with the approved details for the lifetime of the development.

Reason

In the interest of highway safety and in accordance with paragraph 109 of the National Planning Policy Framework.

20. Notwithstanding the submitted details, the development hereby permitted shall not be bought into use until full details of safe, secure and weatherproof cycle parking facilities for customers and staff and locker facilities for staff, have been submitted to and approved in writing by the Local Planning Authority. The cycle parking and locker facilities shall be constructed in accordance with the approved details and thereafter be retained for the life of the development.

Reason

In the interest of highway safety and in accordance with paragraph 109 of the National Planning Policy Framework.

21. Prior to occupation of the development hereby permitted, the Travel Plan (Revision 3 dated 25.11.2020) shall be implemented and monitored accordingly to the targets and timescales contained therein.

Reason

In the interest of highway safety and in accordance with paragraph 109 of the National Planning Policy Framework.

22.No HGV traffic shall be permitted to route north on Power Station Road from/ to the development hereby permitted. Should HGVs be required to route north, revised swept path analysis drawings demonstrating that the manoeuvres can be safely performed shall first be submitted to and approved in writing by the Local Planning Authority.

Reason

In the interest of highway safety and in accordance with paragraph 109 of the National Planning Policy Framework.

23.The development to which this permission relates must be begun not later than the expiration of three years beginning with the date on which this permission is granted.

Reason

To comply with the requirements of Section 91 of the Town & Country Planning Act 1990.

Materials

24.The external materials of the building hereby approved shall only be as shown in Drawing 190343-PL-06 Revision A and 190343-PL-05 Revision A..

Reason

In the interests of visual amenity and to ensure compliance with Policy CP3 of the Cannock Chase Local Plan (Part 1) and the National Planning Policy Framework.

Drainage

25.The development hereby permitted shall not commence until drainage plans for the disposal of foul and surface water flows have been submitted to and approved by the Local Planning Authority, and

The scheme shall be implemented in accordance with the approved details before the development is first brought into use.

### Reason

This is to ensure that the development is provided with a satisfactory means of drainage as well as to prevent or to avoid exacerbating any flooding issues and to minimise the risk of pollution in accordance with the National Planning Policy Framework.

26. No development shall begin until the following elements of a surface water drainage design have been submitted to and approved by the Local Planning Authority in consultation with the Lead Local Flood Authority. The design must demonstrate:
1. Surface water drainage system(s) designed in accordance with the Non-technical standards for sustainable drainage systems (DEFRA, March 2015).
  2. Provision of an acceptable management and maintenance plan for surface water drainage to ensure that surface water drainage systems will be maintained and managed for the lifetime of the development. To include the name and contact details of the party(-ies) responsible.
  3. Evidence of an agreement to discharge to the public surface water sewer system.

### Reason

To reduce the risk of surface water flooding to the development and properties downstream for the lifetime of the development.

27. No development shall commence until a Construction Management Plan (CMP) has been submitted to, and approved in writing by, the Local Planning Authority. The CMP shall have regard to relevant guidance; including, but not limited to, Control of Dust and Emissions during Construction and Demolition (Greater London Authority 2014), Guidance on Assessment and Monitoring of Dust from Demolition and Construction (two documents, Institute of Air Quality Management 2014 & 2018), and BS 5228 with regards to noise and vibration management. The submission shall also include the mitigation measures proposed in the previously submitted Air Quality Assessment (ref. MCP2327-001, dated 29 July 2020, authored by BWB).

The submitted document shall specify:

- Hours of working.
- The parking of vehicles for site operatives and visitors.
- Routing and timing of delivery vehicles to and from the site.
- Onsite provision for loading/unloading and storage of plant and materials.
- Measures to control the emission of dust and dirt during construction, including minimising the track-out of any material onto the public highway, and how this will be monitored (e.g. with recorded daily inspections or similar).
- Noise and vibration management procedures, including how complaints will be handled.
- Details of piling method to be used, should piling be undertaken.

The CMP shall be adhered to throughout the construction period.

Reason

In the interest of protecting the amenity of the surrounding area in accordance with the National Planning Policy Framework.

28. Any external lighting brought into use shall only be installed in accordance with a scheme that has been submitted to and approved in writing by the Local Planning Authority. Thereafter the approved lighting shall not be replaced with any alternative lighting unless otherwise first agreed in writing with the Local Planning Authority.

Reason

In the interest of protecting the amenity of the surrounding area in accordance with the National Planning Policy Framework.

29. The development shall be undertaken in accordance with the mitigation outlined in the site investigation report (ref. AG3079-19-AK41 issue 1, dated 20<sup>th</sup> May 2020., authored by Applied Geology Ltd) in that gas protection measures consistent with Characteristic Situation 2 (CIRIA C665) shall be installed in line with BS8485:2015+A1:2019.

Reason

The submitted site investigation (ref. AG3079-19-AK41 issue 1, dated 20<sup>th</sup> May 2020. Authored by Applied Geology Ltd) has confirmed the presence of ground gases requiring mitigation in accordance with the National Planning Policy Framework.

30. If during remediation works, any unknown contamination is identified, then additional remediation proposals for this material shall be submitted to and approved in writing by the local Planning Authority. Any approved proposals shall, thereafter, form part of the Remediation Method Statement.

Reason

To ensure that the ground conditions are suitable for their intended purpose in accordance with the National Planning Policy Framework.

31. The development shall not be occupied until a Validation/ Phase 3 report has been submitted to, and approved in writing by, the Local Planning Authority this Department. A Validation Report shall confirm that all remedial works have been completed and validated in accordance with the requirements of conditions 7 and 8.

Reason

To ensure that the ground conditions are suitable for their intended purpose in accordance with the National Planning Policy Framework.

32. Any soil materials imported to site shall be chemically analysed to demonstrate they are suitable for use. These details, along with information on the material source, volume imported and depth of placement shall be included within a Validation Report. The validation report shall be submitted to and approved in writing by the Local Planning Authority before the development is brought into use.

Reason

To ensure that the ground conditions are suitable for their intended purpose in accordance with the National Planning Policy Framework.

33. Prior to the occupation of the development hereby approved, a scheme detailing the external environment-landscape, including planting, fencing, walls, surface treatment for the site shall be submitted to and approved in writing by the Local Planning Authority. The details shall be in the form as specified in Annex C of the Supplementary Planning Guidance 'Trees,

Landscape and Development'. Thereafter the approved landscape works shall be carried out in the first planting and seeding season following the occupation of any buildings or the completion of the development whichever is the sooner.

Reason

In the interest of visual amenity of the area and in accordance with Policy CP3 of the Cannock Chase Local Plan (Part 1) and the National Planning Policy Framework.

34. Before the development hereby approved is brought into use a scheme for the provision of an access gate into the land to be transferred to Cannock Chase District Council shall be submitted to, and approved in writing by, the Local Planning Authority and the works comprising the approved scheme shall be implemented in full.

Reason

To enable access to the land for the purposes of maintenance.

35. Before the development hereby approved is brought into use the electric vehicle charging points shown on 190343-PL-03RevF shall be installed and made available for use by the public. Thereafter the electric vehicle charging points shall be retained and maintained for their intended purposes unless otherwise approved in writing by the Local Planning Authority.

36. The development hereby permitted shall be carried out in accordance with the following approved plans:

- 190343 PL-01A - Location Plan-A3
- 190343 PL-02A - Existing Site Plan-A1
- 190343 PL-03F - Proposed Site Plan-A1
- 190343 PL-04A - Proposed Building Plan-A1
- 190343 PL-05A - Proposed Roof Plan-A1
- 190343 PL-06A - Proposed Elevations-A1
- L-03 Rev F Proposed Site Plan
- SCP/190752/F01 Rev C Ghost-Island Right Turn Site Access Proposal



- SCP/190752/F02 Rev B Proposed Site Layout and Ghost-Island Right Turn Site Access Solution
- SCP/190752/F03 Rev B Proposed Site Layout and Ghost-Island Right Turn Site Access Solution
- Illustrated Against RPS S278 Works
- SCP/190752/ATR01 Rev D Site Access Proposal and Swept Path of Maximum Legal Articulated HGV
- (Inbound)
- SCP/190752/ATR02 Rev D Site Access Proposal and Swept Path of Maximum Legal Articulated HGV
- (Outbound)

Reason

For the avoidance of doubt and in the interests of proper planning.

Highway Conditions

37. Prior to the commencement of any construction, a Construction Environmental Management Plan (CEMP) shall be submitted to, and approved in writing by, the Local Planning Authority. The approved management plan shall include details relating to construction access, hours of construction, routing of HGV's, delivery times and the location of the contractors compounds, cabins, material storage areas and contractors parking and a scheme for the management and suppression of dust and mud from construction activities including the provision of a vehicle wheel wash. All site operations shall then be undertaken strictly in accordance with the approved CEMP for the duration of the construction programme.

Reason

In the interest of highway safety and in accordance with paragraph 109 of the National Planning Policy Framework.

38. Prior to first occupation of the development hereby permitted, the proposed site access from PowerStation Road shall be completed within the limits of the public highway in accordance with approved Plans 'SCP/190752/F01 Rev C Ghost-Island Right Turn Site Access Proposal' and 'SCP/190752/F02 Rev B Proposed Site Layout and Ghost-Island Right Turn Site Access Solution'.

Reason

In the interest of highway safety and in accordance with paragraph 109 of the National Planning Policy Framework.

39. The development hereby permitted shall not be brought into use until the existing site access from the A51 made redundant as a consequence of the development hereby permitted, is permanently closed to vehicles with the access crossing reinstated as footway with full height kerbs in accordance with details to be first submitted to and approved in writing by the Local Planning Authority.

Reason

In the interest of highway safety and in accordance with paragraph 109 of the National Planning Policy Framework.

40. The development hereby permitted shall not be brought into use until the access, parking, servicing and turning areas have been provided broadly in accordance with approved Plan 'PL-03 Rev F Proposed Site Plan'. The proposed access, parking, servicing and turning areas, shall be sustainably drained, hard surfaced in a bound material and clearly delineated prior to the first occupation of the development hereby permitted. Thereafter these areas shall be retained in accordance with the approved plans for the lifetime of the development, unless otherwise agreed in writing by the Local Planning Authority.

Reason

In the interest of highway safety and in accordance with paragraph 109 of the National Planning Policy Framework.

41. The development hereby permitted shall not be brought into use until a signage and directional strategy for the car parking area has first be submitted to and approved in writing by the Local Planning Authority. The strategy shall thereafter be implemented in accordance with the approved details for the lifetime of the development.

Reason

In the interest of highway safety and in accordance with paragraph 109 of the National Planning Policy Framework.

42. Notwithstanding the submitted details, the development hereby permitted shall not be brought into use until full details of safe, secure and weatherproof cycle parking facilities for customers and staff and locker facilities for staff, have been submitted to and approved in writing by the Local Planning Authority. The cycle parking and locker facilities shall be constructed in accordance with the approved details and thereafter be retained for the life of the development.

Reason

In the interest of highway safety and in accordance with paragraph 109 of the National Planning Policy Framework.

43. Prior to occupation of the development hereby permitted, the Travel Plan (Revision 3 dated 25.11.2020) shall be implemented and monitored accordingly to the targets and timescales contained therein.

Reason

In the interest of highway safety and in accordance with paragraph 109 of the National Planning Policy Framework.

44. No HGV traffic shall be permitted to route north on Power Station Road from/ to the development hereby permitted. Should HGVs be required to route north, revised swept path analysis drawings demonstrating that the manoeuvres can be safely performed shall first be submitted to and approved in writing by the Local Planning Authority.

Reason

In the interest of highway safety and in accordance with paragraph 109 of the National Planning Policy Framework.

**Notes to Developer:**

The applicant's attention is drawn to the comments made by Staffordshire Police in respect to designing out crime and anti-social behaviour.

The applicant's attention is drawn to the comments made by Staffordshire County Council in respect to the generation of waste on the site.

The County Highway Authority has made the following comments: -

The proposed site access and off-site highway works shall require a Highway Works Agreement with Staffordshire County Council. The applicant is requested to contact Staffordshire County Council in order to secure the Agreement. The link below is to

the Highway Works Information Pack including an application form. Please complete and send to the address indicated on the application form or email to

road.adoptions@staffordshire.gov.uk. The applicant is advised to begin this process well in advance of any works taking place in order to meet any potential timescales.

<https://www.staffordshire.gov.uk/Highways/highwayscontrol/HighwaysWorkAgreements.aspx>

## **Consultations and Publicity**

### **External Consultations**

#### Brereton & Ravenhill Parish Council

The Parish Council fully support this planning application as the development will provide something of value to residents and tidy up a local eyesore. The Parish Council would expect any Section 106 funds from this development to be earmarked for the benefit of Brereton and Ravenhill.

#### Natural England

No objection.

Based on the plans submitted, Natural England considers that the proposed development will not have significant adverse impacts on designated sites and has no objection.

Natural England's further advice on designated sites/ landscapes and advice on other natural environment issues is set out below

#### European Designations: Cannock Chase SAC

Despite the proximity of the application to European Sites, the consultation documents provided do not include information to demonstrate that the requirements of regulation 63 of the Conservation of Habitats and Species Regulations 2017 (as amended) have been considered by your authority, i.e. the consultation does not include a Habitats Regulations Assessment.

To assist you in screening for the likelihood of significant effects on European sites, Natural England offers the following advice, based on the information provided:

- the proposal is not directly connected with or necessary for the management of the European site
- the proposal is unlikely to have a significant effect on any European site, either alone or in-combination with other plans and projects, and can therefore be screened out from any requirement for further appropriate assessment

When recording your HRA we recommend you refer to the following information to justify your conclusions regarding the likelihood of significant effects (add information):

- Technical Note Air Quality (SCP 22 May)
- Preliminary Ecological Statement 27 August 2020

#### Cannock Chase Site of Special Scientific Interest

Based on the plans submitted, Natural England considers that the proposed development will not damage or destroy the interest features for which the site has been notified and has no objection.

#### Protected Landscapes – Cannock Chase AONB

The proposed development is within 2km of a nationally designated landscape namely Cannock Chase AONB. Natural England advises that the planning authority uses national and local policies, together with local landscape expertise and information to determine the proposal. The policy and statutory framework to guide your decision and the role of local advice are explained below.

Your decision should be guided by paragraph 172 of the National Planning Policy Framework which gives the highest status of protection for the 'landscape and scenic beauty' of AONBs and National Parks. For major development proposals paragraph 172 sets out criteria to determine whether the development should exceptionally be permitted within the designated landscape.

Alongside national policy you should also apply landscape policies set out in your development plan, or appropriate saved policies. We direct you to two recent relevant publications from the Cannock Chase AONB Partnership <https://www.cannock-chase.co.uk/publications/technical-documents/>

- Cannock Chase AONB Design Guide (2020)
- Cannock Chase AONB Views and Setting Guide (2020) – In particular Chapter 4 (Viewpoint specific Guidance) Pages 73, 74 (Viewpoint 5 – Rugeley Heathland Edge)

We also advise that you consult the Cannock Chase AONB Partnership:

Her knowledge of the site and its wider landscape setting, together with the aims and objectives of the AONB's statutory management plan, will be a valuable contribution to the planning decision.

The statutory purpose of the AONB is to conserve and enhance the area's natural beauty. You should assess the application carefully as to whether the proposed development would have a significant impact on or harm that statutory purpose.

Relevant to this is the duty on public bodies to 'have regard' for that statutory purpose in carrying out their functions (S85 of the Countryside and Rights of Way Act, 2000). The Planning Practice Guidance confirms that this duty also applies to proposals outside the designated area but impacting on its natural beauty.

Further general advice on the consideration of protected species and other natural environment issues is provided at Annex A.

If you have any queries relating to the advice in this letter please contact me on 07900 608175.

Should the proposal change, please consult us again.

County Flood Risk Management (SUDS)

No objections subject to conditions.

Staffordshire County Council

No objections.

Staffordshire Police Crime Prevention Officer

Thank you for the above consultation document, I ask that Cannock Chase District Council consider my comments, which are site specific, and made in accordance with;

Section 17 of the 'Crime and Disorder Act 1998':

- places a duty on each local authority: 'to exercise its various functions with due regard to the likely effect of the exercise of those functions on, and the need to do all that it reasonably can to prevent crime and disorder in its area to include anti-social behaviour, substance misuse and behaviour which adversely affects the environment'.

National Planning Policy Framework:

- Paragraph 91(b).  
This paragraph looks towards healthy and safe communities. The paragraph includes:-  
"Planning policies and decisions should aim to achieve healthy, inclusive and safe places which are safe and accessible, so that crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion"
- Paragraph 127(f) includes;  
  
'create places that are safe, inclusive and accessible and which promote health

and well-being, with a high standard of amenity for existing and future users; and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience”.

- Paragraph 95 (a&b) includes;

“Planning policies and decisions should promote public safety and take into account wider security and defence requirements by:

a) anticipating and addressing possible malicious threats and natural hazards, especially in locations where large numbers of people are expected to congregate. Policies for relevant areas (such as town centre and regeneration frameworks), and the layout and design of developments, should be informed by the most up-to-date information available from the police and other agencies about the nature of potential threats and their implications. This includes appropriate and proportionate steps that can be taken to reduce vulnerability, increase resilience and ensure public safety and security; and

b) recognising and supporting development required for operational defence and security purposes, and ensuring that operational sites are not affected adversely by the impact of other development proposed in the area.

South Staffordshire District Council LDF Core Policy:

- Core Policy 13, Community Safety states;  
The design of buildings and spaces can make a significant contribution towards reducing the scope for crime, and create more pleasant and reassuring environments in which to live, work and play. The opportunities for crime to occur can be minimised by designing and planning out crime in new development. The Council supports the national guidance ‘Secured by Design’ and will continue to work with Staffordshire Police architectural liaison officer in relation to the design and layout of development proposals.

Policy CS1: Designing Out Crime:

- In accordance with Core Policy 13, the design of development must include, means of reducing the opportunities for crime and anti-social behaviour, and must also seek to reduce the potential for fear of crime. This will include support for:
- Social facilities to be provided in locations which can be adequately controlled and supervised;
- Development to be designed to increase natural surveillance of public and private spaces, with continuous public surveillance as an alternative;

- Liaison with the Police to design out crime and fear of crime in specific schemes which also meet other design objectives in Policy EQ11.

Development proposals should be consistent with other local planning policies.

Core Policy 13 sets out the strategic policy for community safety that supports the aims and objectives of the Sustainable Community Strategy and the Community Safety Partnership Plan. The above Policy provides further detail on the design of development and 'Secured by Design', and in turn supports Policy EQ11 covering wider design considerations.

The Human Rights Act Article & Protocol 1, Safer Places: The Planning System and Crime Prevention and PINS 953.

In order to prevent crime and reduce the fear of crime I recommend that this development attains Police Secured by Design (SBD) accreditation. There is no charge for my advice or for the Secured by Design award, and once awarded the Police SBD logo can be used on advertising material.

Research shows that adopting SBD can reduce burglary by 50%, car crime and criminal damage by 25%, therefore the carbon costs of replacing door-sets and windows on SBD developments as a result of criminal activity is more than 50% less than on non SBD developments, *the cost of installing SBD approved products equals 0.2% of the total build cost.*

One of the most revealing elements of research into SBD is how much 'safer' residents feel if they occupy a dwelling on an accredited development, even if they are not aware of the award status. There are few other initiatives which can deliver a measurable reduction in fear like this.

SBD supports one of the Government's key planning objectives - the creation of safe, secure, quality places where people wish to live and work. SBD applies quality standards to a range of security measures and should be seen as a positive marketing opportunity.

SBD can contribute towards BREEAM assessments.

### Concerns

I would like to highlight a few areas of concern based on observations within Staffordshire.

- The Police have received a number of incidents reported relating to 'Car Cruising' on large retail car parks. Within the Cannock Chase District Council area a number of main arterial roads have prohibitive orders in place against



'Car Cruising'. Bearing this in mind, I would like to make the following recommendations:

The car park layout should be designed to incorporate a number of speed bumps, in order to prevent the car park from becoming a makeshift race track.

The installation of a barrier is recommended, to prevent access to the car park after hours. This should help prevent car cruising on the car park and also prevent any unauthorised use of the car park.

- The A51 is a very busy arterial route which accounts for the high volumes of HGVs commuting through the area. Currently HGVs usually stop in the lay-bys in close proximity to the development site to take their required breaks. The new road layout proposed in the development plans will remove the lay-by, thus reducing parking availability within the area. I recommend the installation of a height restriction barrier at the entrance, to prevent HGVs accessing the car park after hours.
- The rear emergency exit is vulnerable for forced entry due to the lack of natural surveillance. Access to the rear of the building should be restricted to prevent unauthorised individuals from targeting the rear emergency exit to enter the premises. In addition to dense defensive planting incorporated into the landscaping, I recommend a fence and gate is installed to block access to the rear footpath, however this gate should be installed with an emergency release button to use in the event of a fire. The gate will be required for landscape management, but access should be restricted. The gate should be at least 2m in height. The recommended fence and gate should meet LPS1175 SR2 standards.
- The location of the cycle store currently sited in close proximity to the potential pedestrian access from the new proposed toucan crossing across the A51. My concerns surround the ease in which a potential stolen bicycle could be rode down the pedestrian access and across the A51 and disappear.

I recommend the cycle store is relocated to an area further away from the pedestrian access, in clear line of sight from both in-store and the customer packing area or the cycle store area should be covered by CCTV.

#### Unit Entrance

A new dedicated entrance to the site is to be created for vehicular and pedestrian entrances. A new pedestrian access is proposed for use by pedestrians using the new proposed toucan crossing across the A51.

The installation of the two toucan pedestrian crossings, will provide safe crossing points for pedestrians. The toucan crossing should be staggered from the pedestrian access, in order to prevent someone running directly into the road from the pedestrian access. Physical barriers should also be installed to prevent pedestrians running directly across the A51. It is important that the pedestrian has good visibility along the route of the footpath. The footpath should be as carefully 'designed' as the buildings.

The potential link between the Power Station redevelopment site and the Lidl will be reviewed at a later date, once plans have been produced.

### Security Bollards

In order to prevent attempts to vehicular borne attacks towards the buildings, I recommend the installation of bollards around the perimeter of the buildings, which must be tested and meet the following certification for both manufacture and installation.

- Fixed bollards should have been successfully tested to PAS 68-1:2013 Performance specifications for vehicle security barriers – fixed bollards
- Rising Bollards should have been successfully tested to PAS 68-2:2013 Performance Specification for vehicle security barriers – rise and fall bollards

Note: The International Organization for Standardization (ISO) has produced an International Workshop Agreement (IWA) for vehicle security barriers. This new agreement has been supported by the UK and therefore Bollards meeting the requirement of IWA 14-1 (Vehicle Security Barriers) will be deemed acceptable for SBD Commercial Developments.

- PAS 69: 2013 provides guidance on the appropriate selection, installation and use of such bollards and should be referenced in the first instance.

Note: The International Organization for Standardization (ISO) has produced an International Workshop Agreement (IWA) issuing greater advice on site assessment and bollard installation. This new agreement has been supported by the UK and therefore bollards meeting the requirements above and installed to the requirements within IWA 14-2 (Advice on site assessment and installation) will be deemed acceptable for SBD Commercial Developments.

### Boundary Landscaping

No fencing is to be installed on site, and site boundary is comprised via landscaping.

I recommend all the boundary landscaping is dense in order to prevent an individual/child from running out into oncoming traffic.

All shrubs and hedges adjacent buildings/fences should have a maximum growth height of 1m, tree branches should be pruned up to a minimum height of 2m, thereby maintaining a clear field of vision around the site. Mature trees should not mask lighting columns or become climbing aids. All hard landscaping and street furniture should be securely fixed in order to prevent removal, vandalism and/or use as potential ammunition.

The landscape design should be co-ordinated with a CCTV installation and lighting design to avoid any conflicts and to ensure that the lighting is sufficient to support a CCTV system.

### Parking

The design criteria for car parks should follow the principles laid down in the police owned 'ParkMark' initiative. Full registration to 'ParkMark' is not a requirement of this document. The CPDA will be able to offer additional advice. Further information can be found at [www.parkmark.co.uk](http://www.parkmark.co.uk)

Secure bicycle parking should be provided in view of an occupied commercial unit. The cycle stand must facilitate the locking of both wheels and the crossbar. Minimum requirements for such equipment are:

- Galvanised steel bar construction (minimum thickness 3mm) filled with concrete
- Minimum foundation depth of 300mm with welded 'anchor bar'

### Lighting

Lighting layout should be carefully designed to cover all areas and not create shadows. The most suitable level of lighting should be BS5489-1:2013; well-positioned lighting will deter and reveal potential intruders.

High-pressure sodium (SON) units or LED's should be used where possible, particularly at school crossings etc. as low-pressure units (SOX) emit poor quality light and consequently poor colour definition that in turn makes it difficult to see intruders.

The response goes on to look at specific areas of design and crime prevention which fall outside of the scope of development control.

### Staffordshire County Council Highways

There are no objections on Highway grounds to the proposed development subject to the following conditions being included on any approval:-

## Site Visit:

A site visit was carried out on 18/09/2020.

## Background

The application site is located to the east of Rugeley town centre and lies to the east and north of Power Station Road. The application site comprises an area of hardstanding and open land and appears to have been formerly used for the storage of materials associated with Rugeley Power Station. To the west the site is bounded by Power Station Road. The A51 bounds the site to the east and an area of dense vegetation to the south. To the north-west the site borders the Rugeley Power Station redevelopment site (Cannock Chase Council Application Number CH/19/201 and Lichfield District Council Application Number 19/00753/OUTMEI) past which lies the Chase railway line. Existing access to the site is via the A51.

Within the vicinity of the application site, Power Station Road is a single lane, two-way unclassified road (road number ZU5093) subject to a 30mph speed limit. Power Station Road is lit with footway provision on both sides of the carriageway. To the north, Power Station Road forms a roundabout with the access to Tesco supermarket (western arm) and a commercial site (eastern arm). A planning application for the relocation of Aldi from Market Street to Power Station Road (Cannock Chase Council Application Number CH/20/218) is currently being determined. Access to the proposed Aldi would be via the eastern arm of this roundabout.

To the south, Power Station Road forms another roundabout, providing access to the Rugeley Amazon Distribution Centre and a number of smaller businesses including Tippers (building materials supplier), McDonalds, Premier Inn and The Colliers Pub and Restaurant. This roundabout also provides pedestrian crossing facilities on all arms of the roundabout in the form of dropped kerbs with tactile paving.

A further crossing point with dropped kerbs and tactile paving is provided on Power Station Road, to the north of the application site, just south of where the Chase railway line (bridge) crosses Power Station Road. A network of shared foot/cycleways are located within proximity to the application site including along the site frontage on Power Station Road, continuing on the western side of the A51 to the west of the application site.

A bus stop is located relatively close to the application site, within close proximity to The Colliers Pub and Restaurant on the A51; however, is served by a limited frequency service, mainly for employees of the Rugeley Amazon Distribution Centre.

Current records show that there are no personal injury collisions (PICs) on Power Station Road within 50m of the site for the previous five years. Therefore, it does not appear that there are any existing safety problems that would be exacerbated by the proposed development.

## Review of Planning Application Documents

It is understood that the proposed development is for the removal of existing hardstanding and erection of a retail food store (Use Class A1) with associated access, car parking, landscaping and engineering works. The total gross internal area of the retail food store would be up to 2,177 m<sup>2</sup> and the tradable floor area would be up to 1,410 m<sup>2</sup>. The application site also includes a section of land to the north-west of the site, which will be reserved to enable an enhanced shared pedestrian/ cycleway to be delivered to that proposed as part of the redevelopment of the Rugeley Power Station site. Although, this is welcomed by the Highway Authority, it is not essential to deliver the sustainable access to the Rugeley Power Station development.

The primary and only vehicular access to the site would be via a new access off Power Station Road.

The vehicular access is proposed to be a priority junction with a ghost island right-turn facility and would also require the narrowing/ removal of the existing layby opposite the proposed site access. Dropped kerbs with tactile paving would be provided at the site access to aid pedestrians with crossing the site access.

Footways will be provided within the site on both sides of the access road connecting with the existing footway on Power Station Road. Pedestrian routes will also be provided within the car parking area comprising footways and zebra crossings directing pedestrians from the highway network to the retail food store. The existing vehicular access from the A51 will be made redundant to vehicles; however, a new access approximately 25m to the north of the existing access will provide an alternative route to the application site for pedestrians and cyclists.

The proposed Lidl site currently has good pedestrian and cycle accessibility from Rugeley town centre and the surrounding residential areas. The proposed development would further enhance these connections through the site.

The Highway Authority suggested that the proposed site access arrangements should be subject to a Stage 1 Road Safety Audit (RSA) to determine whether the proposals were acceptable, in principle, from a highway safety perspective. However, the applicant has opted not to undertake a Stage 1 RSA of the site access arrangements in preference of undertaking a Stage 1/ 2 RSA as part of the highway works agreement (subject to granting of planning permission).

The proposed development would provide 160 car parking spaces including nine disabled parking spaces, nine parent and child spaces and two electric vehicle charging spaces. The proposed level of car parking is within the maximum standards as set out in Cannock Chase Council's parking standards (based on the total gross internal area of the retail food store). It is proposed that should there be a surplus of car parking provision, these spaces would enable linked leisure trips with the

Riverside Park proposed as part of the redevelopment of Rugeley Power Station site.

12 cycle parking spaces which also allow space for trailers will be provided for customers to the south of the retail food store. Although these spaces are not located close to the store entrance, the southern end of the food store would be glazed and therefore would provide natural surveillance of the customer cycle parking spaces. Secure cycle parking for staff will be made available within the warehouse.

A review of the initial planning application documents raised a number of queries associated with the site access arrangements, parking provision, traffic impact assessments, junction capacity assessments, personal injury collision data and the Travel Plan. The submission of amended plans and additional information to address these queries was considered acceptable. It is therefore not considered that the development proposals would have an adverse impact on the surrounding highway network or on highway safety.

It should be noted that the proposed development is for a food store which would serve the population of Rugeley. Therefore, the majority of vehicular trips are already likely to be on the existing highway network and the proposed development would result in the redistribution of these trips on the local highway network. A small proportion may be new trips; however, the traffic impact assessments have considered a robust assessment assuming that 50% of development trips would be new to the local highway network.

The proposed development is considered acceptable subject to the conditions listed below.

Additional Comments:

It is noted that an objection response was received from Barton Willmore on behalf of ENGIE on 23/10/2020. In summary the main concerns raised were as follows:

1. Insufficient land offered for the shared foot/ cycleway to be delivered as part of the redevelopment of the Rugeley Power Station site.
2. Cumulative traffic assessments to include Aldi development traffic.
3. Abortive off-site highway works along Power Station Road.
4. Reliance on pedestrian improvements to be delivered as part of the redevelopment of the Rugeley Power Station site.

I am surprised that a request for further land to be made available to deliver an enhanced pedestrian/ cycle facility as part of the proposed redevelopment of the Rugeley Power Station site is being made.

The developer of the Rugeley Power Station site should have demonstrated that this facility could be delivered within land under their control as part of the relevant planning application (Cannock Chase Council Application Number CH/19/201 and Lichfield District Council Application Number 19/00753/OUTMEI). There should not be a reliance on third party land.

The inclusion of development trips related to the proposed Aldi on Power Station Road was not requested as the development is not yet consented and food retail stores do not generally result in significant levels of new vehicular trips, rather they redistribute trips on the highway network. A large proportion of trips would be pass-by and transfer trips associated with other food retail available and therefore it is considered they would already be on the local highway network. This is also supported by research published by TRICS.

Although the proposed site access arrangements for the Lidl store are yet to be subjected to a Road Safety Audit, the applicant has provided plans which demonstrate that the proposed site access junction can be provided without adversely impacting the off-site highway works to be delivered on Power Station Road as part of the redevelopment of the Rugeley Power Station site. As the Lidl is likely to be operational before the Rugeley Power Station site is occupied, it is likely that the proposed site access works would benefit ENGIE through making the layby opposite the site redundant yet maintaining the access to the pumping station.

The proposed Lidl site currently has good pedestrian and cycle accessibility from Rugeley town centre and the surrounding residential areas. The proposed development would further enhance these connections through the site. It is not considered that there is a reliance by the proposed Lidl on the pedestrian and cycle improvements to be delivered as part of the redevelopment of the Rugeley Power

Station site; these links would provide better connectivity between Rugeley town centre and future occupants of the Rugeley Power Station site.

In consideration of the amended plans and additional information submitted by the applicant, I believe that the proposed development is acceptable on highway grounds, contrary to the concerns raised by ENGIE.

[Members should note that ENGIE have subsequently removed their objection.]

This Form X is issued on the assumption that the developer enters into a suitable legal agreement to secure an acceptable Full Travel Plan and the Travel Plan Monitoring Fee (£7,000). The Travel Plan monitoring fee is required to support the developer's Travel Plan Coordinator and audit annual monitoring reports to ensure the Travel Plan outcomes are being achieved.

Severn Trent Water Ltd

With Reference to the above planning application the company's observations regarding sewerage are as follows.

I can confirm that we have no objections to the proposals subject to the inclusion of the following condition:

- The development hereby permitted should not commence until drainage plans for the disposal of foul and surface water flows have been submitted to and approved by the Local Planning Authority, and
- The scheme shall be implemented in accordance with the approved details before the development is first brought into use. This is to ensure that the development is provided with a satisfactory means of drainage as well as to prevent or to avoid exacerbating any flooding issues and to minimise the risk of pollution.

Staffordshire Wildlife Trust

No comments received.

Environment Agency

No comments received.

South Staffordshire Water Plc

I have viewed the application and from our existing asset records we appear to have a water mains asset affected by this scheme, this would need engagement by the developer with ourselves to look to divert/protect this asset if it is affected by construction works. The asset affected is a trunk water main which is a large diameter pipe of strategic importance.

Additionally we would look to install any new water assets to supply the development through the normal application for new connections process.

Please note that we do not keep records of individual water services so this site may well require the existing water service to be disconnected prior to the development being undertaken.

Highways England

Highways England has no comment to make.

Centrebus.co.uk



I am Head of Business Development for a number of local bus operators including D&G Bus limited and Midland Classic limited who provide local bus services in Staffordshire and I have noted the planning application for a new Lidl store on Power Station Road, Rugeley.

In the Travel Plan it indicates a bus service is provided numbered A51 running close to the proposed site and operated by West Midlands Travel – this has not been provided by them for at least two years and there are no bus stops close to the site – regular bus services can be found in Rugeley Bus Station or on the A513 /Ash Tree Inn.

We are keen to grow our businesses and I would welcome the opportunity to discuss with you any requirements there may be for the support of a new bus service to serve the site as part of a S106 and CIL Agreement

### Network Rail

No comments received.

### **Internal Consultations**

#### Development Plans and Policy Unit

The application site is located between a railway embankment, Power Station Road and the Rugeley bypass in Rugeley. It is outside of and adjacent to the designated Rugeley Town Centre Boundary and the Rugeley Town Centre Area Action Plan Boundary (which abut the railway embankment) on the Local Plan 2014 Policies Map. The site is also within the Brereton and Ravenhill Neighbourhood Area. The area is historically industrial with Rugeley Power Station and the former Lea Hall colliery being present within the vicinity.

Policy CP11 (page 124) in the Cannock Chase Local Plan 2014 sets out the local retail policy on Rugeley Town Centre including that “Main town centre uses including retail...should take a sequential approach that gives priority to the regeneration of the town centre within this boundary...”. Therefore a Sequential Test will need to be submitted with an application to show that there no preferential retail sites within the Town Centre boundary. This should be comprehensive of all relevant sites of an appropriate size and contain reasons for ruling them out. This could include consideration of other sites that may be available e.g. underused car park areas and existing buildings that may be available for rent or sale on property/commercial marketing websites.

Policy CP11 also sets out that the Local Plan will help to deliver 4900m<sup>2</sup> (gross) of convenience retail floor space by 2028, with Tesco already accounting for 4000m<sup>2</sup> (net) of this allowance. As the proposal is larger than the remaining 900m<sup>2</sup> allowance the applicant will be required to outline why the Local Plan threshold should be exceeded in an out of centre location, and how the proposal will limit any

impact on the Town Centre. The Cannock Chase Retail Study (Para 7.16, 2015) highlights that there is no need to provide any additional convenience floor space requirement up to 2030, given the choice and range of facilities already available. The application does not require an Impact Test as it is below the threshold set out in paragraph 89 of the NPPF, but it does require a policy justification for the proposal, given that it exceeds the adopted Local Plan (2014) Policy CP11 and subsequent 2015 retail study evidence base for the requirement for additional Convenience floor space in the Rugeley area. This relates to the strategic matter of convenience retail in general, not the individual footprint or preferred location of the proposal. This could be evidence to show that there is now additional post 2015 demand within the Rugeley area and reference to the updated 2019 NPPF requirements.

Policy CP8 supports the delivery of an appropriate employment land supply including 8ha at Towers Business Park/Former Power Station, Rugeley and the NPPF (Para 20, February 2019) sets out that “Local Plans must contain strategic policies that make sufficient provision for employment development within the area...” The most recent Employment Land Availability Assessment (P12, August 2018) sets out there is a shortfall in employment land provision compared to Local Plan targets and this proposal would further reduce employment land provision. Therefore justification will need to be provided to support the loss of employment land within an existing established employment area.

Policy CP3 advocates appropriate design and cohesion with adjacent uses in new development, including the protection of amenity. The Design SPD provides additional guidance.

As noted above the site is within a designated Neighbourhood Area and Brereton and Ravenhill Parish Council is writing a Neighbourhood Plan. This plan is currently at an early stage of production and there are currently no adopted policies for consideration by this application.

## Conclusion

In summary the location is outside of a designated retail area and requires appropriate justification to assess if the proposal will have an impact on Rugeley Town Centre as it goes against the ‘Town Centre first’ policies of the Local Plan and NPPF, as well as creating additional convenience floor space. To conclude on the points raised above:

- The Sequential test has considered potential Town Centre sites in detail and the conclusions are accepted. It should be noted that contrary to the statement provided in the Planning Statement additional types of sites for investigation were suggested to the applicant in the additional pre-app advice provided via the Development Control team at the start of April 2020.

- The Planning Statement has outlined in detail the issue of additional out of town retail including the updated policy considerations set out in the 2014 Local Plan and 2019 NPPF. The additional pre-app advice made it clear that Cannock Chase Council was requesting policy justification regarding the out of town retail provision, and not a Retail needs Assessment as required for larger retail developments by the NPPF. Your Planning Statement accompanying this application has addressed the issues raised.
- The applicant has noted the recent approval of additional employment floor space at the adjacent Rugeley Power Station site, which removes the current evidenced shortfall in employment provision. The site is still within a wider employment area, given the applicants own note that the site has been historically used as coal storage for the adjacent power station and has since been unavailable for other uses. The land ownership of the two neighbouring employment areas is not relevant in this consideration, only the previous and current use of the site. However, given the recent grant of the planning permission for additional employment land elsewhere this consideration is no longer a barrier to the development proposed.

### Environmental Health

Assessment, ref. MCP2327-001, dated 29 July 2020, authored by BWB.

The submission above assesses the likely impact of the proposed development on local air quality (in terms of NO<sub>2</sub>, PM<sub>10</sub> & PM<sub>2.5</sub>). The impact of the development was determined to be negligible for all parameters

A construction phase dust assessment was also carried out, which concluded that mitigation measures were required to control emissions. These measures are detailed in section 7 of the report, and shall form part of a construction management plan, to be submitted to the Local Planning Authority for approval prior to work commencing. This plan shall also include details on other aspects of the construction phase, and I therefore recommend the following condition:

A Construction Management Plan shall be submitted to the Local Planning Authority for approval. The submission shall have regard to relevant guidance; including, but not limited to, Control of Dust and Emissions during Construction and Demolition (Greater London Authority 2014), Guidance on Assessment and Monitoring of Dust from Demolition and Construction (two documents, Institute of Air Quality Management 2014 & 2018), and BS 5228 with regards to noise and vibration management. The submission shall also include the mitigation measures proposed in the previously submitted Air Quality Assessment (ref. MCP2327-001, dated 29 July 2020, authored by BWB).

The submitted document shall be adhered to throughout the construction period and shall provide for:

- Hours of working.
- The parking of vehicles for site operatives and visitors.
- Routing and timing of delivery vehicles to and from the site.
- Onsite provision for loading/unloading and storage of plant and materials.
- Measures to control the emission of dust and dirt during construction, including minimising the track-out of any material onto the public highway, and how this will be monitored (e.g. with recorded daily inspections or similar).
- Noise and vibration management procedures, including how complaints will be handled.
- Details of piling method to be used, should piling be undertaken.

#### Light

Submitted Document: LiAS Design Notes & Luminaire Schedule, LiDL Rugeley Carpark, ref. 0400488708, DWG 00 & DWG 01, dated 19/8/20, authored by the LiAS team of Signify UK.

The submitted light schedule and lux plot adequately demonstrates no unacceptable impact from lighting at the proposed development. A condition is recommended to ensure the development is constructed to the submitted scheme.

The lighting shall only be installed in accordance with the submitted scheme (ref. 0400488708, DWG 00 & DWG 01, dated 19/8/20, authored by the LiAS team of Signify UK) and shall not be replaced with any alternative lighting unless otherwise first agreed in writing with the Local Planning Authority.

#### Noise

Submitted Document: Power Station Road, Rugeley, Lidl UK. Acoustics, Proposed new retail store, report on existing noise climate, ref. 10/1012364, dated 27/8/20. Authored by Hoare Lea Acoustics Ltd.

The submitted report considers the additional noise that the proposed development will generate, in terms of goods delivery vehicles and external plant. The report considers both existing receptors and the consented residential development to the east, and concludes the impact on both will be negligible to low, and that therefore no noise mitigation will be required.

I am in agreement with the findings of the report, and therefore recommend no conditions relating to operational phase noise.

#### Land Contamination

Submitted Document: Report on ground investigation at Power Station Road, Rugeley, ref. AG3079-19-AK41 issue 1, dated 20<sup>th</sup> May 2020. Authored by Applied Geology Ltd.

The submitted report details investigations carried out over 2019 and 2020. It concludes that no specific remediation is required to ensure the site is suitable for the proposed end-use. It also concludes no measures are required to protect groundwater. Ground gas monitoring does indicate the need for protective measures to be installed in the construction of the proposed development. I therefore recommend the following conditions:

- 1a) The submitted site investigation (ref. AG3079-19-AK41 issue 1, dated 20<sup>th</sup> May 2020. Authored by Applied Geology Ltd) has confirmed the presence of ground gases requiring mitigation. Therefore, a Remediation Method Statement shall be submitted to this Department (for approval prior to works) detailing the exact manner in which mitigation works are to be carried out. The Statement should also include details of validation testing that will be carried out once works have been completed.
- 1b) If during remediation works, any contamination is identified that has not been considered within the Remediation Method Statement, then additional remediation proposals for this material shall be submitted to this Department for written approval. Any approved proposals should, thereafter, form part of the Remediation Method Statement.
- 1c) The development shall not be occupied until a Validation/Phase 3 report has been submitted to and approved in writing by this Department. A Validation Report is required to confirm that all remedial works have been completed and validated in accordance with the agreed Remediation Method Statement.
- 2) Any soil materials imported to site shall be chemically analysed to demonstrate they are suitable for use. These details, along with information on the material source, volume imported and depth of placement shall be included within a Validation Report. This submission shall require approval by the Local Planning Authority before the development can be occupied.

### CIL Officer

In respect of the above development, based on the plans and CIL additional information form submitted, the chargeable amount for this development would be £168,434.49. Please note, this amount is subject to change depending on what year planning permission is granted.

### Waste and Engineering Services

No comment received.

### Council's Ecologist

No comments received.

### Economic Development

No comments received.

### Parks and Open Spaces

The revised document has generally addressed the issues noted previously.

The Tree Protection Plan attached to the report is acceptable and needs to be conditioned in respect of implementation.

### Levels plan

Proposals appear to integrate with surrounding area without creating steep embankment however it is noted that the building will be elevated by around 1.0m compare for the adjacent bypass which will heighten its visual impact. Appropriate landscape treatment should help soften this elevated aspect.

### Planting Plan

#### Eastern boundary

The plan is still indicating a hedge line outside the site boundary – no hedge exists! There is some canopy growth from the existing goat willow (to be removed) along the fence line and rough/mown grass up to the highway footpath.

A large block of native shrub planting has been proposed in place of the previous block of ornamental planting. Comment was made that this should ideally be a hedge line and with the inclusion of hedgerow trees. The hedge row needs to extend along all the boundary line and include more than just the three trees indicated to have any effect or benefit. At a minimum they need to be at 15-20m spacing. Any remaining area behind the hedge (gentle bank) could be mown grass.

The use of two appropriate trees (Feature bark?) either side of the pedestrian access way would aid marking and making a feature of the access point rather than the present indistinct featureless access point.

#### Frontage onto Power Station Road

Noted that an additional three trees added to the revised entrance details, in small planting beds adjacent the access road. Given the space available on and along the frontage why have additional trees of a large scale not been planted so as to fill the space and keep away from directly abutting the front edge of the parking bays areas?

## Western boundary

Use of hedge noted. Mix proposed will create rather a loose hedge. Is this to be planted as a single row or double, latter would be more solid and effective as quick barrier. Needs to incorporate a simple post and 2 or 3 strand wire fence within the double line to prevent access or cut trough's forming to the adjacent land area.

Given there is limited scope for further tree plating within the car park area to help mitigate the effects of the expansive tarmac area, additional trees need to be incorporated along the boundary areas as noted above.

Notes – these are somewhat generic not site specific.

Mulch – which is to be used slate of bark mulch? Mulch should not be used on plants that spread by surface rooting ie vinca Spp. or soft herbaceous plants due to the increased heat effect and resultant scorch killing of the plants.

Plant material treatment – Planting - notes 'Allow for pruning of all deciduous trees and shrubs by 1/3...' Inappropriate for trees.

No reference to planting of hedges, method, spacings, etc. Double staggered rows 300mm between rows, 300mm between plants in rows (5/Lm)

No mention of hedge maintenance or long term aspects height wise etc.

Details of long term management need to be specified ie aims and objective and not simply a 5 year maintenance plan.

No details of boundary fencing provided or paving details – hard landscape elements –these are all required as part of a landscape scheme.

As noted previously -No service information has been provided and needs to be supplied in order to confirm that tree planting is achievable for one.

## Summary

- Overall no objection in principle to development of the site.
- AIA acceptable.
- Tree protection plan to condition for implementation
- Landscape details to supply/revise as noted.
- Lack of service details

## Stantec- The Council's Retail Consultant

Initial Response Received 7<sup>th</sup> December 2020

Overview of the Proposed Foodstores

## Lidl

Full planning permission is sought for a Lidl foodstore at a site to the east of Power Station Road, close to an existing Tesco store. The application site is situated outside of the defined Rugeley Town Centre boundary (to the south east) and so it is classed as out-of-centre in retail planning policy terms, which the applicant acknowledges in its submissions.

The applicant is Lidl Great Britain Limited, and the agent is Avison Young. The planning application was registered on 3 September 2020 and was assigned the reference CH/20/306.

The proposed Lidl store would have a gross external area of 2,279 sq.m and a sales area of 1,410 sq.m.

## Aldi

As with the Lidl application, full planning permission is sought for an Aldi foodstore, at a site to the east of Power Station Road, close to the Tesco store referred to above. The Aldi application site is also acknowledged to be out-of-centre.

The applicant is Aldi Stores Limited, and the agent is STOAS Architects Limited, with Turley having produced a Planning and Retail Statement. The planning application was registered on 29 June 2020 and was assigned the reference CH/20/218.

The proposed Aldi store would have a gross external area of 1,881 sq.m and a sales area of 1,315 sq.m.

Each planning application is supported by a raft of documents. Given the focused nature of our instruction, we have confined our review to the Planning and Retail Statements that have been prepared by each applicant's planning consultant, and related correspondence between the Council and the applicants. Our observations and advice is provided below.

## The Impact Threshold

### NPPF

Paragraph 89 of the NPPF states:

'When assessing applications for retail and leisure development outside town centres, which are not in accordance with an up-to-date plan, local planning authorities should require an impact assessment if the development is over a proportionate, locally set floorspace threshold (if there is no locally set threshold, the default threshold is 2,500m<sup>2</sup> of gross floorspace).'

Thus, the national threshold above which an impact assessment is required is 2,500 sq.m of gross floorspace. As noted above, the gross floorspace at each of the



proposed Lidl and Aldi stores is below the 2,500 sq.m threshold and so an impact assessment is expressly not required, unless there is a lower, locally set threshold.

The NPPF does not address situations where there are multiple simultaneous proposals which, collectively, have more than 2,500 sq.m of gross floorspace.

#### Planning Practice Guidance

The online Planning Practice Guidance reiterates the content of paragraph 89 of the NPPF, stating as follows [Paragraph: 016 Reference ID: 2b-016-20190722, Revision date: 22 07 2019]:

‘The impact test only applies to proposals exceeding 2,500 square metres gross of floorspace unless a different locally appropriate threshold is set by the local planning authority.’

#### Local Policy

In the case of Cannock Chase, there is no locally set threshold. A retail study that was produced by consultants several years ago suggested that it might be prudent to introduce a locally set threshold in Rugeley but, to date, that has not been carried forward into adopted planning policy. We are also not aware of a locally set threshold in any draft policy document, although if there is such a draft proposal, we note that it would only carry limited weight until it became adopted policy.

#### Advice

As we explained above, each proposed foodstore is below the national default floorspace threshold of 2,500 sq.m gross, and no alternative threshold has been adopted locally. On that basis, the factors that need to be addressed within impact assessments, as set out within criteria a) and b) beneath paragraph 89 of the NPPF, do not apply to either of the current applications.

Whilst the two proposed foodstores have an aggregate gross floorspace that is above the 2,500 sq.m threshold, there is, as noted above, no requirement in the NPPF to require an impact assessment in those situations. It is clear that paragraph 89 of the NPPF applies to individual proposals.

It might also have been expected that the NPPF, and/or the related PPG, would have been updated to incorporate a lower default threshold given that most foodstores which have come forward over recent years are of a size that is below the default threshold. Nevertheless, the current threshold remains at 2,500 sq.m gross.

Accordingly, there is no requirement – at either national or local level – for an impact assessment in support of proposed retail developments which have less than 2,500 sq.m of gross floorspace. We understand that Council officers have confirmed that position in writing to the two applicants.

We also understand, however, that a request was made by Council officers earlier this year for the submission of a 'Retail Need Assessment' in support of each application. The applicants' planning advisors have both rebutted that request and have explained that there is no longer a national 'need' test. We confirm that the applicants are both correct in that regard; whilst national policy previously set out three retail tests – need, impact and sequential – the need test has been dropped and the current version of the NPPF only refers to the impact and sequential tests.

The only exception where it might still be appropriate to consider 'need' (or 'expenditure capacity') for retail proposals is where there is a policy in an extant, adopted local plan, that specifies a requirement to demonstrate need or capacity. Such policies are usually only found in older local plans where a successor local plan has not yet been adopted.

Policy CP11 of the adopted Cannock Chase Local Plan 2014 contains the following text in relation to Rugeley Town Centre, at page 125:

'The AAP will identify a strategy for regenerating and growing the town centre via the development of key sites to provide a balanced mix of town centre uses and to help deliver up to 10,000sqm (gross) comparison and 4,900sqm (gross) convenience retail floor space by 2028. As part of this strategy work commenced on a Tesco store, 4,000sqm net, in 2012. A town centre boundary and primary retail area is defined on the Policies Map and Key Diagram via the AAP. Non-retail uses will only be permitted where they do not detract from the primary retail function of the town centre.'

The source of the convenience retail floorspace figure of 4,900 sq.m (gross) referred in Policy CP11 is paragraph 3.31 of the Cannock Chase Retail and Leisure Study (November 2015), which is produced below for ease of reference:

'The role of Rugeley town centre as a market town is also to be retained and strengthened through the incorporation of an Area Action Plan (AAP), which will address the lack of convenience retail and the deterioration of the attractiveness of the town centre. The AAP will help promote retail, commercial, 23 Cannock Chase District Council A090262 25/11/2015 leisure, tourism and transport development within the town centre and, at the time of publication, the plan was set to deliver up to 10,000 sq.m (gross) comparison and 4,900 sq.m (gross) convenience retail floorspace by 2028.'

In our assessment, Local Plan Policy CP11 does not amount to a 'need' test or a floorspace capacity 'cap'. Instead, the policy refers to floorspace figures that were identified in an evidence base study. Policy CP11 does not require proposed developments to demonstrate that there is sufficient expenditure available, nor does it require an impact assessment in relation to proposals that would result in the overall amount of convenience retail floorspace exceeding the 4,900 sq.m gross figure referred to in the Local Plan.

Paragraph 5.40 of the Local Plan describes the Tesco store that is referred to in Policy CP11 as follows: 'Tesco superstore of 4,000sq.m net sales area.'

Avison Young asserts in paragraph 1.16 of its Planning and Retail Statement in support of the proposed Lidl store that the 4,000 sq.m 'net sales area' figure quoted in the Local Plan for the Tesco store is incorrect, and that the permission that was granted for the Tesco store in 20111 allowed for the development of a foodstore with a net retail sales area of not more than 3,202 sq.m. We have inspected the decision notice for the Tesco store and confirm that condition no. 24 does set a retail sales area cap of 3,202 sq.m.

For the same reason, Avison Young also asserts that the reference to there being a balance of 900 sq.m of convenience retail floorspace in Rugeley – that is, 4,900 sq.m as quoted in Local Plan Policy CP11, and the figure of 4,000 sq.m quoted in relation to the Tesco store – is incorrect. In paragraph 4.18 of its Planning and Retail Statement, Avison Young also asserts that the quantum of convenience retail sales area floorspace at the Tesco store – as quoted within Tesco's planning application submission – is substantially less, at 2,081 sq.m. We note in passing that we have not seen a reference to a 2,081 sq.m cap on convenience retail floorspace within the Tesco decision notice.

In our assessment, a debate regarding the precise amount of convenience floorspace 'capacity' in Rugeley is largely immaterial, however. Even if the amount of convenience retail floorspace proposed in either or both of the currently proposed foodstores did exceed the 4,900 sq.m (gross) convenience retail floorspace figure referred to in Policy CP11, there would be no failure of a 'need' or 'impact' policy (neither of which features in the Local Plan, in our assessment).

We are acutely aware of the pressures and challenges that are facing town centres across the country, and which are set to intensify in the post-pandemic era, and so we have sympathy with local authorities that are rightly striving to protect their defined centres. Against that background, we are pleased to observe that Lidl's agent has sought to consider the vitality and vitality of the town centre, albeit at a high level given the obvious difficulties with trying to assess town centre health in the midst of a pandemic and reduced patronage.

Whilst it is not part of our current instruction to undertake our own health check of the town centre – or indeed to critically review the applicants' submissions in that regard – we note the conclusions reached by both agents that the town centre is still healthy. Officers will be well placed to reach their own conclusion as to the robustness of the town centre. Even if officers were to reach a different conclusion to the applicants, however, we reiterate that there is no requirement for either applicant to undertake a detailed impact assessment of the type set out in paragraph 89 of the NPPF and so in our assessment there is no policy basis for resisting either application on retail impact grounds.

We are similarly not instructed to advise on the sequential approach, but we note that the applicants have concluded that any sequentially preferable sites are not capable of accommodating foodstores of the type and size proposed at Power Station Road. Again, officers will be well placed to reach a conclusion on whether the applicants have satisfied the sequential test, but our initial view is that the reasons put forward by the applicants as to why the various sites are not realistic alternatives appear to be robust.

#### Other Considerations

Turley comments in paragraph 1.2 of its Planning and Retail Statement that the proposed Aldi store will be a replacement for the existing Aldi store to the north of town centre. As officers will be aware, planning permission runs with the land rather than the applicant or the developer/operator, and so the only way the currently proposed Aldi store could be guaranteed to be a replacement for the existing Aldi store is for an appropriate legal mechanism to be put in place to require the closure of the existing store prior to the opening of the new store. We are not instructed to advise on the desirability of or need for such a mechanism and so we offer those observations in the interests of completeness only.

#### Summary

Having reviewed the Planning and Retail Statements that have been submitted in support of the proposed Lidl and Aldi stores, we consider the applicants' submissions to be proportionate insofar as retail impact is concerned and, for the reasons outlined above, we conclude that there is no requirement for either applicant to submit a more formal retail impact assessment.

We have also reviewed relevant parts of the adopted Local Plan and our professional judgment is that there are no retail need/capacity or retail impact policies that could be used to resist the proposed applications. Accordingly, even if the aggregate amount of convenience retail floorspace at the Lidl and Aldi foodstores was to exceed the figures referred to in Local Plan Policy CP11, there is no basis for requiring a Retail Need Assessment.

#### Further Response Received 8<sup>th</sup> December 2020

Thanks for forwarding the objection from Tesco's consultant, which I have reviewed. Whilst it is understandable that Tesco is trying to protect its commercial position, my view remains that there is nothing in the Local Plan or the NPPF that can be used as a strong basis to resist the Lidl and Aldi applications, insofar as retail planning policies are concerned.

The objection letter refers extensively to matters that are captured within sub-bullets a) and b) beneath para 89 of the NPPF. As we sought to explain in our advice, however, those factors are only relevant where proposals exceed the 2,500 sq.m (gross) impact threshold. That is not the case here.

Furthermore, the objection letter refers to the recommendation in a consultant's report from several years ago that a lower impact threshold (of 1,000 sq.m gross) should be put in place for Rugeley, but that has not happened. Accordingly, there is no locally set threshold that can be used to require a fuller impact assessment from either applicant.

Whilst I accept that the NPPF is a material consideration (i.e. advice), as opposed to policy, there is nothing in the Local Plan that provides a strong basis for resisting either retail proposal, in my view.

The objection letter refers to a sequentially preferable site (at Wellington Drive) but our instruction relates to advice on impact considerations and it is not for us to pass comment on whether the sequential test has been passed or not.

Response Received 17 December 2020

Thanks for forwarding the email below, which I have considered. The latest submission does not change my advice, however, and I don't agree with the interpretation of the NPPF impact test put forward by Tesco's consultant. My view is that the NPPF does not address situations where there are multiple simultaneous proposals which, collectively, have more than 2,500 sq.m of gross floorspace. If that had been the intention of paragraph 89 of the NPPF, the wording would have explicitly said that. It doesn't. Paragraph 89 is written in the singular, i.e. *'the development'* rather than *'the developments'* (plural).

### **Response to Publicity**

The application has been advertised by site notice and newspaper advertisement. Three letters of representation have been received one of which has subsequently been withdrawn. The second, made by a supermarket in the town centre states: -

Tesco's development was in response to the then emerging Local Plan and the Rugeley Town Centre Area Action Plan (both adopted in 2014) which set a challenging framework to address the town centre's need for regeneration, attract investment, and to resolve its vulnerability to larger competing centres. Such was the significance of the problems that a statutory Area Action Plan was required. These are produced in circumstances where "... significant regeneration or investment needs to be managed". It identified the specific problems and opportunities, proposed solutions, and promoted land use planning and related initiatives to help secure and deliver the necessary new investment in facilities and infrastructure. Working in parallel with the Council's retail consultant, the Local Plan identified a need for 49,000ft<sup>2</sup> gross of supermarket space to 'claw back' local spending that was being lost to the town. The retention of that spend at an appropriately located facility would be a key, long term solution – "part of the strategy for the plan period and beyond" - to improve the centre's fortunes.

Tesco, as part of its positive engagement with the plan-led system, recognised the opportunity to invest in the town centre and play a central role in turning its fortunes around.

It engaged with the Council and assembled its current site and worked hard to deliver its part of the necessary solutions to the centre's structure and performance. Tesco has invested many tens of millions of pounds in its store and continues to invest in its local workforce with earnings recirculating in the local economy. The financial payback on store development is long term - in excess of 20 years.

Tesco has also provided about £500k to the Council, through a series of s106 contributions to ensure that important local infrastructure and connections with the centre help optimise the benefits it has brought for other retailers in the rest of the centre.

Tesco also committed to "support the delivery of (other) key town centre sites" (see paragraph 5.40 of the A.A.P) and hence this representation.

Tesco recognised that there were other, smaller sites in the centre that would also need to come forward in order for the Plan's objectives to be eventually met. The Plan recognises the catalytic, signals of confidence that come from proposals such as Tesco's and that, over time, there would be an expectation that it's and others initiatives would help facilitate the many remaining elements of desired and necessary change. However, many of these sites have still not come forward despite the Area Action Plan's firm encouragement. The Development Plan led regeneration of Rugeley Town Centre is thus far from complete.

Indeed, the relevant policy – SP11 requires that new retail development not only takes a sequential approach but "...gives priority to the regeneration of the town centre within its boundary". The policy explains that the development of the Area Action Plan's key sites should "...provide a balanced mix of town centre uses and help deliver (the identified shopping requirements) by 2028".

Strategic Policy RTC1 and the specific retail policy RTC11 are thus continuing policies that seek to maintain existing and future investment in order to secure the best prospects for the town centre to 2028 and potentially beyond.

Proposals for development such as the Lidl supermarket, located outside of the defined town centre and beyond the Area Action Plan's boundary, will serve to significantly prejudice the continuing and future effectiveness of investment streams in the town centre.

The Council's retail consultants specifically identified the benefits that the Tesco development had in creating new shopping trips that linked with the town centre. The proposal is thus directly in conflict with the relevant development plan policies, ie, CP1 and CP11.

## Assessment of Retail Effects

It is not therefore surprising that the Council's retail consultants firmly recommended the establishment of a lower threshold above which retail assessment ought to always be undertaken. And it is instructive to recognise that in setting a locally appropriate threshold Government policy makes it clear that: "...it will be important to consider:

- The existing viability and vitality of town centres
- Cumulative effects of recent developments
- Whether local town centres are vulnerable
- Likely effects of development on any town centre strategy
- Impact on any other planned investment".

All of the above factors are fundamental considerations for new retail development that will have the potential to harm a town centre regeneration strategy. That the Council's consultant recommends setting a threshold that it is only 1000m<sup>2</sup> gross rather than the default 2,500m<sup>2</sup> gross serves to confirm the real concern about the fragility of the town centre, the risks associated with failure of its regeneration strategy and the erosion of beneficial past and future investment.

The applicants could have provided an assessment of the extent of the relevant effects on regeneration, investment and trading impact in order to judge whether any exceptional circumstance might be able to be prayed in aid. Such an assessment could have identified the quantum of trade that will be withdrawn from the defined town centre, the scale of significant harm that arises and might then serve to quantify the damage to the plan-led town centre strategy. That the applicants chose not to, is telling. Whilst the NPPF recognises the need to assess town centre trade diversion and impacts on existing investment, that is guidance that sits outside the statutory development plan that specifically applies here. And thus, notwithstanding the threshold in the NPPF, there is nothing to prevent an applicant from submitting (or a local planning authority from requiring) such an assessment.

## The Suitability of Key Town Centre Regeneration Site

Lidl assert that the Area Action Plan site RTC 7: Land at Wellington Drive is "neither suitable nor available". The site is all but large enough to meet what Lidl regard as its minimum requirements, ie, it is within 0.1ha of its desired minimum site size. It advances two suitability issues. One relates to Lidl not favouring the form of development proposed in illustrative schemes that date from January 2003, ie, well before the Area Action Plan was adopted. The second asserts that the Area Action Plan 'anticipates' that the site should provide a mix of uses. However, there is no prescriptive limitation on the form of development that must take place on this site.

This site is one of the three that are seen as “fundamental to delivering the strategy” and thus the suitability of a single use development that reinforces the attractiveness of the town centre’s retail offer and delivers investment and employment would seem unlikely to be resisted in principle. This would be consistent with the overarching Regeneration Strategy policy that “...seeks to improve vitality and viability by encouraging greater representation of high street ‘names’...” and that this will “...be enabled through prioritising the development of key sites identified in the Plan, which are of sufficient size to allow the development of substantial units which can meet the needs of modern retailers”. It is in this context that Wellington Drive is identified as one of the three key sites that will “...encourage locally generated expenditure to also be spent in the town”.

There is no evidence produced to demonstrate that the site is not ‘available’. Indeed, the “availability” of this site ought not be in question. As the redevelopment of the site would be wholly “suitable” to meet the development plan’s objectives, there must be an expectation that a local planning authority would act to secure its “availability”. Indeed, the Area Action Plan specifically recognises the “possible need for CPO powers to facilitate development” which when stated within a statutory development plan provides a clear message of likely availability.

But it is not only a question of meeting the retail, Sequential Test. There is the important prejudice to the statutory development plan’s policies CP1 and CP11 that exist to facilitate development on that site.

Further to this, please find below a supplementary objection to the above application by Lidl made on behalf of our client, Tesco Stores Limited, it raises issues that have now been made in today’s letter of objection to the Aldi application.

Additional Response Received 9<sup>th</sup> December 2020

As you are aware, the local planning authority is faced with two planning applications which between them have a gross floorspace of 4,160m<sup>2</sup>. That is nearly 70% above the NPPF default assessment threshold. Paragraph 89 of the NPPF is couched as follows:

*“When assessing applications for retail and leisure development, outside town centres which are not in accordance with an up-to-date plan, local planning authorities should require an impact assessment if the development... is over... the default threshold...”*

There is therefore no doubt that the NPPF’s approach is to require assessment when a decision maker finds itself assessing more than one application where the development exceeds the threshold. In interpreting the policy, it is also, if necessary, relevant to consider the “purpose” of the impact test. The NPPG helpfully explains that it “...is to consider the impact over time of certain out of centre and edge of centre proposals on town centre vitality/viability and investment” (paragraph



014 Ref ID: 2b-014-20190722). It is, therefore, not a mechanism designed necessarily only for a single application.

In any event it would be necessary for the local planning authority in determining two, out of centre retail applications to take account of the cumulative impacts that arise. Neither Lidl nor Aldi have sought to address those in their superficial and qualitative reviews of retail impact.

Officers have chosen not to commission a retail and regeneration consultant to review the proposal including any cumulative impacts that might arise. This is, in our opinion, very unusual and raises issues concerning lack of adequate scrutiny and the availability of independent advice to the authority. There must therefore be considerable merit in the Council now commissioning such work.

### Conclusions

Thus, the proposed development is prejudicial to the adopted town centre strategy and will diminish the effects of current, long term, continuing investment in its future health. It is therefore contrary to policies CP1, CP11 of the Local Plan and RTC1 and RTC2 of the Area Action Plan.

Furthermore, as the proposed development can be suitably accommodated on the RTC7:

Land at Wellington Drive site (with due regard to the requirement to demonstrate flexibility) it separately:

- i) causes prejudice the health of the town centre because of its failure to be a future contributor to town centre investment and,
- ii) fails the sequential test,

and thus, for these reasons also, planning permission should be refused.

The third letter has been submitted on behalf of Morrisons and states: -

“We are instructed by our client, Wm Morrison Supermarkets plc (Morrisons), to object to the above-mentioned planning application as the proposal conflicts with the development plan and national policy.

Morrisons trades from an in-centre store within Rugeley Town Centre. It effectively anchors the town centre, generating footfall for the centre’s other shops and services. However, the Morrisons store and the wider town centre are vulnerable to trade diversion from the proposed foodstore in an out-of-centre location.

You will be aware that we have also objected to the Aldi proposal (LPA Ref: CH/20/218) which is currently pending determination. We strongly urge the Council to consider both applications together and the cumulative impact the proposals could have on the town centre, if approved.

The total floorspace of the two proposals (Aldi and Lidl) is 4,160 sq. m (gross) / 2,725 sq. m (net) in an out of centre location. Given the location of the two proposals (on adjacent sites) and close to the Tesco store; there is a real risk that this former industrial location could become a new alternative retail location to the existing town centre. Furthermore, a total of 289 free car parking spaces would be created at each of the stores, increasing the appeal of this location instead of the town centre.

This letter considers the findings of the Planning and Retail Statement by the applicant and raises a number of concerns about the assumptions made, the methodology used and the lack of justification for the proposal. In our view, further justification needs to be provided with regards to the sequential test; the proposal would result in a loss of employment land provision which given the identified shortfall in the District is in conflict with planning policy; and, the impact of the proposal on Rugeley town centre could be significantly adverse given the loss of footfall in the town centre. The National Planning Policy Framework (NPPF) 2019, the local development plan and the emerging local plan are clear that where an application is likely to have significant adverse impact on town centres, it should be refused.

### The Proposal

The application proposes a new Lidl store measuring 2,279 sq.m gross / 1,410 sq.m net with 172 parking spaces on an industrial site outside of the designated town centre boundary. The site is also outside of the Rugeley Town Centre Area Action Plan (RTCAAP).

### The Sequential Test

Para. 86 of the NPPF states that:

“Local planning authorities should apply a sequential test to planning 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 local planning authorities should demonstrate flexibility on issues such as format and scale, so that options to utilise suitable town centre or edge of centre sites are fully explored.”

The Rugeley Town Centre Area Action Plan encourages investment and regeneration within and on parts of the periphery of the town centre.

One of the identified sites in the RTCAAP is a potential sequentially preferable site. Site RTC.7 Land at Wellington Drive is a town centre site that is seeking a medium sized foodstore. The applicants have dismissed this site as not suitable nor available. Given its location in the town centre it is agreed that a comprehensive redevelopment would be required. It is also accepted that the land is in more than one ownership. However these are not, alone, justification that the site is not available or suitable. Many town centre sites are complex but they can be delivered. We respectfully request that more consideration and justification is given to this site given it is an identified and planned town centre site in need of development.

In our view, the sequential test has not been satisfied at this point as there is a more centrally located site that could potentially accommodate the proposed development.

#### Retail Impact

We agree with the planning policy team that a policy justification is needed for the increase in floorspace. The applicants have failed to consider the impact the proposal will have on the town centre.

Policy CP11 of the adopted Local Plan (2014) sets out the available retail floorspace in Rugeley. The proposal (on its own – not considering the Aldi proposal) is larger than the ‘remaining allowance’ following the completion of the Tesco store. The planning policy statutory consultee response states that “the application will be required to outline why the Local Plan threshold should be exceeded in an out of centre location and how the proposal will limit any impact on the town centre”.

We agree with the applicants that the requirement to demonstrate ‘need’ is no longer a requirement of planning policy but is a good starting point for understanding impact and the degree to which the proposal will impact the town centre.

The Cannock Chase Retail Study (2015) highlights there is no need to provide any additional convenience floorspace in the District up to 2030, given the choice and range of facilities available.

The second part of the statement however; “ how the proposal will limit any impact on the town centre” we don’t feel has adequately been addressed. Indeed, the applicant’s state that the Planning Statement sets out ‘general views’ on retail impact matters (Para 1.36) and the planning analysis section on retail impact considers just 4 bullet points before reaching a conclusion that the impact on Rugeley will be ‘very low’.

The third bullet point looks at impact on other foodstores. It simply states that the impact on the Morrisons and Tesco will be greater, but principally on their value lines only. They fail to justify the impact any further than this simple sentence. They fail to consider the reduction in footfall to the Morrisons store (the town centre anchor).

In addition to this the applicants have failed to address the Aldi application. Given its proximity to the existing and established Tesco Superstore, these new proposals have the potential to create a new alternative shopping destination – with hundreds of free parking spaces – to Rugeley Town Centre.

Para. 89 of the NPPF states that:

‘When assessing applications for retail and leisure development outside town centres, which are not in accordance with an up-to-date plan, local planning authorities should require an impact assessment if the development is over a proportionate, locally set floorspace threshold (if there is no locally set threshold, the default threshold is 2,500 sq. m of gross floorspace). This should include assessment of:

- a) the impact of the proposal on existing, committed and planned public and private investment in a centre or centres in the catchment area of the proposal; and
- b) the impact of the proposal on town centre vitality and viability, including local consumer choice and trade in the town centre and the wider retail catchment (as applicable to the scale and nature of the scheme).’

In light of this, we urge the Council to consider the cumulative impact of both of these current proposals on the town centre and its existing stores. Given the uncertain times and economic struggles retailers and town centres are currently experiencing (from out of town retail, online shopping and potential further closures as a result of the Covid 19 pandemic); decisions on further out of town centre retail needs to be robust and justified. We therefore conclude that the justification put forward for the application is weak and that the applicants should seek to address the concerns highlighted.

The identified potential sequentially preferable site (RTCAAP Site RTC.7) also needs to be considered as part of the justification of Para. 89 of the NPPF.

## Employment Land

The application proposal will result in the loss of a site within an employment area which is within an established industrial estate. The Employment Land Availability Assessment (ELAA) (August 2018) concludes that there is a shortfall in employment land provision across the District. This proposal would further reduce the employment land provision which is contrary to planning policy.

## Summary and Conclusions

The proposal does not satisfy either the sequential or impact tests, so planning permission should be refused in accordance with Para. 90 of the NPPF. Furthermore, the application is also in conflict with the RTCAAP and the ELAA.

## Relevant Planning History

- CH/02/0465: Rugeley Eastern By Pass Stage 2 CR3 - Approved Subject to Conditions. 10/01/2002.
- CH/08/0044: Replacement household waste recycling centre to manage. Approved with Conditions. 04/10/2008.
- CH/18/101: Prior notification for proposed demolition of various structures, buildings, etc. Demolition PN-Details Required 03/29/2018.
- CH/18/268: Decommissioning, dismantling and demolition of Rugeley B Power Station Full - Approval with Conditions. 10/19/2018.
- CH/19/033: EIA Scoping application -site remediation and dev. of circa 2,300 dwellings. 05/02/2019.
- CH/19/201: Outline Planning Application for the creation of development platform
- CH/95/0498: Proposed land reclamation scheme. County Reg 3 - No Objections 02/21/1996.

## 1 Site and Surroundings

- 1.1 The application site comprises some 1.49ha of land, located off the junction of Power Station Road and the A51 Rugeley. The site comprises areas of hard standing and soil with some bunding to the edges and enclosed by a 2m high wire mesh and concrete post fence.
- 1.2 The site is bound by Power Station Road to the west, across which is a Severn Trent Treatment Plant and a footpath leading to Love Lane providing pedestrian access to and from Rugeley Town Centre. To the east is the A51 across which is the former Rugeley Power Station site which is currently undergoing demolition and which benefits from a resolution to grant planning

permission for a mixed use development, including up to 2,300 homes and 5ha of employment land.

- 1.3 To the north of the site is a railway embankment on part of which runs the Trent Valley Line and on the other a former branch line, now disused. This disused line curves around into the former power station site and is proposed to be used to provide a pedestrian/ cycle link over the A51 and between the proposed development on the former power station site and Rugeley Town Centre. This link is intended to run down the embankment and join up to Power Station Road
- 1.4 Beyond the boundary to the south is a semi mature copse, beyond which is the roundabout serving the Colliers Arms Public House, a fast food restaurant and the Amazon site.
- 1.3 The site is immediately adjacent to but outside of the Rugeley Town Centre Boundary and Rugeley Town Centre Area Action Plan Boundary as shown on the Local Plan Proposals Map, both of which run along the western side of Power Station road as far the Severn Trent Valley railway bridge.
- 1.4 The site lies within a Mineral SafeGuarding Area, and within a Contaminated Land Boundary.

## **2 Proposal**

- 2.1 The Applicant is seeking consent for the removal of existing hardstanding and erection of a retail foodstore with associated car parking, access, landscaping and associated engineering works.
- 2.2 The Planning Statements goes on to explain that the proposal entails
  - a foodstore of 2,279 sqm gross external area (GEA) with a net sales area of 1,410 sqm;
  - 172 car parking spaces, including 9 accessible bays, 9 Parent & Child bays, and 2 Electric Vehicle Charging bays;
  - 6 cycle stands under the store canopy, providing secure and covered storage space for 12 bikes;
  - a new vehicular access taken from Power Station Road; and
  - hard and soft landscaping;
  - land reserved to support the construction of a pedestrian/cycle link associated with the Rugeley Power Station Site, in the event that Engie does not construct that on land that it owns.
- 2.3 In addition to the above the Planning Statement goes on to state
  - The foodstore would be located along the Site's eastern boundary with customer car parking spaces provided in the western and southern

parts of the site. Disabled parking spaces are located close to the store entrance, as are parent and child spaces.

- The building adopts Lidl's standard store format. It is generally rectangular in shape with the store entrance located on the south west corner of the building facing west and towards the car park.
- The southern elevation would be predominantly glazed, with this glazing proposed to wrap around the frontage onto the west facing elevation to include the customer entrance.
- The proposed materials are a combination of white render and grey cladding, as well as glazing set within grey frames. The roof of the building will also be finished in metal cladding and will be fitted with photovoltaic panels, so as to contribute to the energy efficiency of the building.
- Vehicular access for staff, customer and delivery vehicles will be via a new priority junction from Power Station Road, located on the western boundary. Wide footways are also provided along both sides of the site access to provide safe routes for pedestrians in and out of the site.
- The application proposes to make use of the redundant lay-by on the western side of Power Station Road to widen the highway and provide a right turn pocket into the site. These proposals will still allow sufficient space for the footway to be converted into a 3m wide shared cycle/footway which Engie is to provide as part of their mixed use proposals, in addition to the controlled crossings it will provide.

### **3.0 Planning Policy**

3.1 Section 38 of the Planning and Compulsory Purchase Act 2004 requires planning applications to be determined in accordance with the provisions of the Development Plan, unless material considerations indicate otherwise.

3.2 The Development Plan currently comprises the Cannock Chase Local Plan (2014) and the Minerals Local Plan for Staffordshire (2015-2030).

3.3 Relevant Policies within the Local Plan Include: -

CP1: -	Strategy
CP3: -	Chase Shaping-Design
CP10: -	Sustainable Transport
CP11:	Centres Hierarchy
CP12: -	Biodiversity
CP16: -	Sustainable Resource Use

3.4 The relevant policies within the Minerals Plan are : -

3.2 Mineral Safeguarding

### 3.5 National Planning Policy Framework

3.6 The NPPF (2019) sets out the Government's position on the role of the planning system in both plan-making and decision-taking. It states that the purpose of the planning system is to contribute to the achievement of sustainable development, in economic, social and environmental terms, and it states that there should be 'presumption in favour of sustainable development' and sets out what this means for decision taking.

3.7 The NPPF (2019) confirms the plan-led approach to the planning system and that decisions must be made in accordance with the Development Plan unless material considerations indicate otherwise.

3.8 Relevant paragraphs within the NPPF include paragraphs: -

8:	Three dimensions of Sustainable Development
11-14:	The Presumption in favour of Sustainable Development
47-50:	Determining Applications
86, 87, 89, 90	Town Centre Uses
109, 110, 111:	Highways
124, 127, 128, 130:	Achieving Well-Designed Places
155, 165:	Drainage
178, 179:	Ground Conditions
181:	Air quality
212, 213	Implementation

3.9 Other relevant documents include: -

Design Supplementary Planning Document, April 2016.

Cannock Chase Local Development Framework Parking Standards, Travel Plans and Developer Contributions for Sustainable Transport.

4.1 The determining issues for the proposed development include:-

- i) Principle of development
- ii) Design and impact on the character and form of the area
- iii) Impact on residential amenity.
- iv) Impact on highway safety.
- v) Impact on nature conservation
- vi) Drainage and flood risk
- vii) Mineral safeguarding
- viii) Crime and the fear of crime
- ix) Waste and recycling facilities



- x) Ground conditions and contamination

## 4.2 Principle of the Development

- 4.2.1 Both the NPPF and the Cannock Chase Local Plan (Part 1) contain a presumption in favour of sustainable development, the latest version of which is contained within the NPPF (2019) and states: -

“For decision-taking this means:

- c) approving development proposals that accord with an up-to-date development plan without delay; or
- d) where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless:
  - i. the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or
  - ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.

- 4.2.2 The first stage in the determination of the application is to determine whether it is in accordance with the development plan. In this respect it is noted that as the proposal is for a retail unit it constitutes a town centre use that is located outside of the Rugeley Town Centre boundary as shown on the Policies Map.

### Retail Sequential Test

- 4.2.3 Policy CP11 of the Cannock Chase Local Plan 2014 sets out the local retail policy on Rugeley Town Centre stating that “Main town centre uses including retail...should take a sequential approach that gives priority to the regeneration of the town centre within this boundary...”.

- 4.2.4 This approach is reflected with in the NPPF which at paragraph 86 states

“Local planning authorities should apply a sequential test to planning 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"; and which goes on to state at paragraph 87

"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 local planning authorities should 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."

4.2.5 In response to the above policy requirement the applicant has submitted information within its Planning and Retail Statement to enable the local planning authority to undertake a retail sequential test.

4.2.6 The information submitted is based on the applicant's assertion that having regards to the principle of 'reasonable flexibility in the application of the sequential approach' the following requirements for LIDL, as a Limited Assortment Discounter (LAD) with a long standing business model, would need to be met

- a site area of 0.8ha;
- a net floorspace of 1,325 sqm on a single level; and
- 120 adjacent surface level parking spaces.

4.2.7 The applicant has stated that within the Local Plan Area Action Plan there are five opportunity sites identified for redevelopment. These consist of the following:

- Alefgar Centre/ Former Squash Courts, Taylors Lane (ref. RTC4);
- Market Street Garages (ref. RTC5);
- Rugeley Market Hall/ Bus Station and Surrounding Area (ref. RTC6);
- Land at Wellington Drive (ref. RTC7); and
- Leathermill Lane/ Trent and Mersey Canal Corridor (ref. RTC8).

4.2.8 The applicant, in addition, has stated that '12 vacant units [were identified when visiting the centre in August 2020, one of which is undergoing refurbishment and will re open shortly. The other vacant units were small in size and none were suitable to accommodate the development that is proposed even adopting a flexible approach'.

4.2.9 Officers note that the applicant's submission includes an appraisal of current policy and case law in respect to application of the sequential test with

reference to the Planning Practice Guidance, the decision handed down in Aldergate Properties vs Mansfield DC [2016] and several appeal decisions.

4.2.11 In addition it is noted that Paragraph: 010 (Reference ID: 2b-010-20190722; Revision date: 22 07 2019 sets out the matters that need to be considered when using the sequential approach as part of plan-making:

- has the need for main town centre uses been assessed? The assessment should consider the current situation, recent up-take of land for main town centre uses, the supply of and demand for land for main town centre uses, forecast of future need and the type of land needed for main town centre uses;
- can the identified need for main town centre uses be accommodated on town centre sites? When identifying sites, the suitability, accessibility, availability and viability of the site should be considered, with particular regard to the nature of the need that is to be addressed;
- If the additional main town centre uses required cannot be accommodated on town centre sites, what are the next sequentially preferable sites that they can be accommodated on?

4.2.12 Turning to the specific sites mentioned in paragraph 4.2.7 above the applicant has made the following comments.

Alefgar Centre/ Former Squash Courts, Taylors Lane (ref. RTC4)

Site RTC4 is a brownfield site located to the west of the PSA. It is located in an edge of centre location.

The AAP allocates this site for residential use and considers that the site could accommodate a mixed housing scheme comprising market and affordable housing and housing for the elderly (Use Class C3 and/or C2), to be developed at a density of 30-40 dwellings per hectare. We understand that the site is owned by Staffordshire County Council and CCDC. A proposal for retail use on the site would conflict with Policy RTC4, would impact on the delivery of housing and housing land supply, and so this site may be discounted from further consideration.

Market Street Garages (ref. RTC5)

The Market street Garages site is located on the western side of Market Street, to the north of PSA. It is in an edge-of-centre location. It currently accommodates Kwik-Fit and Don Ryder Motors, in addition to car parking. We understand that site is under multiple ownerships.

The AAP allocates the site for residential development, and so a proposal for retail would conflict with Policy RTC4 and impact on the delivery of housing

and housing land supply. The site is also too small at only 0.2ha to accommodate the development that is proposed, even adopting an extreme approach to flexibility. It is also awkwardly configured, with a limited and compromised frontage. We conclude that the site may be discounted.

#### Rugeley Market Hall/ Bus Station and Surrounding Area (ref. RTC6)

The Market Hall and Bus Station site is located in the south-western corner of the PSA. It is located to the east of Elmore Lane and to the west of Lower Brook Street, and to the rear of existing units that front onto the pedestrianised route running through the centre. The site contains car parking, a market hall, taxi rank and bus station.

The AAP says that in respect of this site, the Council will pursue comprehensive redevelopment comprising:

- a new market facility;
- revised bus station, providing parking bays, covered waiting areas, bus shelters, service information and small scale food and drink provisions;
- an anchor store to meet the needs of modern operators;
- residential development at upper floors;
- car parking and replacement taxi rank; and
- a new pedestrian thoroughfare linking Elmore Park and Brook Square.

The AAP seeks for the redevelopment of this site to provide a counter-balance to Tesco at Leathermill Lane.

Whilst the site could accommodate a Lidl store, it would not be possible to accommodate the development that is proposed plus the other uses which are required to be re-provided or delivered through the site's comprehensive redevelopment. The policy does not anticipate the existing car parking, bus station, market or taxi rank being lost permanently, and so any redevelopment would need to re-provide and/or relocate those uses either on site or elsewhere. In addition, the site is to provide a 'non-food' anchor store. We are not aware of any proposals to take the site's redevelopment forward.

We conclude on the basis of the above that the site is unsuitable for the use that is proposed, together with the uses that are otherwise to be provided and/or retained, and also unavailable, so that it may be discounted from further consideration.

#### Land at Wellington Drive (ref. RTC7)

Site RTC7 is located within the southern half of the PSA and is therefore 'in centre'. It lies to the west of Wellington Drive, to the north of Horse Fair, and to the east of Lower Brook Street. The site comprises parking and service access associated with development which wraps around the western, northern and eastern boundaries of the allocation. It also includes a small number of retail units. As the site sits to the rear of properties fronting Horse Fair and St Pauls Rd, there is only very limited visibility of the site from St Pauls Road / Lichfield St.

Most of the surrounding development backs onto the site, although some fronts onto it. Development of the allocated site would present very substantial challenges in relation to the need to maintain service access and parking for those existing uses, particularly for any larger space user.

The AAP allocates the site for comprehensive mixed-use development, comprising a medium sized retail food or non-food store with office and/or residential; replacement public car parking; office/business development; and enhanced pedestrian links to Brewery Street and Brook Square. It is therefore anticipated by policy that the site should provide a mix of uses.

The site is circa 0.7 ha and so falls just below the minimum site size that Lidl would require in order to accommodate its current format store and requisite parking. Even if it were possible to accommodate the development that is proposed, adopting a flexible approach, the additional uses required by policy could not be delivered. It would appear also that the redevelopment of the whole site would require demolition of existing, trading businesses.

We note the 'consultation draft' Planning Brief, dated January 2003, which related to a larger area bounded by Upper Brook St, Brewery St, Lichfield St and Horsefair, which it divides into four parcels or 'Phases'. Phase 1 corresponds broadly with Site RTC7. Phase 2 is the former Co-op store (now Argos and Home Bargains). The brief includes two illustrative schemes. The first seeks to create a fine grained development comprising a pedestrianised 'street' running from Lichfield Street through into the rear of the site and providing a series of arcades and courtyards which would require the demolition of the Argos / Home Bargains Unit. The second illustrative scheme suggests development of each Phase individually and with each accommodating a single building. Neither of the illustrative schemes proposes a form of development that could accommodate the development that is proposed, even adopting a flexible approach.

Finally we have noted that a planning application was submitted on the site in 2003 by Pritchard Properties, but was never converted to a permission following a resolution to grant consent. There are no documents available to

view online. Moreover, we are not aware of any progress towards redevelopment since the adoption of the Town Centre AAP in 2014.

For the above reasons we have concluded that the site is neither suitable nor available for the development that is proposed.

#### Leathermill Lane/ Trent and Mersey Canal Corridor (ref. RTC8)

Site RTC8 lies in the north-eastern corner of the area covered by the town centre boundary, but lies outside of the PSA. It is therefore an 'edge-of-centre' site.

The AAP intends to make the canal a more prominent feature of the town centre, with it acting as a focus for linked trips between the core town centre and the new Tesco superstore. The Tesco development covers a majority of the allocated site, but not the whole.

There are a number of 'remainder' areas within the overall site allocation. Permission exists for a small number of unit shops extending from the store entrance towards the canal. This part of the site has been partially laid out with this in mind. The haulage yard is also within the allocated site but remains in operational use. This part of the site is annotated in the AAP for use for residential and potentially leisure uses. The site also includes a former abattoir, two houses on Leathermill Lane, and an area of undeveloped land to the north east of the foodstore. None of these remaining areas are of a scale that could accommodate the development that is proposed, even adopting a flexible approach.

4.2.13 Although the comments made by the objectors are noted it is also noted that the above information has been considered by the Policy Officer who has concluded that the 'Sequential test has considered potential Town Centre sites in detail and the conclusions are accepted'.

4.2.14 Officers, having had regard to the above, agree with the applicant's assessment of potential suitable sites and also conclude that at the current time there are no suitable sequentially preferable sites available within Rugeley Town Centre, which could reasonably accommodate the development of the LIDL store proposed within this application. As such it is also concluded that the sequential test has been passed.

#### Impact on the Town Centre

4.2.14 Policy CP11 of the Local Plan sets out that the Local Plan will help to deliver 4900m<sup>2</sup> (gross) of convenience retail floor space by 2028, with Tesco already accounting for 4000m<sup>2</sup> (net) of this allowance. On the basis of this the Policy Officer has advised that as the proposal is larger than the remaining 900m<sup>2</sup>

allowance a Retail Needs Assessment would normally be required to outline why the Local Plan threshold should be exceeded in an out of centre location, and how the proposal would limit any impact on the Town Centre. It has also been stated that the Cannock Chase Retail Study (Para 7.16, 2015) highlights that there is no need to provide any additional convenience floor space requirement up to 2030, given the choice and range of facilities already available. This stance has been echoed in the objections put forward by Tesco's, outlined above.

4.2.15 Notwithstanding the above it is noted that paragraph 89 of the NPPF states

“When assessing applications for retail and leisure development outside town centres, which are not in accordance with an up-to-date plan, local planning authorities should require an impact assessment if the development is over a proportionate, locally set floorspace threshold (if there is no locally set threshold, the default threshold is 2,500m<sup>2</sup> of gross floorspace).”

4.2.16 The comments made above by Tesco's and Morrisons are noted. However, as the scale of the proposed development falls below the threshold of the requirement to submit a retail impact assessment of 2,500m<sup>2</sup> set out in the NPPF and the Cannock Chase Local Plan (2014) does not contain a locally defined threshold there is no policy requirement for a retail impact assessment to be submitted. Nor is there any such requirement should the combined floorspace of this proposal and the Aldi proposal taken cumulatively exceed 2,500m<sup>2</sup>. This stance is clearly supported by Stantec who have been employed by the Council to advise on retail issues, and in particular the need, or otherwise for the applicant to undertake a retail impact assessment. It is confirmed that Stantec's advice takes into account the presence of the application made by Aldi for a new store also proposed to be on Power Station Road.

4.2.17 Notwithstanding the above it is noted that the Planning Statement has provided 'observations' as to the likely impacts of the proposal on the town centre, in the light of Policy CP11 of the Local Plan. These include: -

- a) The Lidl operational model operates on the basis of a restricted range of convenience goods which distinguishes Lidl from other retailers including the main grocers (Asda, Morrison's, Tesco, Sainsbury's and Waitrose), freezer centres (such as Iceland) and multiple and independent convenience stores. Lidl's primary trade is in main food shopping, rather than top-up shopping.
- b) Adopting the well-established principle that "like competes with like" this means that Lidl does not tend to compete with town

centre convenience stores, or independent/ multiple butchers, bakers and greengrocers.

- c) As such, the potential for competition with Iceland in Rugeley town centre is limited. The potential for impact on Morrisons and Tesco is greater, but principally on their value lines only. The greatest potential for impact is on Aldi, which is currently in an edge of centre location.
- d) In relation to comparison goods and the propensity for adverse impact, only 20% of the sales area of the Lidl store would be used for such sales. In addition, the types of comparison products which are sold changes regularly (as a consequence of the Company's 'when it's gone, it's gone' approach). The extent to which there may be any impact from the small amount of comparison floorspace in the Lidl store, and any comparison retail floorspace elsewhere, would therefore be transient and, moreover, negligible.

4.2.18 As such the applicant asserts that the above points 'support a conclusion that the propensity for significant adverse impacts to arise on Rugeley Town Centre is very low'. Whilst officers note that the above provides some limited information of a high level qualitative type that lends some weight in favour of the proposal it is not supported by any quantitative assessment or empirical evidence. However, as stated earlier there is no national policy requirement for proposals under 2500m<sup>2</sup>, either taken by themselves or cumulatively with other schemes, to provide a retail impact assessment and as such the proposal does not stand or fall on the merits of the applicant's observations.

#### Loss of Employment Land

4.2.19 The Policy Officer has commented that Policy CP8 supports the delivery of an appropriate employment land supply including 8ha at Towers Business Park/Formal Power Station, Rugeley and the NPPF (Para 20, February 2019) sets out that "Local Plans must contain strategic policies that make sufficient provision for employment development within the area..." The Policy Officer goes on to comment that: -

'The most recent Employment Land Availability Assessment (P12, August 2018) sets out there is a shortfall in employment land provision compared to Local Plan targets and this proposal would further reduce employment land provision. Therefore justification will need to be provided to support the loss of employment land within an existing established employment area.'

4.2.20 The above stance is supported by both Morrisons and Tesco's.



4.2.21 However the extent of the employment areas referred to in Policy CP11 are not shown on the Policies Plan and the most up to date study of employment areas is the Cannock Chase 'Existing Employment Areas Study 2019 Update, dated October 2019. This provides proformas for various large employment sites across the district. This includes those sites at the Power Station Road Business Area and at the Towers Business Park. These two areas show the extent of the employment areas. However, neither the two employment areas identified include the application site. Furthermore the site 'was most recently used to store coal for the Rugeley Power Station and formed part of the power station site'. As such its use class would be sui generis and would not fall within the employment use classes of B1, B2 and B8. Therefore as a matter of fact the site is not an established employment area and as such the proposal would not result in the loss of employment land.

#### 4.3 Design and the Impact on the Character and Form of the Area

4.3.1 In respect to issues in relation to design Policy CP3 of the Local Plan requires that, amongst other things, developments should be: -

- (i) well-related to existing buildings and their surroundings in terms of layout, density, access, scale appearance, landscaping and materials; and
- (ii) successfully integrate with existing trees; hedges and landscape features of amenity value and employ measures to enhance biodiversity and green the built environment with new planting designed to reinforce local distinctiveness.

4.3.2 Relevant policies within the NPPF in respect to design and achieving well-designed places include paragraphs 124, 127, 128 and 130. Paragraph 124 makes it clear that the creation of high quality buildings and places is fundamental to what the planning and development process should achieve.

4.3.3 Paragraph 127 of the NPPF, in so much as it relates to impacts on the character of an area goes on to state: -

"Planning policies and decisions should ensure that developments:

- a) will function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development;
- b) are visually attractive as a result of good architecture, layout and appropriate and effective landscaping;

- c) are sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change (such as increased densities);
- d) establish or maintain a strong sense of place, using the arrangement of streets, spaces, building types and materials to create attractive, welcoming and distinctive places to live, work and visit’.

4.3.4 Finally Paragraph 130 states planning permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions, taking into account any local design standards or style guides in plans or supplementary planning documents. Conversely, where the design of a development accords with clear expectations in plan policies, design should not be used by the decision taker as a valid reason to object to development.

4.3.5 Having taken all of the above into account it is considered that the main issues in respect to design and the impact on the character and form of the area are: -

- (i) Overall layout
- (ii) Materials, scale and external appearance of the unit
- (iii) Landscaping

4.3.6 The proposed foodstore building would occupy the eastern part of the Site and has been designed such that the shop facade would face towards the south, that is, towards the main car parking area and Power Station Road as it swings round to join the roundabout. Furthermore, the proposed ancillary service yard and delivery area would be located to the north of the building and only forms a parking bay for a HGV.

4.3.7 The building would be modern in design and the external materials would be comprised of aluminium composite cladding, rendered grey plinth and blue Aluminium curtain wall & PPC external doors under a light grey metal composite panel roof system which in combination would provide a very contemporary appearance, which would reflect the modern buildings within the wider commercial area. As such the building by virtue of its size, scale and materials would be well-related to its immediate commercial/ industrial context.

4.3.8 In respect to the landscaping of the site the comments of the Landscape Officer are noted, in particular that overall he has no objection in principle to development of the site, that the arboricultural impact assessment is

acceptable. The outstanding detail are therefore ones of detail which would have no bearing on other issues and which can be readily addressed through the use of conditions for the submission of a revised landscaping scheme and to secure its implementation

4.3.9 As such, subject to the attached conditions, it is considered that the proposal would be well-related to existing buildings and their surroundings and successfully integrate with existing trees and therefore would be in accordance with Policy CP3 of the Cannock Chase Local Plan and the Design section of the NPPF.

#### 4.4. Impact on Residential Amenity

4.4.1 Policy CP3 of the Local Plan states that the following key requirements of high quality design will need to be addressed in development proposals and goes on to include [amongst other things] the protection of the "amenity enjoyed by existing properties".

4.4.2 Paragraph 127(f) of the NPPF states that planning policies and decisions should ensure that developments [amongst other things] create places with a high standard of amenity for existing and future users.

4.4.3 In this respect it is noted that the site is located on the edge of a commercial/ industrial area centred on Power Station Road and is currently not in proximity to residential properties. However, it should also be noted that the former Rugeley Power Station site does benefit from a resolution to grant for a predominantly residential development, which will introduce residential areas across the A51 and hence the potential for conflicts in respect to noise.

4.4.4 In order to inform the application the applicant has submitted a report titled 'Power Station Road, Rugeley, Lidl UK. Acoustics, Proposed new retail store, report on existing noise climate, ref. 10/1012364, dated 27/8/20, authored by Hoare Lea Acoustics Ltd. The submitted report considers the additional noise that the proposed development would generate, in terms of goods delivery vehicles and external plant. The report considers both existing receptors and the consented residential development to the east, and concludes the impact on both will be negligible to low, and that therefore no noise mitigation will be required. The Environmental Health Officer has stated that he is in agreement with the findings of the report, and therefore recommends no conditions relating to operational phase noise.

4.4.5 In addition to the above the applicant has submitted an Air Quality Assessment, ref. MCP2327-001, dated 29 July 2020, authored by BW which assesses the likely impact of the proposed development on local air quality (in terms of NO<sub>2</sub>, PM<sub>10</sub> & PM<sub>2.5</sub>). This concluded that the impact of the development was determined to be negligible for all parameters. However, a

construction phase dust assessment was also carried out, which concluded that mitigation measures were required to control emissions. These measures are detailed in section 7 of the report. Again the EHO accepts the conclusions of that report and recommends that a condition to secure a Construction Environmental Management Plan is attached to any permission granted.

4.4.6 In respect to impacts from lighting including glare the applicant has submitted a LiAS Design Notes & Luminaire Schedule, LIDL Rugeley Carpark, ref. 0400488708, DWG 00 & DWG 01, dated 19/8/20, authored by the LiAS team of Signify UK. The EHO has stated that the submitted light schedule and lux plot adequately demonstrates no unacceptable impact from lighting at the proposed development and recommends that a condition is attached to any permission granted to ensure the development is constructed to the submitted scheme.

4.4.7 As such it is concluded that, subject to the above conditions, the proposal would not have a significant impact on the standard of residential amenity in the area and that the proposal would be in accordance with Policy CP3 of the Cannock Chase Local Plan and Paragraph 127(f) of the NPPF.

#### 4.5 Impact on Highway Safety

4.5.1 Paragraph 109 of NPPF states that development should only be prevented or refused on highway grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe adding at paragraph 110: -

Within this context, applications for development should:

- a) give priority first to pedestrian and cycle movements, both within the scheme and with neighbouring areas; and second – so far as possible to facilitating access to high quality public transport, with layouts that maximise the catchment area for bus or other public transport services, and appropriate facilities that encourage public transport use;
- b) address the needs of people with disabilities and reduced mobility in relation to all modes of transport;
- c) create places that are safe, secure and attractive – which minimise the scope for conflicts between pedestrians, cyclists and vehicles, avoid unnecessary street clutter, and respond to local character and design standards;
- d) allow for the efficient delivery of goods, and access by service and emergency vehicles; and

- e) be designed to enable charging of plug-in and other ultra-low emission vehicles in safe, accessible and convenient locations.

4.5.2 In order to achieve the above requirements paragraph 111 of the NPPF goes on to state: -

‘All developments that will generate significant amounts of movement should be required to provide a travel plan, and the application should be supported by a transport statement or transport assessment so that the likely impacts of the proposal can be assessed.’

4.5.3 In this respect it is noted the application site is located to the east of Rugeley town centre and lies to the east and north of Power Station Road and that the existing access to the site is via the A51.

4.5.4 The primary and only vehicular access to the site would be via a new access off Power Station Road. The vehicular access is proposed to be a priority junction with a ghost island right-turn facility and would also require the narrowing/ removal of the existing layby opposite the proposed site access. Dropped kerbs with tactile paving would be provided at the site access to aid pedestrians with crossing the site access.

4.5.5 Footways will be provided within the site on both sides of the access road connecting with the existing footway on Power Station Road. Pedestrian routes would also be provided within the car parking area comprising footways and zebra crossings directing pedestrians from the highway network to the retail food store. The existing vehicular access from the A51 would be made redundant to vehicles; however, a new access approximately 25m to the north of the existing access will provide an alternative route to the application site for pedestrians and cyclists.

4.5.6 The proposed Lidl site currently has good pedestrian and cycle accessibility from Rugeley town centre and the surrounding residential areas. The proposed development would further enhance these connections through the site.

4.5.7 The proposed development would provide 160 car parking spaces including nine disabled parking spaces, nine parent and child spaces and two electric vehicle charging spaces. The proposed level of car parking is within the maximum standards as set out in Cannock Chase Council’s parking standards (based on the total gross internal area of the retail food store). It is proposed that should there be a surplus of car parking provision, these spaces would enable linked leisure trips with the Riverside Park proposed as part of the redevelopment of Rugeley Power Station site.

4.5.8 12 cycle parking spaces which also allow space for trailers would be provided for customers to the south of the retail food store. Although these spaces are

not located close to the store entrance, the southern end of the food store would be glazed and therefore would provide natural surveillance of the customer cycle parking spaces. Secure cycle parking for staff will be made available within the warehouse.

4.5.9 The Highway Authority has stated that it has no objections to the proposal subject to the attached conditions and it is considered that the proposal is acceptable in terms of its design, means of access and its impact on the capacity and safety of the wider highway network

4.5.10 In addition to the above an area of land would be transferred to the Council to facilitate the provision of a pedestrian cycle link that would connect to the development on the former Rugeley Power Station site and provide a green and pleasant pedestrian link to Power Station Road and the town centre beyond. Whilst it is recognised that this link could be provided on land owned by Engie the land gifted by Lidl would enable a much enhanced specification. This is a factor which lends weight in favour of the proposal as it provides added value to the area and the way it would function in the future. The transfer of the land would be controlled through the mechanism of a section 106 agreement. If the land is not developed for its intended purpose within 7 years then it would be transferred back to Lid.

#### 4.6 Impact on Nature Conservation Interests

4.6.1 Policy and guidance in respect to development and nature conservation is provided by Policy CP12 of the Local Plan and paragraphs 170 and 174 of the NPPF.

4.6.2 Policy CP12 of the Local Plan states that the District's biodiversity and geodiversity assets will be protected, conserved and enhanced via

'the safeguarding from damaging development of ecological and geological sites, priority habitats and species and areas of importance for enhancing biodiversity, including appropriate buffer zones, according to their international, national and local status. Development will not be permitted where significant harm from development cannot be avoided, adequately mitigated or compensated for;

- support for the protection, conservation and enhancement of existing green infrastructure to facilitate robust wildlife habitats and corridors at a local and regional scale (particularly to complement Policy CP16);
- supporting and promoting initiatives for the restoration and creation of priority habitats and recovery of priority species and the provision of new spaces and networks to extend existing green infrastructure;

- supporting development proposals that assist the delivery of national, regional and local Biodiversity and geodiversity Action plan (LBAP/GAP) targets by the appropriate protection, incorporation and management of natural features and priority species;
- the promotion of effective stewardship and management across the district to contribute to ecological and geological enhancements.

#### 4.6.3 Paragraph 170 of the NPPF states [amongst other things] that

- 'Planning policies and decisions should contribute to and enhance the natural and local environment by:
- protecting and enhancing valued landscapes, sites of biodiversity or geological value and soils (in a manner commensurate with their statutory status or identified quality in the development plan); [and]
- minimising impacts on and providing net gains for biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures;'

#### 4.6.4 Paragraph 174 goes on to state: -

When determining planning applications, local planning authorities should apply the following principles:

- a) if significant harm to biodiversity resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused;
- b) development on land within or outside a Site of Special Scientific interest, and which is likely to have an adverse effect on it (either individually or in combination with other developments), should not normally be permitted. The only exception is where the benefits of the development in the location proposed clearly outweigh both its likely impact on the features of the site that make it of special scientific interest, and any broader impacts on the national network of Sites of Special Scientific Interest;
- c) development resulting in the loss or deterioration of irreplaceable habitats (such as ancient woodland and ancient or veteran trees) should be refused, unless there are wholly

exceptional reasons and a suitable compensation strategy exists; and

- d) development whose primary objective is to conserve or enhance biodiversity should be supported; while opportunities to incorporate biodiversity improvements in and around developments should be encouraged, especially where this can secure measurable net gains for biodiversity.

#### Site Specific Impacts on Ecology

4.6.5 The site does not benefit from any formal or informal designation for nature conservation purposes, nor is it located immediately adjacent to such a site.

4.6.6 In order to inform the application the applicant has submitted a Preliminary Ecological Appraisal, dated 27th August 2020. The appraisal concludes that

“The site comprises an area of previously developed brownfield, primarily consisting of bare ground, scattered tall ruderal habitat, and dense scrub, all of negligible ecological importance which will be lost to the development.

The eastern boundary comprises unmanaged scrub and a species-poor native hedgerow, with a raised bank covered in dense scrub that transitions to semi-improved neutral grassland at its northernmost end.

To the north of the site lies an offsite woodland corridor established along the railway embankment and to the south lies a small area of mixed woodland planting. These habitats will be retained within suitable buffers from the development.

The site is not covered by or adjacent to any designations for nature conservation.

The site only has very limited potential to support breeding birds and no trees were identified with the potential to support roosting bats. Due to the limited habitats onsite, no other protected species are anticipated to be present.

Soft landscape planting is proposed to provide new habitat creation, including; ornamental and native shrubs, trees, and native hedgerow planting, together with an area of managed general purpose meadow-mix grassland to the north of the site. With the implementation of the mitigation and enhancement strategy described in this report, the



proposed development would be in conformity with relevant policy and legislation, as set out in Appendix 2. The strategy could be controlled by appropriately worded planning conditions.”

- 4.6.7 Officers accept the findings of the Preliminary Ecological Appraisal and can confirm that the majority the site has been heavily disturbed in the past and comprises hard standing and bare soil.

#### Impacts of Cannock Chase Special Area of Conservation

- 4.6.8 Under Policy CP13 development will not be permitted where it would be likely to lead directly or indirectly to an adverse effect upon the integrity of the European Site network and the effects cannot be mitigated.

- 4.6.9 The applicant’s Preliminary Ecological Appraisal notes that

“Following an initial Traffic Forecast Technical Note produced by SCP (see Appendix 4) the proposed development would not be likely to lead directly or indirectly to an adverse effect upon the integrity of the nearby Cannock Chase SAC and the proposals are therefore considered to be in-line with local planning policy CP13 – Cannock Chase Special Area of Conservation (SAC).

No other potential impact pathways to designated sites within the study area have been identified. Therefore, impacts on designated sites are not anticipated. “

- 4.6.10 The above point has been accepted by Natural England and the Environmental Health Officer.

- 4.6.11 The conclusions of the report are accepted. It is also noted that due to the localised nature of the most of the traffic generated by the development that the proposal would not have any significant likely impact through nitrogen oxide(s) deposition on the SAC.

- 4.6.12 Therefore having had regard to all of the above it is concluded that the proposal would be not be contrary to policies CP12 and CP13 of the Local Plan and paragraphs 170 and 174 of the NPPF.

#### 4.7 Drainage and Flood Risk

- 4.7.1 The site is located in Flood Zone 1 on the Environment Agency's Flood Zone Maps, and therefore is in the zone which is at the least risk of flooding .

- 4.7.2 In this respect it is noted that paragraph 155 of the NPPF states 'inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk (whether existing or future)' adding 'where development is necessary in such areas, the development should be made safe for its lifetime without increasing flood risk elsewhere'.
- 4.7.3 In addition to the above it is paragraph 165 of the NPPF states 'Major developments should incorporate sustainable drainage systems unless there is clear evidence that this would be inappropriate. The systems used should:
- a) take account of advice from the lead local flood authority;
  - b) have appropriate proposed minimum operational standards;
  - c) have maintenance arrangements in place to ensure an acceptable standard of operation for the lifetime of the development;
- 4.7.4 In order to inform the application the applicant has submitted a Flood Risk Assessment and Outline Drainage Strategy, Drainage Strategy, a SuDS Maintenance Strategy Report and a Flood Routing Plan.
- 4.7.5 Section 9 of the Flood Risk Assessment and Outline Drainage Strategy summarises the situation and impacts and states: -

"The EA Flood Map for planning depicts the site is within Flood Zone 1 area, with very low risk of flooding from tidal & fluvial and artificial sources and with low / medium risk from flooding from surface water. It is believed that the medium flood risk from surface water flooding is caused by current site conditions as explained within section 3.5.2 and the implementation of the proposed positive surface water drainage system will mitigate this.

The proposed development is classed as less vulnerable usage and it is located in Flood Zone 1 which meets the sequential test. An exception test is not required.

Surface water will be designed to cater for storm events up to 1 in 100 year plus 20% climate change. It is proposed that the site will discharge at 5.7l/s prior to entering the infrastructure drainage within the proposed southern car parking area. To ensure that the development will discharge surface water at the proposed rates, a vortex flow control unit (Hydrobrake) will be used to limit flows leaving the development. A cellular crate system will be used to store the

required volume. The proposed foul network will be connected to an existing sewer located west of the proposed access route to the site.

The use of SuDS features has been considered and an explanation to why some SuDS techniques were disregarded has been given in section 6.2 of this report. Due to the nature of the ground (see section 3.3), no infiltration techniques have been implemented. An oil interceptor has been proposed, so it will ensure that the water quality will be raised prior to being discharged off site.

The site does not pose any increased flood risk to the site itself or adjacent developments, and it is not susceptible to flooding by other means.”

4.7.6 The Lead Local Flood Authority and Severn Trent having considered the above information have stated that they have no objections to the proposal subject to the attached conditions.

4.7.7 Therefore subject to the attached conditions the proposal would be acceptable in respect to flood risk and drainage and the requirements of the NPPF.

#### 4.8 Mineral Safeguarding

4.8.1 The site falls within a Mineral Safeguarding Area (MSAs) for superficial sand and gravel deposits. Paragraph 206, of the National Planning Policy Framework (NPPF) and Policy 3 of the Minerals Local Plan for Staffordshire (2015 – 2030), both aim to protect mineral resources from sterilisation by other forms of development.

4.8.2 Policy 3.2 of the new Minerals Local Plan states that:

‘Within a Mineral Safeguarding Area, non-mineral development except for those types of development set out in Appendix 6, should not be permitted until the prospective developer has produced evidence prior to determination of the planning application to demonstrate:

- a) the existence, the quantity, the quality and the value of the underlying or adjacent mineral resource; and
- b) that proposals for non-mineral development in the vicinity of permitted mineral sites or mineral site allocations would not unduly restrict the mineral operations.

4.8.3 Table 7 of Appendix 6 outlines “Exemptions Criteria for Mineral Safeguarding” and includes, amongst other things, “

Applications that fall within the development boundary of urban areas and rural settlements identified in an adopted development plan document, other than:

- a) non- exempt applications that fall within the mineral consultation zones around mineral sites, mineral site allocations and mineral infrastructure sites; and,
- b) non- exempt applications that fall within the coal and fireclay safeguarding areas (see 13 below);

4.8.4 In this respect it is noted that Although the site is designated as Mineral Safeguarding Zone with superficial sand and gravel deposits the Mineral Authority has no objections to the proposal.

4.8.5 It is therefore concluded that the proposal is therefore acceptable in respect to mineral safeguarding.

#### 4.9 Crime and the Fear of Crime

4.9.1 Section 17 of the Crime and Disorder Act 1998 places a duty on each local authority 'to exercise its various functions with due regard to the likely effect of the exercise of those functions on, and the need to do all that it reasonably can do to prevent crime and disorder in its area to include anti-social behaviour, substance misuse and behaviour which adversely affects the environment'.

4.9.2 In addition to the above paragraph 127(f) of the NPPF states planning policies and decisions should ensure that development create places which [amongst other things] create places that are safe and where crime and disorder, and the fear of crime, do not undermine quality of life, social cohesion and resilience.

4.9.3 In this respect it is noted that the building has been designed to provide a high degree of natural surveillance to the car park and the highway beyond.

4.9.4 It is further noted that the Crime Prevention Officer, whilst making recommendations, has no objections to the proposal. The comments raised by the Police are more appropriately dealt with by way of an informative rather than condition as they are advisory in nature.

4.9.5 Given the above it is concluded that the proposal would create a place that is safe and where crime and disorder, and the fear of crime, would not

undermine quality of life, social cohesion and resilience and therefore is in accordance with Policy 127(f) of the NPPF.

#### 4.10 Waste and Recycling Facilities

4.10.1 Policy CP16(1) (e) 'Climate Change and Sustainable Resource Use' of the Cannock Chase Local Plan states that development should contribute to national and local waste reduction and recycling targets according to the waste hierarchy'. One of the ways of achieving this is by ensuring development can be adequately serviced by waste collection services and that appropriate facilities are incorporated for bin collection points (where required).

4.10.2 The unit would be served by a service area to the north of the building which would be adequately served by vehicular access to enable waste and recycling facilities to be accommodated and disposed of appropriately.

4.10.3 In this respect it is considered that the proposal is in accord with Policy CP16(1) (e) of the Cannock Chase Local Plan.

#### 4.11 Ground Conditions and Contamination

4.11.1 The site is located in an area which has been subject to several industrial activities which could have caused potential issues in respect to land contamination.

4.11.2 In this respect paragraph 170 of the NPPF states: -

“Planning policies and decisions should contribute to and enhance the natural and local environment by [amongst other things]:

e) preventing new and existing development from contributing to, being put at unacceptable risk from, or being adversely affected by, unacceptable levels of soil, air, water or noise pollution or land instability. Development should, wherever possible, help to improve local environmental conditions such as air and water quality, taking into account relevant information such as river basin management plans; and

f) remediating and mitigating despoiled, degraded, derelict, contaminated and unstable land, where appropriate.

4.11.3 In addition to the above paragraph 178 of the NPPF states: -

Planning policies and decisions should ensure that:

- a) a site is suitable for its proposed use taking account of ground conditions and any risks arising from land instability and contamination. This includes risks arising from natural hazards or former activities such as mining, and any proposals for mitigation including land remediation (as well as potential impacts on the natural environment arising from that remediation);
- b) after remediation, as a minimum, land should not be capable of being determined as contaminated land under Part IIA of the Environmental Protection Act 1990; and
- c) adequate site investigation information, prepared by a competent person, is available to inform these assessments.

4.11.4 Finally paragraph 179 of the NPPF makes it clear that where 'a site is affected by contamination or land stability issues, responsibility for securing a safe development rests with the developer and/or landowner'.

4.11.5 In order to inform the application the applicant has submitted a Ground Investigation Report, prepared by Applied Geology which has been appraised by the Environmental Health Officer (EHO). The submitted report details investigations carried out over 2019 and 2020 and concludes that no specific remediation is required to ensure the site is suitable for the proposed end-use. It also concludes no measures are required to protect ground water but that ground gas monitoring indicate the need for protective measures to be installed in the construction of the proposed development.

4.11.6 The EHO has stated that he is in agreement with the findings of the report and has recommended the attached conditions.

4.11.6 The comments of the EHO are accepted and it is considered that subject to the attached conditions the proposal would be acceptable in respect to the requirements of paragraphs 170, 178 and 179 of the NPPF.

## **5.0 Human Rights Act 1998 and Equalities Act 2010**

### **Human Rights Act 1998**

5.1 The proposals set out in this report are considered to be compatible with the Human Rights Act 1998. The recommendation to approve the application accords with the adopted policies in the Development Plan which aims to secure the proper planning of the area in the public interest.

## **Equalities Act 2010**

- 5.2 It is acknowledged that age, disability, gender reassignment, pregnancy and maternity, religion or belief, sex and sexual orientation are protected characteristics under the Equality Act 2010.

By virtue of Section 149 of that Act in exercising its planning functions the Council must have due regard to the need to:

Eliminate discrimination, harassment, victimisation and any other conduct that is prohibited;

Advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;

Foster good relations between persons who share a relevant protected characteristic and persons who do not share it

It is therefore acknowledged that the Council needs to have due regard to the effect of its decision on persons with protected characteristics mentioned.

Such consideration has been balanced along with other material planning considerations and it is considered that the proposal is acceptable in respect to the requirements of the Act. Having had regard to the particulars of this case officers consider that the proposal would not conflict with the aim of the Equalities Act.

## **6.0 Conclusion**

- 6.1 The Applicant is seeking consent for removal of existing hardstanding and erection of a retail foodstore with associated car parking, access, landscaping and associated engineering works. Whilst outside of the town centre boundary the store would be located immediately abutting the town centre boundary. Up to date evidence indicates that the proposal meets the sequential test and that there is no need for the applicant to submit a retail impact assessment.
- 6.2 Subject to the attached conditions it is considered that the proposal would not have any significant harmful impacts on acknowledged interests.
- 6.3 Furthermore, it is recognised that the proposal would regenerate a run down plot of land adding extra vitality to the area and improving its visual environment, factors which add moderate weight in favour of the proposal. In

additional there would be significant economic benefits in job creation that also add moderate weight in favour of the proposal.

6.4 It is therefore concluded that any adverse impacts of approving the application would not significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole.

6.5 As such it is recommended that the application be approved subject to the attached conditions.



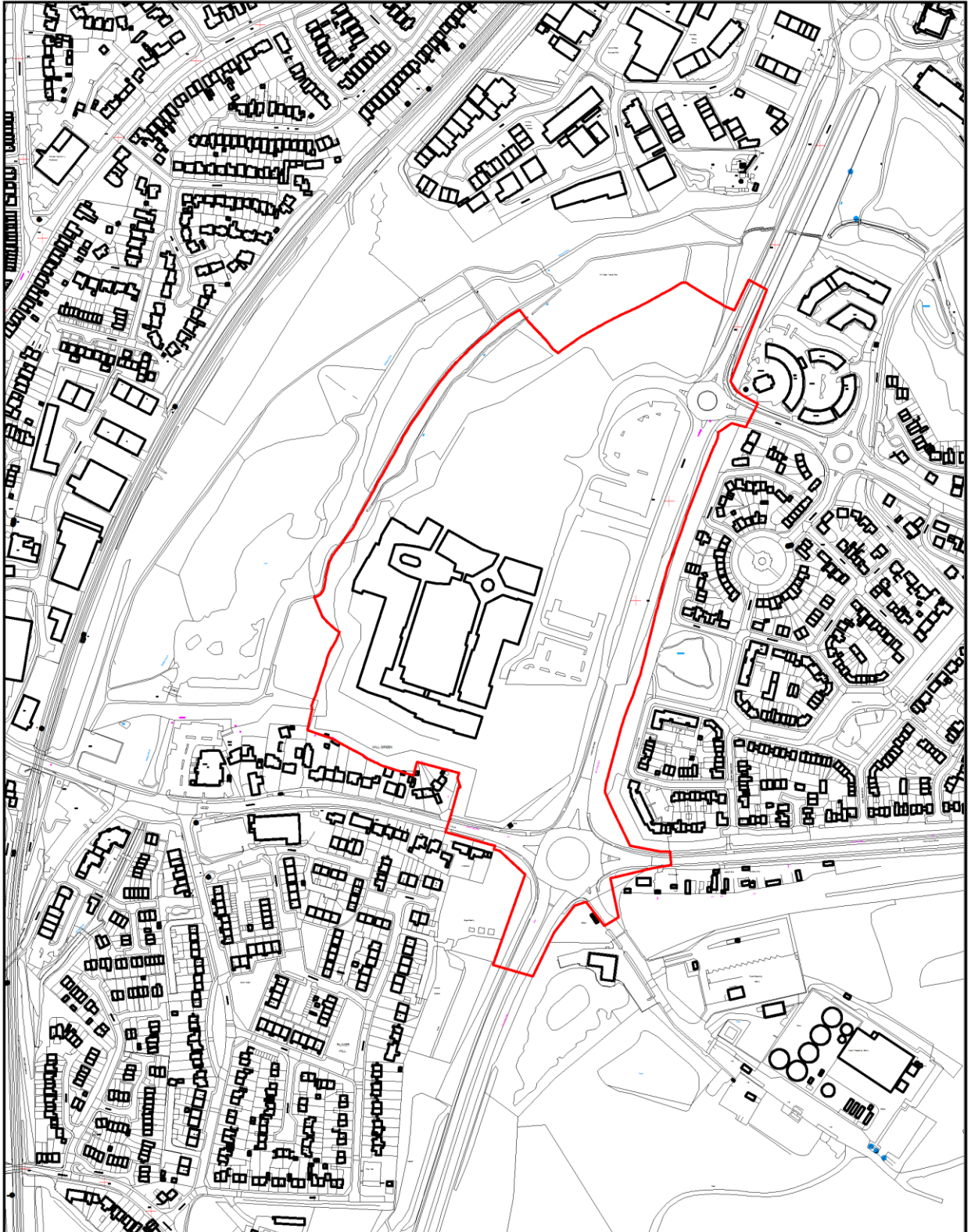
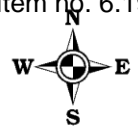


**Application No:** CH/20/435

**Location:** West Midlands Designer Outlet, Mill Green, Eastern Way, Cannock, WS11 7JU

**Proposal:** Minor Material Amendment to alter Condition 35 (Q) of Planning Permission CH/17/279 to allow for click & collect services for Unit 36

Item no. 6.193



**Contact Officer:** Richard Sunter

**Telephone No:** 01543 464481

**Planning Control Committee**

13<sup>th</sup> January 2021

**Application No:** CH/20/435

**Received:** 14-Dec-2020

**Location:** West Midland Designer Outlet

**Parish:** Heath Hayes, Norton Canes

**Ward:** Hawks Green Ward, Cannock South Ward, Norton Canes Ward, Cannock East Ward

**Description:** Minor Material Amendment to alter Condition 35 (Q) of Planning Permission CH/17/279 to allow for click & collect services for Unit 36.

**Application Type:** Minor Material Amendment

**Recommendations:**

Approve subject to a section 106 agreement and the attached conditions

**Reason(s) for Recommendation:**

In accordance with paragraph 38 of the National Planning Policy Framework the Local Planning Authority has worked with the applicant in a positive and proactive manner to approve the proposed development, which accords with the Local Plan and/ or the National Planning Policy Framework.

**Conditions (and Reasons for Conditions):**

1. The development to which this permission relates must be begun not later than the expiration of three years beginning with the date on which this permission is granted.

Reason

To comply with the requirements of Section 91 of the Town & Country Planning Act 1990.

2. No materials shall be used for the external surfaces of the development other than those specified on the drawings, data sheets and schedules listed below, unless otherwise approved in writing by the Local Planning Authority: -

A-40-01 - Material Reference & Specifications - REV D;  
 External Elevations (A-00-050D – Phase 1 (1 of 4));  
 External Elevations (A-00-051D – Phase 1 (2 of 4));  
 External Elevations (A-00-052D – Phase 1 (3 of 4));  
 External Elevations (A-00-053D – Phase 1 (4 of 4));  
 Internal Elevations (A-00-054D – Phase 1 (1 of 8));  
 Internal Elevations (A-00-055D – Phase 1 (2 of 8));  
 Internal Elevations (A-00-056D – Phase 1 (3 of 8));  
 Internal Elevations (A-00-057D – Phase 1 (4 of 8));  
 Internal Elevations (A-00-058D – Phase 1 (5 of 8));  
 Internal Elevations (A-00-059D – Phase 1 (6 of 8));  
 Internal Elevations (A-00-060D – Phase 1 (7 of 8));  
 Internal Elevations (A-00-061D – Phase 1 (8 of 8));  
 Rear of Decorative Roofs Precedent - Image from Roermond Designer Outlet Village;  
 and SK-AG-124-Views from Lichfield Road Roundabout.

Data Sheets:

Duk906 – Dryvit prefabricated features – standard and custom prefabricated eifs mouldings;  
 Duk driangle design series brochure;  
 Duk driangle elite series brochure; and  
 Installation instructions & specs.

Reason

In the interests of visual amenity and to ensure compliance with Local Plan Policies CP3, CP15, CP16 and the NPPF.

3. The development shall not be brought into use until the provision of renewable energy sources in accordance with the details submitted in the Technical Submission for a Photovoltaic System at Mill Green Outlet Village, Cannock, reference Q2989-DBS-XX-XX-TS-E-001 revision 02, dated 27.06.2018 and prepared by Bowmer and Kirkland, have been implemented in full.

Reason

In the interest of sustainable development and climate change in accordance with the NPPF and pursuant to the information provided in the Mill Green Outlet Village Energy Strategy report (Ramboll, January 2015).

4. No trees or hedges shown as retained on Dwg No. 4334-D Rev (Hayden's Arboricultural Consultants) and page 90 of the submitted Design and Access statement, shall be cut down, topped, lopped, uprooted or removed without the prior written permission of the Local Planning Authority nor shall they be wilfully damaged or destroyed.

Any trees or hedges which, within a period of 5 years from completion of the development are cut down, topped, lopped or uprooted without permission of the Local Planning Authority or become seriously damaged or diseased or die shall be replaced in the next planting season with similar size and species unless the Local Planning Authority gives written consent to any variation.

## Reason

The existing vegetation makes an important contribution to the visual amenity of the area. In accordance with Local Plan Policies CP3, CP14, CP12 and the NPPF.

5. The approved landscape works as indicated in the following drawings shall be carried out in the first planting and seeding season following the occupation of the any buildings or the completion of the development whichever is the sooner.

P10302-00-001-200-01 Revision 02	Path Type A Typical Section Detail.
P10302-00-001-202-01 Revision 02	Path Type B Typical Section Detail.
P10302-00-001-203-01 Revision 02	Path Type C Typical Section Detail.
P10302-00-001-204-01 Revision 02	Path Type C (Woodland) Typical Section Detail.
P10302-00-001-205-01 Revision 03	Path Type F Typical Section Detail.
P10302-00-001-206-01 Revision 02	Path Type I.
P10302-00-001-210-01 Revision 04	Landscape Site Boundary Section.
P10302-00-001-211-01 Revision 04	Landscape Entrance Section.
P10302-00-001-212-01 Revision 04	Landscape Retail Section.
P10302-00-001-510-01-00 Revision	Planting Schedule.
P11314-00-001-110-01 Revision 01	General Arrangement Plan .
P11314-00-001-111-01 Revision 00	Hard Landscape (1 of 6).
P11314-00-001-112-01 Revision 01	Hard Landscape (2 of 6).
P11314-00-001-113-01 Revision 00	Hard Landscape (3 of 6).
P11314-00-001-114-01 Revision 01	Hard Landscape (4 of 6).
P11314-00-001-115-01 Revision 01	Hard Landscape (5 of 6).
P11314-00-001-116-01 Revision 01	Hard Landscape (6 of 6).
P11314-00-001-117 Revision 00	Boundary Treatment Strategy*.
P10302-00-001-300-02 Revision 03	Bench Details.
P10302-00-001-301-01 Revision 02	Litter Bin Detail.
P10302-00-001-302-01 Revision 02	Illuminated Bollard Detail.
P10302-00-001-310 Revision 01	Typical; Paving Details.
P10302-00-001-312 revision 01	Paving Transition Typical Details.
P10302-00-001-313 Revision 01	Typical Paving Details.
P10302-00-001-330 Revision 00	Play area Typical Details Retail.
P11314-00-001-320 Revision 00	Paving Details.
P11314-00-001-321 Revision 00	Paving Details.
P11314-00-001-322 Revision 00	Typical Paving Section.
P11314-00-001-323 Revision 00	Street Furniture.
P10302-00-001-410 Revision 01	Typical tree Pit Details.
P10302-00-001-411 Revision 02	Landscape Detail Section.
P11314-00-001-420 Revision 01	Planting Plan (1 of 6).
P11314-00-001-421 Revision 01	Planting Plan (2 of 6).
P11314-00-001-422 Revision 01	Planting Plan (3 of 6).
P11314-00-001-423 Revision 01	Planting Plan (4 of 6).
P11314-00-001-424 Revision 01	Planting Plan (5 of 6).
P11314-00-001-425 Revision 01	Planting Plan (6 of 6).
P11314-00-001-430 Revision 00	Tree Planting Detail.
P11314-00-001-431 Revision 00	Tree Planting Detail.
P11314-00-001-432 Revision 00	Climbers on Vertical Structure/ Planting on Retaining Wall.
P11314-00-001-511	Landscape External Works Schedule of Elements and Outline Specification.
3839-SK-180409 Revision -	Hard Landscape Proposed.

07853-HYD-XX-XX-SK-S-SK002 RevP1Standardised Retaining Wall Details  
Mill Green Outlet Village Cannock-Public Realm Maintenance.

\*Please note that should there be any conflict between the boundary treatment as shown on P11314-00-001-117 Revision 00 and that shown on any other approved drawing the details shown in drawing P11314-00-001-117 Revision 00 shall be taken as the approved scheme.

Reason

In the interest of visual amenity of the area and in accordance with Local Plan Policies CP3, CP12, CP14 and the NPPF.

6. The approved landscape works shall be carried out in accordance with the Mill Green Outlet Village Phasing Plan, drawing reference SK01 Rev A, received on 28<sup>th</sup> June 2018

Reason

In the interest of visual amenity of the area. In accordance with Local Plan Policies CP3, CP12, CP14 and the NPPF.

7. The development shall be undertaken in accordance with the Arboricultural Works Document Revision B, prepared by Bowmer and Kirkland and dated 25<sup>th</sup> May 2018 and the Tree Removal Plan Drawing Ref: P10302-001-001-104-02

Within the enclosed area known as the Tree Protection Zone, no work will be permitted without the written consent of the Local Planning Authority. No storage of material, equipment or vehicles will be permitted within this zone. Service routes will not be permitted to cross the Tree Protection Zones unless written consent of the Local Planning Authority is obtained. The Tree Protection Zone will be maintained intact and the vegetation within maintained until the cessation of all construction works or until the Local Planning Authority gives written consent for variation.

Reason

To ensure the retention and protection of the existing vegetation which makes an important contribution to the visual amenity of the area in accordance with Local Plan Policies CP3, CP12, CP14 and the NPPF.

8. The approved arboricultural work (pursuant to Condition 7 above) shall be carried out fully in accordance with the submitted details including timetable and to BS 3998 Tree Work & BS 5837 Trees in Relation to Construction, unless otherwise approved in writing by the Local Planning Authority.

Reason

The existing vegetation makes an important contribution to the visual amenity of the area and in accordance with Local Plan Policies CP3, CP12, CP14 and the NPPF.

9. The development shall be carried out in accordance with the approved programme of phasing work within the Outline Construction Environmental Management Plan (CEMP) including associated appendices and proposed Ground Exploratory Hole Location Plan (G05-001 Rev 01), dated December 2016, as approved by the Local Planning Authority, in the decision notice, from Mazer Aqbal, dated 13 January 2017 and in accordance with the Mill Green Outlet Village Phasing Plan, drawing reference SK01 Rev A, received on 28<sup>th</sup> June 2018.

Reason

To ensure the protection and retention of the existing vegetation, which makes an important contribution to the visual amenity of the area in accordance with Local Plan Policies CP3, CP12, CP14 and the NPPF.

10. The works on site will be carried out in accordance with the approved programme of works unless otherwise agreed in writing by the Local Planning Authority.

Reason

To ensure the protection and retention of the existing vegetation, which makes an important contribution to the visual amenity of the area in accordance with Local Plan Policies CP3, CP12, CP14 and the NPPF.

11. The development hereby approved shall not commence trading until the works comprising the approved scheme for the improvement of the Cannock Heritage Trail, as shown in drawings: -

CTS Drawing – General Arrangement – Northern Ramp Bridge Module, Drawing Number 4648-01 Rev B;

CTS Drawing – General Arrangement – Southern Ramp Bridge Module, Drawing Number 4648-02 Rev A;

CTS Drawing – General Arrangement – Centre Ramp Bridge, Drawing Number 4648-03 Rev A;

CTS Drawing – Overall Plan and elevation, Drawing Number 4648-100 Rev A;

CTS Drawing – Column Set Out Plan – Southern Ramp, Drawing Number 4648-101 Rev B;

CTS Drawing – Column Set Out Plan – Northern Ramp, Drawing Number 4648-102 Rev B;

CTS Drawing – Column Set Out Plan – Platform, Drawing Number 4648-103 Rev A;

CTS Drawing – 3D Model View – Northern Ramp, Drawing Number 4648-104 Rev A;

CTS Drawing – 3D Model View – Southern Ramp, Drawing Number 4648-105 Rev A;

CTS Drawing – 3D Model View – Platform and Centre Bridge Drawing Number 4648-106 Rev A;

CTS – Operations and Maintenance Manual Rev 0 Draft (To be updated to Issue Rev 01 after Construction);

Gillespies Drawing – Heritage Trail Maintenance Strategy Drawing Number P10302-00-005-GIL 0235 Rev 00;

CTS – Product Data Sheet – Ekki Hardwood Timber; and

CTS – Drawing Issue and Record Sheet – Dated 04/07/19;

have been implemented in full.

Thereafter the Cannock Heritage Trail shall be maintained and retained for the life of the development, in accordance with the approved details.

Reason

In the interests of safeguarding and improving the Cannock Heritage Trail in accordance with Local Plan Policy CP5.

12. The development hereby approved shall not commence trading until the works comprising the approved scheme for the provision of the play area under drawings: -

Carve Scheme Proposal – 17.017 West Midlands Outlet Main Drawing, Drawing number SD-1000;

Carve Drawing – 17.017 West Midlands Outlet Main Sections Towers, Drawing Number SD 1100;

Carve Scheme Proposal – 17.017 West Midlands Designer Outlet – Updated Colour and Material Document, dated 14th August 2019;

Carve Scheme Proposal – 17.017 West Midlands Designer Outlet – Updated Sketch Scheme Proposal, dated 14th August 2019; and

Gillespies Design Pack – Play Area Planting Proposal Rev 00, dated 16th August 2019;

have been implemented in full

Reason

In the interests of the visual amenity of the wider area in accordance with Local Plan Policy CP3.

13. The development shall not commence trading until such time as the mitigation works detailed in the following submitted plans are completed:

A084215\_AR\_029\_A – Required Highway Alterations at Lodge Lane Roundabout

A084215\_AR\_030\_A – Required Highway Alterations at Lodge Lane Roundabout (Phase 2)

A084215\_AR\_031 – Proposed Highway Alterations

A084215\_AR\_34 – Churchbridge Interchange Proposed Improvements.

Any variation to the timing of these works shall only be permitted following the prior written agreement from the Local Planning Authority, following consultation with Highways England.

Reason

To ensure that the A5 continues to serve its purpose as a national system of routes for through traffic in accordance with the requirements of Section 10 (2) of the Highways Act 1980.

14. The development hereby permitted shall not commence trading until the approved off-site highway works detailed in the following plans have been implemented in full

CDD9999/DA/R00/02 RevT0:	Location Plan and Drawing Index.
CDD9999/DA/R00/03 RevT0	Constraints Plan
CDD9999/DA/R00/05 RevT0	Land use and Boundaries
CDD9999/DA/R00/07 RevT0	Site Investigation (Sheet 1 of 2)
CDD9999/DA/R00/08 RevT0	Site Investigation (Sheet 2 of 2)
CDD9999/DA/R01/01 RevT0	General Arrangement (Overview)
CDD9999/DA/R01/02 RevT0	General Arrangement (Sheet 1 of 2)
CDD9999/DA/R01/03 RevT0	General Arrangement (Sheet 2 of 2)
CDD9999/DA/R01/04 RevT0	General Arrangement (aerial)
CDD9999/DA/R01/05 RevT0	Topographical Survey (Sheet 1 of 2)
CDD9999/DA/R01/06 RevT0	Topographical Survey (sheet 2 of 2)
CDD9999/DA/R01/07 RevT0	Setting Out information (Sheet 1 of 2)
CDD9999/DA/R01/08 RevT0	Setting Out information (Sheet 2 of 2).
CDD9999/DA/R02/01 RevT0	Site Clearance (Sheet 1 of 2)
CDD9999/DA/R02/02 RevT0	Site Clearance (Sheet 2 of 2)
CDD9999/DA/R02/03 RevT0	Road Lighting Site Clearance (Sheet 1 of 2)
CDD9999/DA/R02/04 RevT0	Road Lighting Site Clearance (Sheet 2 of 2)
CDD9999/DA/R03/01 RevT0	Fencing & RRS (Sheet 1 of 2)
CDD9999/DA/R03/02 RevT0	Fencing & RRS (Sheet 2 of 2)
CDD9999/DA/R05/01 RevT0	Drainage Contours (Sheet 1 of 2)
CDD9999/DA/R05/02 RevT0	Drainage Contours (Sheet 2 of 2)
CDD9999/DA/R05/03 RevT0	Ironwork to be Adjusted
CDD9999/DA/R05/101 RevT0	Proposed Drainage layout (Sheet 1 of 7)
CDD9999/DA/R05/102 RevT0	Proposed Drainage layout (Sheet 2 of 7)
CDD9999/DA/R05/103 RevT0	Proposed Drainage layout (Sheet 3 of 7)
CDD9999/DA/R05/104 RevT0	Proposed Drainage layout (Sheet 4 of 7)
CDD9999/DA/R05/105 RevT0	Proposed Drainage layout (Sheet 5 of 7)
CDD9999/DA/R05/106 RevT0	Proposed Drainage layout (Sheet 6 of 7)
CDD9999/DA/R05/107 RevT0	Proposed Drainage layout (Sheet 7 of 7)
CDD9999/DA/R05/108 RevT0	Lichfield Road Catchment Cellular Tank Details
CDD9999/DA/R05/109 RevT0	Hayes Way Catchment Cellular Tank Details
CDD9999/DA/R05/110 RevT0	Flow Control Details
CDD9999/DA/R05/111 RevT0	Oil Separator Details
CDD9999/DA/R06/01 RevT0	Earthworks Excavation (Sheet 1 of 2)
CDD9999/DA/R06/02 RevT0	Earthworks Excavation (Sheet 2 of 2)
CDD9999/DA/R06/03 RevT0	Earthworks Fill (Sheet 1 of 2)
CDD9999/DA/R06/04 RevT0	Earthworks Fill (Sheet 2 of 2)
CDD9999/DA/R06/05 RevT0	Cut/ Fill Depths (Sheet 1 of 2)
CDD9999/DA/R06/06 RevT0	Cut/ Fill Depths (Sheet 2 of 2)
CDD9999/DA/R06/07 RevT0	A460 Cross Sections (MREF) (Sheet 1 of 3)
CDD9999/DA/R06/08 RevT0	A460 Cross Sections (MREF) (Sheet 2 of 3)
CDD9999/DA/R06/09 RevT0	A460 Cross Sections (MREF) (Sheet 3 of 3)
CDD9999/DA/R06/10 RevT0	Lichfield Road West Cross sections (MR10)
CDD9999/DA/R06/10 RevT0	Lichfield Road West Cross sections (MR10)



CDD9999/DA/R06/11 RevT0	Lichfield Road Roundabout Cross sections (MRB2)
CDD9999/DA/R06/12 RevT0	Lichfield Road East Cross sections (MR19)
CDD9999/DA/R06/13 RevT0	Hayes Way Roundabout Cross Sections (MRB1)
CDD9999/DA/R06/14 RevT0	Off-Ramp Cross Sections (MRON)
CDD9999/DA/R06/15 RevT0	On-Ramp Cross Sections (MCR1)
CDD9999/DA/R06/16 RevT0	Pedestrian Ramp Cross Sections (MPR1)
CDD9999/DA/R06/17 RevT0	Access Road Cross Sections (MRF2) (Sheet 1 of 2)
CDD9999/DA/R06/18 RevT0	Access Road Cross Sections (MRF2) Sheet 2 of 2).
CDD9999/DA/R07/01 RevT0	Pavement Construction (Sheet 1 of 2)
CDD9999/DA/R07/02 RevT0	Pavement Construction (Sheet 2 of 2)
CDD9999/DA/R07/03 RevT0	Bridge Deck Pavement, Kerb & Footway Details.
CDD9999/DA/R11/01 RevT0	Kerbs, Footways and paved Areas (Sheet 1 of 2)
CDD9999/DA/R11/02 RevT0	Kerbs, Footways and paved Areas (Sheet 2 of 2)
CDD9999/DA/R12/01 RevT0	Road Markings (Sheet 1of 2)
CDD9999/DA/R12/02 RevT0	Road Markings (Sheet 2of 2)
CDD9999/DA/R12/03 RevT0	Traffic Signs (Overview)
CDD9999/DA/R12/04 RevT0	Traffic Signs Layout (Sheet 1 of 3)
CDD9999/DA/R12/05 RevT0	Traffic Signs Layout (Sheet 2 of 3)
CDD9999/DA/R12/06 RevT0	Traffic Signs Layout (Sheet 3 of 3)
CDD9999/DA/R12/07 RevT0	Traffic Signs Details (Sheet 1 of 5)
CDD9999/DA/R12/08 RevT0	Traffic Signs Details (Sheet 2 of 5)
CDD9999/DA/R12/09 RevT0	Traffic Signs Details (Sheet 3 of 5)
CDD9999/DA/R12/010 RevT0	Traffic Signs Details (Sheet 4 of 5)
CDD9999/DA/R12/100 RevT0	Traffic Signals General Arrangement
CDD9999/DA/R12/07 RevT0	Traffic Signals Ducting and Civils
CDD9999/DA/R12/102 RevT0	Traffic Signals Layout
CDD9999/DA/R12/11 RevT0	Traffic Signs Detail (Sheet 5 of 5)
CDD9999/DA/R12/12 RevT0	Traffic Signs Schedule
CDD9999/DA/R13/01 RevT0	Proposed Road Lighting Layout (sheet 1 of 2).
CDD9999/DA/R13/02 RevT0	Proposed Road Lighting Layout (Sheet 2 of 2).
CDD9999/DA/R14/01 RevT0	Proposed Private Cable Network
CDD9999/DA/R14/02 RevT0	Proposed Private Cable Network
CDD9999/DA/R27/01 RevT0	Existing Statutory Undertakers (Sheet 1 of 2)
CDD9999/DA/R27/02 RevT0	Existing Statutory Undertakers (Sheet 2 of 2)
CDD9999/DA/S/HDPS	Highway Drain Protection Slab
CDD9999/DA/S/RW/001 RevT0	East Retaining Walls
CDD9999/DA/S/RW/002 RevT0	Long Sections-East Retaining Walls
CDD9999/DA/S/RW/003	Development Access –Miscellaneous Details
CDD9999/DA/S/RW/004 RevT0	West Side RW-Plan Layout & Borehole Information
CDD9999/DA/S/RW/005 RevT0	West Side RW-Setting Out Information (Sheet 1 of 2)
CDD9999/DA/S/RW/006 RevT0	West Side RW-Setting Out Information (Sheet 2 of 2)
CDD9999/DA/S/RW/007 RevT0	West Side RW-Long Sections of Retaining Walls 4, 6, 7 and 8
CDD9999/DA/S/RW/008 RevT0	West Side RW-Long Sections of Retaining Walls 5A, 5B, 6 and 9
CDD9999/DA/S/RW/009 RevT0	West side RW-Typical Cross Sections and Details
CDD9999/DA/S/RW/010 RevT0	Ground Capping Beams Details
CDD9999/DA/S/RW/011 RevT0	Ground Capping Beams overview

CDD9999/DA/S/RW/012 RevT0 Front of Wall Drainage Details  
 CDD9999/DA/S/RW/CB/002RevT0 Capping Beam Type 3  
 CDD9999/DA/S/RW/CB/003RevT0 Capping Beam Type 4 & 5 (Highway Loading)  
 CDD9999/DA/S/RW/CB/004RevT0 Capping Beam Type 15 (Highway Loading) and  
 Type 11 (Pedestrian Loading)  
 CDD9999/DA/S/RW/CB/005RevT0 Capping Beam Type 6 & 7 (Car Park Loading)  
 CDD9999/DA/S/RW/CB/006RevT0 Capping Beam Type 12 & 14 (Car Park Loading)  
 CDD9999/DA/S/RW/CB/007RevT0 Capping Beam Type 8 and 16 (Car Park Loading)  
 CDD9999/DA/S/RW/CB/008RevT0 Ground Beam Type 9 (Car Park Loading)  
 CDD9999/DA/S/RW/CB/009RevT0 Ground Beam Type 10 & 13 (Car Park Loading)  
 CDD9999/DA/S/RW/CB/010RevT0 Ground Beam Type 17 (Highway Loading).  
 CDD9999/DA/S/RW/GB/001RevT0 Ground Beam Type 1 & 2 (Highway Loading)  
 CDD9999/DA/S/RW/GB/002RevT0 Ground Beam Type 6 (Transition)  
 CDD9999/DA/S/RW/GB/003RevT0 Ground Ground Beams Type 3 & 4  
 CDD9999/DA/S/RW/GB/004RevT0 Ground Beam Type 5  
 CDD9999/DA/S/RW/GB/005RevT0 Ground Beam Type 7 (Car Park Loading)  
 CDD9999/DA/S/STPS RevT0 Protection Slab to Severn Trent Foul Sewer  
 CDD9999/DA/S/U/001RevT0 Development Access General Arrangement A460  
 Under-pass (Sheet 1 of 2)  
 CDD9999/DA/S/U/002RevT0 Development Access General Arrangement A460  
 Under-pass (Sheet 2 of 2) & Feature Detail  
 CDD9999/DA/S/U/003RevT0 Development Access Underpass Details Showing  
 Interface and Retaining Walls  
 CDD9999/DA/S/U/004RevT0 Development Access Underpass Details  
 CDD9999/DA/S/U/005RevT0 Development Access Underpass East Deck  
 Reinforcement  
 CDD9999/DA/S/U/006RevT0 Development Access Underpass East Abutment to  
 Deck Plan Reinforcement Schematics  
 CDD9999/DA/S/U/007RevT0 Development Access Underpass West Deck Sections  
 with Reinforcement Schematics  
 CDD9999/DA/S/U/008RevT0 Development Access Underpass West Deck  
 Reinforcement  
 CDD9999/DA/S/U/009RevT0 Development Access Underpass West Abutment to  
 Deck Plan Reinforcement Schematics  
 CDD9999/DA/S/U/010RevT0 Development Access Underpass West D Deck  
 Sections & Reinforcement Schematics

S.278 Mill Green Outlet Village, Cannock, Development Access; Volume 2B- Scheme Specific Appendices CDD9999/2b/Rev0, November 2017.

Gully Schedule.

S.278 Mill Green Outlet Village, Cannock, Development Access, Pre Construction Information;

Reason

In accordance with the Local Plan Policy CP10.

15. Any signage displayed on the site shall be in accordance with the details within the Condition Discharge Report 18-Signage Strategy received on 27 June 2018 as supported by the Arboricultural Report dated 19 September 2018 (reference CE-MG-1406-RP01-Final), subject to the following caveats: -

- (i) The installation of Sign 1 shall be undertaken in accordance with the recommendations contained within paragraphs 4.16 and 4.17 of the above mentioned Arboricultural Report.
- (ii) Notwithstanding the details of the approved plan the siting of Sign 1 shall be as shown on drawing CAN/A/01 Rev A unless otherwise approved in writing by the Local Planning Authority.

Reason

In the interests of highway safety in accordance with Local Plan Policy CP10.

[Advisory Note:

It should be noted that drawing CAN/A/01 Rev A indicates that the interpretative signage details will be agreed under the provisions of Schedule 7 of the Section 106.

It is should also be noted that drawing CAN/A/01 Rev A also indicates that signage to and from the site and the railway station will be dealt with separately under Schedule 4 of the Section 106 agreement so that the signage strategy under condition 18 links in with the obligations under section 106.]

16. The development hereby permitted shall not be brought into use until the parking and servicing has been provided in accordance with the approved plans.

Reason

In accordance with Local Plan Policy CP10.

17. The development hereby approved shall not be brought into use until the on-site public transport facilities and infrastructure works as detailed in Condition Discharge Report 20-Public Transport Works for Mill Green Outlet Village, dated 2018, and prepared by Development Planning Limited have been provided in full.

Reason

In accordance with Local Plan Policy CP10.

18. The construction phase of the development shall be strictly carried out in accordance with the Outline CEMP, prepared by CBRE, dated December 2016 and received on 5 June 2018, unless otherwise approved in writing by the Local Planning Authority

Reason

To safeguard the amenity of nearby residents the interests of highway safety and the interests of protecting and preserving the local wildlife and to prevent an adverse impact on Mill Green and Hawks Green Valley Nature reserve in accordance with Local Plan

Policies CP3 and CP15 and the NPP.

19. Prior to the first use of the buildings hereby approved and associated car parking areas by customers, a car park management regime for the proposed car parking shall be submitted to and approved in writing by the Local Planning Authority. This management regime shall include methods to control the operation of the car park including, security, opening times and permitted duration of stay. Thereafter the car park shall be operated in accordance with the approved regime, unless otherwise agreed in writing with the Local Planning Authority.

Reason

In the interests of providing adequate parking and safeguarding the amenity of nearby residents. In accordance with Local Plan Policy CP3.

20. Before the proposed development is brought into use all proposed bus stops shall be built to quality bus stop partnership standards and be constructed in accordance with Condition Discharge Report 20-Public Transport Works for Mill Green Outlet Village, dated 2018, and prepared by Development Planning.

Reason

To comply with the Local Plan Policy CP10 and the NPPF.

21. The development permitted by this planning permission shall be carried out in accordance with the Mill Green Designer Outlet Village, Cannock Chase Flood Risk Assessment, Ramboll Project number 61032176 dated 14 November 2014 and the following mitigation measures detailed within the FRA:
- (i) The proposed development shall include mitigation measures in the form of permeable pavements and attenuation cellular storage designed to manage peak run-off and allow discharge to the reservoir at a restricted rate providing reductions in flow rate.
  - (ii) These flood storage measures are below ground storage within the car park pavement sub-base and geocellular storage tank. Attenuation will be sized to contain all surface water runoff from the 1 in 100 year event plus 30% climate change.
  - (iii) The mitigation measures shall be fully implemented prior to occupation and subsequently in accordance with the timing/phasing arrangements embodied within the scheme, or within any other period as may subsequently be agreed, in writing, by the Local Planning Authority.

Reason:

To ensure that surface water is appropriately managed on site in accordance with best practice and the development provides betterment by reducing surface water discharge rates and reducing flood risk to communities located downstream of the site; and

To ensure that surface water from the newly created hard standing is managed on site and reduces any surface water discharge rates so as to reduce flood risk elsewhere.

22. The development hereby approved shall take place in accordance with the Mill Green Outlet Village Hydraulic Modelling Report, dated January 2018, and prepared by JBA Consulting and the Preliminary Drainage Sketch, drawing reference C-07853-HYD-XX-XX-SK-S-210 Revision P2.

Reason

To ensure that the development has no detrimental impact on flood risk to third parties.

23. The development hereby approved shall take place in full accordance with the Contamination Hotspot Protocol, Rev A, dated 22<sup>nd</sup> March 2018 and prepared by Bowmer and Kirkland

Reason

In the interests of public safety and to ensure compliance with the Environmental Protection Act 1990 Part 11a. In accordance with Local Plan Policy CP3.

24. No external means of illumination shall be brought into use unless it accords with the approved lighting scheme as set out in drawings: -

Tyler Grange – Play Area Lighting Environmental Report 10708\_R09\_SB\_AS, dated 24th January 2020;

Hoare Lea – Playground Lighting Design: Initial Lighting Concept Rev 01, dated 26th July 2019; and

Hoare Lea – Heritage path / Bridge Lighting Illumination Impact Profile Doc -16 1620190815 – SMK Cannock LLP-04 Rev 04, dated 31st January 2020 and that

Further to the recommendations in paragraph 4.7 of the document Tyler Grange – Play Area Lighting Environmental Report 10708\_R09\_SB\_AS, dated 24th January 2020, the blue and green lights have been replaced with lighting on the red spectrum.

Reason

In the interests of the amenity of neighbours and safeguarding the nature reserve and associated wildlife in accordance with Policies CP3 and CP12 of the Cannock Chase Local Plan.

25. No occupation shall take place until a waste management strategy for the development has been submitted to and approved in writing by the Local Planning Authority. The strategy shall provide details (including accompanying layout and design plans) of the following:

- (a) responsible person (including contact details);
- (b) description of the development (proposed buildings, site area, curtilage, future use, and occupancy);
- (c) estimation of the type and quantity of wastes anticipated to be produced during occupation of the development;
- (d) identification of appropriate neighbourhood waste management design features (internal and /or external) and facilities;
- (e) how adequate space and access provisions for waste management features and facilities will be provided and maintained;
- (f) neighbourhood waste management facility capacity;
- (g) how the provision of facilities and design features complement and contribute

towards existing waste management infrastructure network and sustainable waste management, and  
 (h) the provision made for ongoing facility management and maintenance, including the collection and use of recycled and composted materials.

The development shall be carried out in accordance with the approved strategy.

Reason

In the interests of proper planning.

26. Noise from fixed plant or machinery measured at the boundaries shall not exceed the limits shown in the table below:

Receptor Limit $L_{a,r}$ dB	Time Period	Rating Noise
Lichfield Road properties and Nature Reserve (07:00-23:00)	Daytime/ evening period	37
	Night-time	30
(23:00 – 07:00) Properties on opposite side of A460 (07:00-23:00)	Daytime/ evening period	38
	Night-time	30
(23:00 – 07:00)		

Reason

To ensure that the proposed development does not prejudice the enjoyment by neighbouring occupiers of their properties and to ensure compliance with the Local Plan Policy CP3 - Chase Shaping - Design and the NPPF.

27. The development hereby approved shall be operated in strict accordance with the Noise Management Policy as set out in Condition Discharge Report 31(B)(C)-Servicing for Mill Green Outlet Village, dated May 2018 and prepared by Development Planning Limited.

Reason

In the interests of the amenity of nearby neighbours in accordance with Policy CP3 of the Cannock Chase Local Plan.

28. The development shall not be brought into use until the scheme for the provision of acoustic screens as detailed in the Mill Green Outlet Village, Cannock Stage 3 report dated 28/07/2017 Revision 01 Acoustics and your letter dated 22<sup>nd</sup> May 2018, and the details of the Reflective Sound Screens, produced by Hales Sawmills, received 23 July 2018 has been implemented in full. The screens shall thereafter be retained for the lifetime of the development.

Reason

In the interests of the amenity of nearby neighbours in accordance with Policy CP3 of the Cannock Chase Local Plan.

29. Prior to occupation a scheme for Litter Management, which shall include the provision of litter bins and litter picking within the application site has been submitted to and agreed in writing with the Local Planning Authority. Thereafter 'Litter Management' of the application site shall be undertaken in accordance with the approved scheme.

Reason

In the interests of the amenity of nearby residents and Mill Green Nature Reserve in accordance with Local Plan Policy CP3.

30. No mezzanine or other form of internal floor to create a first floor retail sales area shall be constructed in any unit, other than those shown on the approved plans A-00-110 rev J and A-00-115 rev F. No mezzanine indicated on the approved plans as non-retail floorspace shall be used as retail floor space accessible to the public.

Reason

To safeguard the vitality and viability of town centres in accordance with Local Plan Policy CP11 and the NPPF.

31. Notwithstanding the provisions of Class A1 of the Town and Country Planning (Use Classes) Order 1987 (as amended) (or any Order revoking and re-enacting that Order with or without modification) the development hereby approved shall be operated solely as a Designer Outlet Village in accordance with the following principles of outlet retailing i.e. the sale of discounted comparison goods where at least 90% of the floor space is used for the sale of previous season's stock, run-offs, over-runs, samples of branded goods, goods produced for subsequently cancelled orders, market testing lines, rejects, seconds, clearance goods, surplus stock and accessories priced at least 30% below the normal price at which similar types of merchandise are or have been offered for sale at their usual place of sale.

Reason:

Only this specific type of comparison goods retailing and no other form of retailing has been tested by appropriate impact analysis and found to comply with the requirements of paragraph 26 of the NPPF.

32. The following uses within Use Class A1 of the Town and Country Planning (Use Classes) Order 1987 (as amended) (or any Order revoking and re-enacting that Order with or without modification), are not permitted anywhere within the site:

- (a) as a post office,
- (b) for the sale of tickets or as a travel agency,
- (c) for hairdressing,
- (d) as an opticians or for eye, ear or other medical testing/procedures,
- (e) for the direction of funerals,
- (f) for the hiring out of domestic or personal goods or articles,
- (g) for the washing or cleaning of clothes or fabrics on the premises or for the reception of goods to be washed, cleaned or repaired,
- (h) for the sale of any convenience goods including food, save for a retailer of exclusively confectionary (other than incidental goods), household goods, pets or pet food, pharmaceuticals and health foods, unless such sales are ancillary and incidental to the main product ranges and comprise not more than 5% of the floorspace of any individual unit.
- (i) for the sale of furniture, large white goods comprising refrigerators, freezers, dishwashers, washing machines/dryers, cookers, DIY items, carpets, gardening

- equipment,  
(j) for the sale of motor vehicles and bicycles,  
(k) for the sale of books, newspapers and greeting cards,  
(l) as a charity shop,  
(m) for the sale of computer games/consoles/CDs or DVDs,  
(n) for photographic processing,  
(o) for the sale of toys,  
(p) as a bank or other financial service other than provision of an ATM.  
(q) Click and collect services from the site for the purpose of distributing full price items (with the exception of Unit 36).

Reason

To safeguard the vitality and viability of town centres in accordance with Local Plan Policy CP11 and the NPPF.

33. Notwithstanding the provisions of the Town and Country Planning (Use Classes) Order 1987 and / or the Town and Country Planning (General Permitted Development) Order 2015 (as amended) (or any Order revoking or re-enacting or amending that Order with or without modification) the total A1 and A3 floorspace hereby permitted under this permission shall not exceed 26,504 sqm and the net sales area for each use shall be:

A1 – 24,611 sqm

A3 – 1,893 sqm

Reason

To safeguard the vitality and viability of town centres in accordance with Local Plan Policy CP11 and the NPPF.

34. Notwithstanding the provisions of the Town and Country Planning (Use Classes) Order 1987 and / or the Town and Country Planning (General Permitted Development) Order 2015 (as amended) (or any Order revoking or re-enacting or amending that Order with or without modification) no A3 units shall be permitted to change to A1.

Reason

To safeguard the vitality and viability of town centres in accordance with Local Plan Policy CP11 and the NPPF.

35. Within 20 days of the anniversary of the opening of the development, an annual report shall be submitted to the Council providing a report on the occupancy of all units within the development, records of goods for sale for all Class A1 units within the site, and pricing for all Class A1 units within the development.

Reason

To safeguard the vitality and viability of town centres in accordance with Local Plan Policy CP11 and the NPPF.

36. The opening hours of all A3 units shall be limited to one hour before the retail units open and 30 minutes after closing, unless otherwise agreed in writing with the Local Planning Authority.

Reason

To safeguard the vitality and viability of town centres in accordance with Local Plan



Policy CP11 and the NPPF.

37. Any restaurant use hereby permitted shall not commence until:-

(a) details of the extraction and filtration of fumes have been submitted to and approved by the Local Planning Authority, and

(b) the approved system has been installed.

The system shall hereafter be maintained in an efficient condition for so long as the use is in existence.

Reason

To ensure that the proposed development does not prejudice the enjoyment by neighbouring occupiers of their properties and compliance with Local Plan Policy CP3 - Chase Shaping, Design and the NPPF.

38. The development shall take place in accordance with the Written Scheme of Investigation for Archaeological Evaluation by Trial Trenching, (reference BM11248/WSI 003), dated October 2017, and prepared by Wardell Armstrong; and the Archaeological Watching Brief, Deposit Modelling and Earthwork/ Heritage Asset Survey Report (reference BM11248/002), dated June 2017, and prepared by Wardell Armstrong

Reason:

In order to ensure that the site, which has had limited archaeological investigation, is adequately investigated prior to development in accordance with Policy CP15 of the Cannock Local Plan and the NPPF.

39. The premises shall not be open for business outside the hours of 10.00am. to 8.00pm on Mondays to Friday except for 5 Promotion Days in any calendar year when opening hours can be extended from 9.00am to 10.00pm, 9.00am to 8.00pm on Saturdays except for 2 Promotion Days in any calendar year when opening hours can be extended from 9.00am to 10.00pm, 10.00am to 6.00pm on Sundays and 10.00am to 8.00pm on public holidays (with extended hours between 9.00am to 10.00pm (if required)), unless otherwise agreed in writing with the Local Planning Authority.

Reason

To ensure that the proposed development does not prejudice the enjoyment by neighbouring occupiers of their properties and to ensure compliance with the Local Plan Policy..

40. No goods, plant, materials or waste shall be stored or deposited on any part of the site outside the building except in an enclosed container, the siting and design of which has been agreed in writing with the Local Planning Authority.

Reason

To safeguard the amenities of the locality and to ensure that adequate space is retained for the parking, loading and unloading of vehicles and to ensure compliance with the NPPF.

41. Unless otherwise stated above the development hereby permitted shall be carried out in accordance with the following approved plans and documents:

Design and Access Statement

Transport Assessment

Environmental Statement Volumes 1, 2 and 3.

- a) A-00-102 H Ground Floor Plan - Phase 1 (1 of 2) 1:200 A0
- b) A-00-103 G Ground Floor Plan - Phase 1 (2 of 2) 1:200 A0
- c) A-00-110 J First & Second Floor Plans - Phase 1 1:500 A1
- d) A-00-111 E First Floor Plan - Phase 2 1:500 A1
- e) A-00-115 F First Floor Plan - Phase 1 1:200 A0
- f) A-00-120 G Roof Plan - Phase 1 1:500 A1
- g) A-00-121 D Roof Plan - Phase 2 1:500 A1
- h) A-00-300 M External Elevations - Phase 1 1:200 A0
- i) A-00-301 F Phase 2 External Elevations, Height Parameters 1:200 A0
- j) A-00-302 M Internal Elevations - Phase 1 (1 of 2) 1:200 A0
- k) A-00-303 M Internal Elevations - Phase 1 (2 of 2) 1:200 A0
- l) A-90-001 F Reference Plan 1:1000 A3
- m) A-90-002 C Planning Boundary Plan 1:1250 A1
- n) A-90-100 M Site Plan - Phase 1 1:500 A0
- o) A-90-101 H Site Plan - Phase 2 1:500 A0
- p) A-90-102 C Phase 2 Parameters Plan 1:500 A0
- q) A-90-200 D Site Sections 1:200 A0 x2

A084215\_AR\_029\_A – Required Highway Alterations at Lodge Lane Roundabout

A084215\_AR\_030\_A – Required Highway Alterations at Lodge Lane Roundabout (Phase 2)

A084215\_AR\_031 – Proposed Highway Alterations

A084215\_AR\_34 – Churchbridge Interchange Proposed Improvements.

CDD9999/HWA/33: Alternative Pedestrian Link from Hobby Way to Lichfield Road via Sparrowhawk Way.

- Drawing A084215\_P\_001 C App.B,

- Drawing A084215\_P\_SK004 A App B

- Drawing No. 4334-D Rev (Hayden's Arboricultural Consultants)

Notwithstanding the details of the approved plans the new 3m wide cycle and footpath between Hobby Way, along Eastern Way to the Lichfield Road Roundabout is not hereby approved.

Reason

For the avoidance of doubt and in the interests of proper planning.

42. In the case of any reserved matters in respect of Phase Two; application for approval must be made not later than the expiration of five years beginning from 11<sup>th</sup> October 2017; and

The development to which this permission relates must be begun not later than the expiration of five years from the final approval of the reserved matters or, in the case of approval on different dates, the final approval of the last such matters to be approved.

Reason

To comply with the requirements of Section 92 of the Town & Country Planning Act 1990.

43. Phase Two (as shown on drawing A-90-101 rev D, A-90-102rev C, A-00-111Rev E, A-00-121Rev D, A-00-301Rev F) of the development hereby permitted shall not be commenced (other than Enabling Works) until approval of the details for appearance, landscaping, layout and scale ('the reserved matters') has been obtained from the Local Planning Authority.

Reason

The permission is in principle only and does not authorise development to commence until all 'the reserved matters' have been approved. To ensure compliance with the requirements of Section 92 of the Town & Country Planning Act 1990.

44. Prior to the submission of reserved matters for Phase Two of the development hereby approved the following shall be submitted to and approved in writing by the Local Planning Authority.

The submission of a scheme of intrusive site investigations for the mine entry for approval;

The undertaking of a scheme of intrusive site investigations;

As part of the reserved matters application the submission of a layout plan which identifies appropriate zone of influence for the mine entry on site, and the definition of a suitable 'no build zone'.

As part of the reserved matters application the submission of a scheme of treatment for the mine entry on site for approval.

Any remedial works identified shall be undertaken prior to the implementation of the remedial works.

Reason

In the interests of safeguarding the proposed development from mining legacy issues in accordance with NPPF.

45. Before any reserved matters application is submitted for Phase Two a car parking survey in respect of car parking associated with Phase One of the development, which shall identify number of visitors and parking requirements on a day to day basis (or otherwise agreed with the Local Planning Authority) shall be submitted to and approved in writing by the Local Planning Authority.

Reason

In accordance with Local Plan Policy CP10.

46. Phase Two (as shown on drawing A-90-101Rev D) of the development hereby approved shall provide an alternative scheme for coach drop off provision on site and coach parking in accordance with plans submitted to and agreed in writing with the Local

Planning Authority.

Reason

In the interests of proper planning.

#### IMPORTANT NOTE FOR APPLICANT

1. The applicant's attention is drawn to the informatives and advice set out in the following responses from consultees (copies attached):

Environment Agency

Severn Trent Water

Staffordshire County Council (Highways)

Staffordshire Fire and Rescue Service

Staffordshire Police (Crime Prevention Design Officer)

2. Notwithstanding the provisions of S55 (2) (a) of the Town and Country Planning Act 1990) (as amended) no additional mezzanine floor space can be created without the submission of a planning application and the grant of planning permission by the Council.

#### Glossary of Terms

TERM: "Enabling Works"

MEANING: In this planning permission should mean any of the following:

- i. trial holes or other operations to establish ground conditions or the assessment of contamination
- ii. site survey work
- iii. archaeological investigations
- iv. ecological or nature conservation works associated with the Development
- v. construction of boundary fencing or hoardings
- vi. any other preparatory works agreed in writing with the Local Planning Authority

#### Notes to the Developer:

#### Consultations and Publicity

##### External Consultations

##### Telford and Wrekin Council

No comments received at the time of compiling the report. Any comments received will be reported to Planning Control Committee as an officer update.

##### Dudley Metropolitan Borough Council

No comments received at the time of compiling the report. Any comments received will be reported to Planning Control Committee as an officer update.

Tamworth Borough Council

No comments received at the time of compiling the report. Any comments received will be reported to Planning Control Committee as an officer update.

Wolverhampton City Council

No comments received at the time of compiling the report. Any comments received will be reported to Planning Control Committee as an officer update.

Birmingham City Council

No comments received at the time of compiling the report. Any comments received will be reported to Planning Control Committee as an officer update.

Stafford Borough Council

No comments received at the time of compiling the report. Any comments received will be reported to Planning Control Committee as an officer update.

South Staffs District Council

No comments received at the time of compiling the report. Any comments received will be reported to Planning Control Committee as an officer update.

Walsall Met Borough Council

No comments received at the time of compiling the report. Any comments received will be reported to Planning Control Committee as an officer update.

Lichfield District Council

No comments received at the time of compiling the report. Any comments received will be reported to Planning Control Committee as an officer update.

East Staffs Borough Council

No comments received at the time of compiling the report. Any comments received will be reported to Planning Control Committee as an officer update.

Sandwell MBC

No comments received at the time of compiling the report. Any comments received will be reported to Planning Control Committee as an officer update.

National Market Traders Federation c/o

No comments received at the time of compiling the report. Any comments received will be reported to Planning Control Committee as an officer update.

Heath Hayes & Wimblebury Parish Council

No comments received at the time of compiling the report. Any comments received will be reported to Planning Control Committee as an officer update.

Norton Canes Parish Council

No comments received at the time of compiling the report. Any comments received will be reported to Planning Control Committee as an officer update.

**Internal Consultations**

Policy

The principle for the use of the site as a Designer Outlet centre has been established by planning permission CH/17/279.

The main issue is in relation to the Development Plan as set out in Policy CP11 which seeks to retain the roles and viability of the District's centres. The area is not designated as a Neighbourhood Area and there is no Neighbourhood Plan for this area.

This application seeks a minor material amendment to allow for click and collect services for Unit 36. The supporting information from Carter Jonas advises that this relates to the anchor store only and would be controlled through existing conditions imposed on the permission which includes:

'Notwithstanding the provisions of Class A1 of the Town and Country Planning (Use Classes) Order 1987 (as amended) (or any Order revoking and re-enacting that Order with or without modification) the development hereby approved shall be operated solely as a Designer Outlet Village in accordance with the following principles of outlet retailing i.e. the sale of discounted comparison goods where at least 90% of the floor space is used for the sale of previous season's stock, run-offs, over-runs, samples of branded goods, goods produced for subsequently cancelled orders, market testing lines, rejects, seconds, clearance goods, surplus stock and accessories priced at least 30% below the normal price at which similar types of merchandise are or have been offered for sale at their usual place of sale.'

I note in the advice from Stantec ref 50440/4503 that they do not anticipate the proposed amendment to part (q) of Condition 35 resulting in an unacceptable retail impact on defined centres.

I can advise that retail evidence is being prepared which will inform the inclusion of a local threshold within the Local Plan Review however currently there is no more up to date published evidence which would indicate a contrary position to that advocated by Stantec.

### Economic Development

Economic development supports the application and has no objections to the proposals for click and collect.

### Stantec (the Council's Retail Consultant)

Condition 35 of the extant permission prohibits various uses anywhere within the site including, under part (q), 'Click and collect services from the site for the purpose of distributing full price items'. The applicant initially proposed to amend condition 35 via Section 96A of the Town and Country Planning Act 1990 to allow click and collect services from the site for the purpose of distributing full price items, but we advised that Section 96A is not the appropriate means by which to pursue the proposed amendment.

The owner of the Designer Outlet West Midlands facility now proposes the variation of condition 35 part (q), via an application under Section 73. Section 73 enables conditions associated with a planning permission to be varied or removed. The applicant's proposed wording of part (q) is 'Click and collect services from the site for the purpose of distributing full price items (with the exception of Unit 36)'.

Thus, the amended part (q) would apply solely to Unit 36, and not the designer outlet facility as a whole. The impetus for the proposed change is to enable Nike to trade from Unit 36.

The applicant asserts that without the proposed amendment to Condition 35 to enable click and collect from Unit 36, Nike will not take up occupation of the unit because click and collect is integral to Nike's business plan.

Our advice is provided below.

At the meeting on 4 December 2020, it was confirmed that the proposed amendment to part (q) of Condition 35 would apply only to Unit 36, and the Section 73 application has been submitted on that basis.

The first page of the cover letter from Carter Jonas (dated 11 December 2020) states that Unit 36 'extends to 575 sq.m.' It is not clear from that comment whether the 575 sq.m figure is a gross measurement or whether it relates to the quantum of sales area floorspace within Unit 36. Page 2 of the letter states: '...the proposed change relates to 575 sqm of the total comparison sales floorspace at both phases of

WMDO which is 24,611 sqm.’ Whilst the latter statement refers to the total comparison sales floorspace at the facility as a whole, it does not confirm whether the 575 sq.m figure for Unit 36 relates to gross floorspace or sales area floorspace.

Irrespective of whether the 575 sq.m figure is gross, or sales area floorspace, it is clear that Unit 36 is below the national threshold of 2,500 sq.m specified in the NPPF, above which an impact assessment is required. Paragraph 89 of the NPPF states:

‘When assessing applications for retail and leisure development outside towncentres, which are not in accordance with an up-to-date plan, local planning authorities should require an impact assessment if the development is over a proportionate, locally set floorspace threshold (if there is no locally set threshold, the default threshold is 2,500m<sup>2</sup> of gross floorspace).’

The online Planning Practice Guidance reiterates the content of paragraph 89 of the NPPF, stating as follows [Paragraph: 016 Reference ID: 2b-016-20190722, Revision date: 22 07 2019]:

‘The impact test only applies to proposals exceeding 2,500 square metres gross of floorspace unless a different locally appropriate threshold is set by the local planning authority.’

Thus, national guidance does not expressly require an impact assessment, unless there is a lower, locally set threshold. In the case of Cannock Chase, there is no locally set threshold. A retail study that was produced by consultants several years ago suggested that it might be prudent to introduce a locally set threshold (or multiple thresholds) but, to date, that has not been carried forward into adopted planning policy. We are also not aware of a locally set threshold in any draft policy document although, if there is such a draft proposal, we note that it would only carry limited weight until such time as it became adopted policy.

The factors that need to be addressed within impact assessments, as set out within criteria a) and b) beneath paragraph 89 of the NPPF, consequently do not apply to the current Section 73 application. Against that background, we advised the applicant and its agent during the meeting on 4 December 2020 that a high-level assessment of the implications of the proposed amendment to Condition 35 would be appropriate, as opposed to a more detailed impact assessment of the type that may be expected for a proposal relating to the overall designer outlet facility rather than Unit 36 only.

The Carter Jonas cover letter explains that a Nike customer can purchase an item via the company’s website and choose to have the item delivered to a location of their choice (such as their home or office), or to collect the item from a location within Nike’s click and collect network. A plan has been provided by Carter Jonas which



shows the location of some 30 click and collect options within 5 miles of the Designer Outlet West Midlands.

Carter Jonas asserts that the proposed amendment to Condition 35 – to allow click and collect of full price items from Unit 36 of the designer outlet facility – would ‘simply add another location to collect their purchases.’ We have several related comments, as follows.

As we explained in our earlier written advice and during the recent meeting, it is highly unlikely that the Council would be willing to grant a personal permission to Nike. It would therefore be possible for another retailer to occupy Unit 36 if and when Nike decided to vacate the unit. It is not possible to predict precisely who that new occupant might be or what its range of products might be.

During the recent meeting, Carter Jonas accepted that a personal permission would not be granted to Nike, and page 3 of the Carter Jonas letter of 11 December addresses the point.

Carter Jonas acknowledges that an alternative retailer (to Nike) could occupy Unit 36, but asserts that it would be likely to also want to operate some form of click and collect service for its clients.

As we explained in our advice of November 2020, click and collect has become much more widespread over recent years and we agree that there is a strong prospect of an alternative tenant of Unit 36 also wishing to operate a click and collect service. The next consideration is what the potential effects could be.

The applicant has confirmed that the proposed amendment to Condition 35 relates solely to Unit 36. As we explained above, the size of that unit is below the threshold of 2,500 sq.m specified in the NPPF, above which an impact assessment is required. Accordingly, there is no requirement for the applicant to submit a detailed impact assessment and so there are no predicted impact figures for us to pass comment on.

Nevertheless, we accept the applicant’s point that the proposed change relates to a small proportion of the overall quantum of comparison retail floorspace at the designer outlet facility, given that the proposal relates solely to Unit 36. We also note that Unit 36 will continue to be covered by the various controls within Conditions 34-38.

Taking account of the various factors outlined above, we do not anticipate that the proposed amendment to part (q) of Condition 35 would result in unacceptable retail impacts on defined centres.

Summary

We consider the applicant's submission to be proportionate insofar as retail impact is concerned.

Our conclusion is that there are no retail impact policies that could be used to resist the proposed Section 73 application, which relates solely to Unit 36.

### **Response to Publicity**

The application was advertised by site notice, neighbour letters and newspaper advertisement. No letters of representation have been received.

### **Relevant Planning History**

An application

“(under Section 73 of the Town and Country Planning Act 1990 (as amended)) to vary conditions 33 (control of mezzanine floorspace), 36 (control of A1 & A3 floorspace) & 44 (approved plans) to permit minor material amendments to Phase 1 in terms of elevation treatment, place-making, layout, form and services provision and Addendum to Environmental Statement of planning permission CH/15/0048 - Hybrid planning application for a designer outlet village development comprising:

Full application for Phase 1- Comprising remodelling of existing landform of the site; erection of up to 23,758 sqm (GEA) of commercial units comprising a mix of uses at ground floor, including retail, restaurants/cafes and drinking establishments (Classes A1, A3 and A4) and outdoor play areas and centre management suite and retail storage areas at first floor level; diversion of water courses and sewers and associated drainage works. Associated works include hard and soft landscaping, new vehicular and pedestrian access from A460/Eastern Way including underpass and formation of two pedestrian accesses to the adjoining Mill Green Nature Reserve and associated works to include formation of part of the Heritage Trail, and upgraded pedestrian and cycle route along Eastern Way, provision of temporary and permanent car and coach parking.

Outline application for Phase 2 - Comprising erection of up to 10,389 sqm (GEA) of commercial units comprising retail uses at ground floor (Class A1), erection of multi storey car park with associated access and hard/soft landscaping (all matters reserved except access)”;

was subsequently approved by Planning Control Committee and issued on 11 October 2017 following the completion of an Agreement under Section 111 of the Local Government Act 1972 which required the completion of an Agreement under

Section 106 of the Town and Country Planning Act 1990 (as amended). That was completed on 12 February 2018.

The planning permission is subject to several conditions including condition 35 which states:

“The following uses within Use Class A1 of the Town and Country Planning (Use Classes) Order 1987 (as amended) (or any Order revoking and re-enacting that Order with or without modification), are not permitted anywhere within the site:”;

and then goes on to list various shops and services and at part (q) includes

“Click and collect services from the site for the purpose of distributing full price items.”

As such under the current consent retailers are prohibited from selling full price items via click and collect.

A subsequent application, reference CH/18/009, for a non material amendment to planning permission CH/17/279 for the realignment of the access road between the Mill Green Designer Outlet Village and the Hayes Way roundabout and necessary changes to the layouts of the car parks was approved on 29 January 2018.

## **1.0 Site and Surroundings**

1.1 The application site is the West Midlands Designer Outlet Village, situated off Eastern Way Cannock. Phase 1 of the Village is nearing completion although has not opened to the public yet.

## **2.0 Proposal**

2.1 The proposal seeks approval for a new planning permission for the retail outlet without compliance with part (q) of Condition 35 attached to planning permission CH/17/279, which on the new consent would read: -

The following uses within Use Class A1 of the Town and Country Planning (Use Classes) Order 1987 (as amended) (or any Order revoking and re-enacting that Order with or without modification), are not permitted anywhere within the site:

(q) Click and collect services from the site for the purpose of distributing full price items **(with the exception of Unit 36).**

2.1 The applicant has submitted the following statement in support of the application:-

“On behalf of our client, Cannock Designer Outlet (GP) Limited acting as General Partner for and on behalf of Cannock Designer Outlet Limited Partnership (as the ‘Joint Venture’), please find enclosed an application to alter part (q) of Condition 35 of planning permission CH/17/279 (dated 11th October 2017) under Section 73 (s73) of the Town and Country Planning Act (TCPA) 1990 (as amended) in relation to Unit 36.

We have discussed the requirement to allow for ‘click and collect’ services with the Council and its retail advisors Stantec and in principle, it has been agreed that the alteration to Condition 35(q) through a s73 application can be supported because Condition 34 allows for the sale of some full price goods within the West Midlands Designer Outlet (‘WMDO’) and Condition 35 allows for click and collect of discounted price items.

The proposed alteration relates to Unit 36 which extends to 575 sq m. We have discussed whether or not an impact assessment is required to support the submission. As discussed, having regard to the guidance set out in the National Planning Policy Framework (‘NPPF’) at paragraph 89 concerning the size threshold (2,500 sq m gross) which would require an impact assessment and because the Cannock Chase Local Plan (the development plan) does not set a different threshold, it is agreed that an impact assessment is not required to accompany this submission.

The background to this application is that following the grant of planning permission, discussions have been ongoing with leading brands and key tenants to lease units within the WMDO.

Nike is one of McArthurGlen’s target Preferred Anchor Tenants for WMDO (and already recognised as a permitted anchor in the planning agreement) and discussions between the parties have highlighted an absolute requirement from Nike to be allowed to sell full price goods via click and collect.

Since the grant of planning permission for WMDO, click and collect has become an increasingly important offer for Nike. In the case of the WMDO, Nike has identified that drawing customers into the store to collect a full price purchase made by click and collect rather from the existing non-dedicated Nike pick-up locations is integral to their business plan, and simply adds another location to collect their purchases. At the same time it brings potential new customers and footfall into WMDO.

By way of illustration, currently a Nike customer can purchase an item from <https://www.nike.com/gb/> and choose whether the items should be delivered directly to a location of their choice (e.g. their home or office) or be collected from an otherwise convenient location within Nike's click and collect network. For instance, within 5 miles of WMDO there are 30 click and collect location options. A map illustrating this is attached.

Conditions 34-38 of the planning permission (CH17/279) and the planning agreement provide the various controls over what can and cannot be sold at WMDO to ensure that it operates now and in the future as a designer outlet village.

Condition 35 states the relevant wording is highlighted:

The following uses within Use Class A1 of the Town and Country Planning (Use Classes) Order 1987 (as amended) (or any Order revoking and re-enacting that Order with or without modification), are not permitted anywhere within the site:

- (q) Click and collect services from the site for the purpose of distributing full price items.

It is evident that this condition permits Click and Collect of discounted comparison goods. The conditions refers to goods and items and it is clear that these are a reference to the same thing.

The proposition is that a minor alteration be made to Condition 35 (q) to allow the collection of full price click and collect goods and for this alteration to apply to one unit only (Unit 36). The proposed alteration to Condition 35 (q) is that it should read:

- (q) Click and collect services from the site for the purpose of distributing full price items (with the exception of Unit 36).

As such, the proposed change is not material.

The Council has highlighted the possibility that Nike could relocate from the unit and have asked that consideration be given to the possible implications of this. Without knowing the identity of any future tenant, this is difficult to evaluate.

As noted, the proposed change relates to 575 sqm of the total comparison sales floorspace of both phases of WMDO which is 24,611 sq m. This change relates therefore to one unit which represents

approximately 2% of the consented comparison goods floorspace on WMDO.

In respect of Unit 36 which is an anchor unit within WMDO by virtue of its size and would therefore only be of interest to a small number of key retailers, the original planning permission already allows the sale of some full price items. It is highly likely therefore that it will want to operate some form of click and collect service for its clients in the same way that Nike does.

In modelling a worst case scenario, it is necessary to consider the likely scale of the proposed change. The proposed change relates to 3% of the total floor area. This is marginal and any change in turnover is likely to be marginal.

It is agreed that for this submission, an impact assessment is not required. One was provided for the original planning application and it is relevant to highlight the relevant section in the Committee report which states that:

“In terms of the impact test, PBA do not believe that the proposed development would result in any impacts that could be considered to be significantly adverse, subject to appropriate controls to limit the proposals to a Designer Outlet Village. PBA and your officers therefore conclude that the impact test has been met.”

In light of the marginal potential change in turnover for Nike or an unidentified tenant of Unit 36, it is considered that the proposed change is acceptable having regard to retail planning policy guidance set out in the NPPF and all relevant policies in the development plan.

### **3.0 Planning Policy**

- 3.1 Section 38 of the Planning and Compulsory Purchase Act 2004 requires planning applications to be determined in accordance with the provisions of the Development Plan, unless material considerations indicate otherwise.
- 3.2 The Development Plan currently comprises the Cannock Chase Local Plan (2014) and the Minerals Local Plan for Staffordshire (2015-2030). Relevant policies within the Local Plan include

CP1: - Strategy – the Strategic Approach

CP11: - Centres Hierarchy

### 3.3 National Planning Policy Framework

3.3.1 The NPPF (2018) sets out the Government's position on the role of the planning system in both plan-making and decision-taking. It states that the purpose of the planning system is to contribute to the achievement of sustainable development, in economic, social and environmental terms, and it states that there should be a "presumption in favour of sustainable development" and sets out what this means for decision taking.

3.3.2 The NPPF (2018) confirms the plan-led approach to the planning system and that decisions must be made in accordance with the Development Plan unless material considerations indicate otherwise.

3.3.3 Relevant paragraphs within the NPPF include paragraphs: -

8:	Three dimensions of Sustainable Development
11-14:	The Presumption in favour of Sustainable Development
47-50:	Determining Applications
80,	Building a Strong Competitive Economy
85, 89	Ensuring the Vitality of Town Centres
212, 213	Implementation

3.4 There are no other relevant documents.

## 4 **Determining Issues**

4.1 When planning permission is granted, development must take place in accordance with the permission and conditions attached to it, and with any associated legal agreements. However, new issues may arise after planning permission has been granted, which require modification of the approved proposals. Where these modifications are not fundamental or substantial, but still material in nature, a developer may seek to obtain approval for the changes through the provision of Section 73 of the 1990 Town and Country Planning Act.

4.2 An application can be made under section 73 of the Town and Country Planning Act 1990 to vary or remove conditions associated with a planning permission. One of the uses of a Section 73 application is to seek a minor material amendment, where there is a relevant condition that can be varied

(Paragraph: reference ID: 17a—013-20140306 of the Planning Practice Guidance).

4.3 Section 73(2) of the 1990 Act states: —

On such an application the local planning authority shall consider only the question of the conditions subject to which planning permission should be granted, and—

- (a) if they decide that planning permission should be granted subject to conditions differing from those subject to which the previous permission was granted, or that it should be granted unconditionally, they shall grant planning permission accordingly, and
- (b) if they decide that planning permission should be granted subject to the same conditions as those subject to which the previous permission was granted, they shall refuse the application.

4.4 Although often referred as “variation of condition” applications, an approval of an application submitted under Section 73 results in the granting of a brand new permission which will sit side by side with the original consent. As such it is pertinent to ensure that an appropriate schedule of conditions and the appropriate obligations are attached to any permission granted. The starting point for the drafting of the new schedule of conditions is the original schedule but this would need amending to reflect that part of the conditions which have already been discharged (that is the required schemes have been submitted and approved and, or the works pursuant to those approved schemes have been implemented).

4.5 The sole determining issue for the proposal is whether the proposed variation to condition 35 (q) to restrict the sale of full price items (with the exception of Unit 36) would be acceptable in respect to its impact on the vitality of local town centres.

4.6 The application has been scrutinised by Stantec, who the Council has employed as a specialist retail consultant. Stantec’s advice is given in full above but the salient points are: -

- (i) click and collect has become much more widespread over recent years and that there is a strong prospect of an alternative tenant of Unit 36 also wishing to operate a click and collect service.



- (ii) The applicant has confirmed that the proposed amendment to Condition 35 relates solely to Unit 36.
- (iii) Unit 36 is below the threshold of 2,500 sq.m specified in the NPPF, above which an impact assessment is required. Accordingly, there is no requirement for the applicant to submit a detailed impact assessment.
- (iv) the proposed change relates to a small proportion of the overall quantum of comparison retail floorspace at the designer outlet facility, given that the proposal relates solely to Unit 36.
- (v) Unit 36 will continue to be covered by the various controls within Conditions 34-38 of the original permission (now listed as 31 and 35 in the above schedule).

4.7 Having taken into account the above factors the advice of Stantec is that they do not anticipate that the proposed amendment to part (q) of Condition 35 would result in unacceptable retail impacts on defined centres” and that “there are no retail impact policies that could be used to resist the proposed Section 73 application, which relates solely to Unit 36”.

4.8 The Policy Officer has also stated that “there is no more up to date published evidence which would indicate a contrary position to that advocated by Stantec”.

4.9 The application is also supported by the Economic Development Officer.

4.10 Having considered the clear advice given above Officers conclude that the application is acceptable and recommend approval subject to the attached schedule of amended conditions.

## **5 Human Rights Act 1998 and Equalities Act 2010**

### **Human Rights Act 1998**

5.1 The proposals set out in this report are considered to be compatible with the Human Rights Act 1998. The recommendation to approve the application accords with the adopted policies in the Development Plan which aims to secure the proper planning of the area in the public interest.

### **Equalities Act 2010**

5.2.1 It is acknowledged that age, disability, gender reassignment, pregnancy and maternity, religion or belief, sex and sexual orientation are protected characteristics under the Equality Act 2010.

5.2.2 By virtue of Section 149 of that Act in exercising its planning functions the Council must have due regard to the need to:

Eliminate discrimination, harassment, victimisation and any other conduct that is prohibited;

Advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;

Foster good relations between persons who share a relevant protected characteristic and persons who do not share it

5.2.3 It is therefore acknowledged that the Council needs to have due regard to the effect of its decision on persons with protected characteristics mentioned.

5.2.4 Such consideration has been balanced along with other material planning considerations and it is considered that the proposal is acceptable in respect to the requirements of the Act. Having had regard to the particulars of this case officers consider that the proposal would make a neutral contribution towards the aim of the Equalities Act.

## **6 Conclusion**

6.1 In respect to all matters of acknowledged interest and policy tests it is considered that the proposal, subject to the attached conditions, would not result in any significant harm to the vitality of surrounding town centres and is therefore considered to be acceptable having had regard to the Development Plan and the NPPF.

6.2 It is therefore recommended that the application be approved subject to the attached conditions.



**Application No:** CH/17/279

**Location:** West Midlands Designer Outlet, Mill Green, Eastern Way, Cannock, WS11 7JU

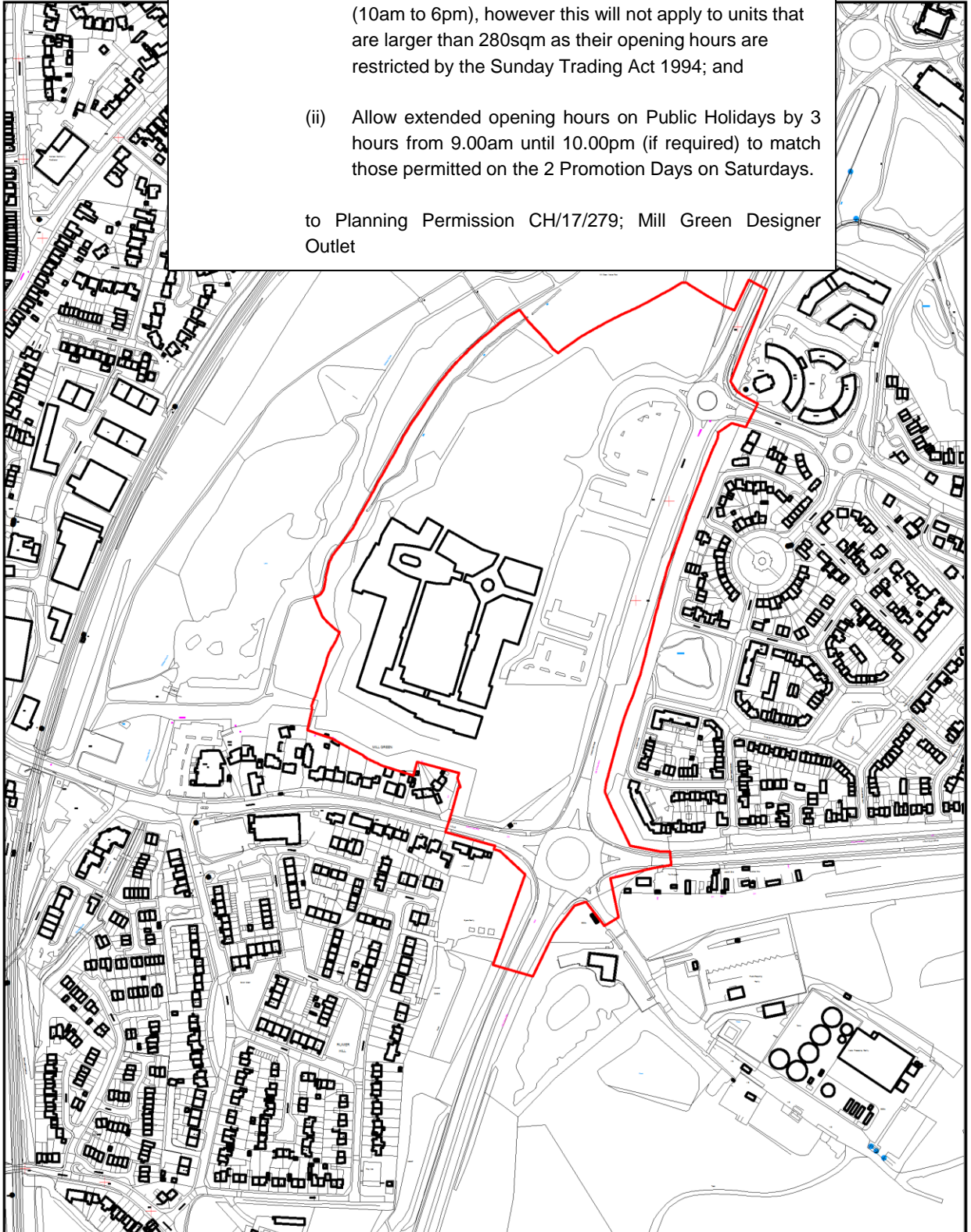
**Proposal:** Request to

Item no. 6.227



- (i) Allow extended opening hours on Sundays by 1 hour (10am to 6pm), however this will not apply to units that are larger than 280sqm as their opening hours are restricted by the Sunday Trading Act 1994; and
- (ii) Allow extended opening hours on Public Holidays by 3 hours from 9.00am until 10.00pm (if required) to match those permitted on the 2 Promotion Days on Saturdays.

to Planning Permission CH/17/279; Mill Green Designer Outlet



**Contact Officer: Richard Sunter**

**Telephone No: 01543 464481**

**Planning Control Committee**

**13<sup>th</sup> January 2021**

**Application No:** CH/17/279

**Received:** 18-Feb-2017

**Location:** West Midland Designer Outlet

**Parish:** Heath Hayes, Norton Canes

**Ward:** Hawks Green Ward, Cannock South Ward, Norton Canes Ward, Cannock East Ward

**Description:** Request to

- (i) Allow extended opening hours on Sundays by 1 hour (10am to 6pm), however this will not apply to units that are larger than 280sqm as their opening hours are restricted by the Sunday Trading Act 1994; and
- (ii) Allow extended opening hours on Public Holidays by 3 hours from 9.00am until 10.00pm (if required) to match those permitted on the 2 Promotion Days on Saturdays.

to Planning Permission CH/17/279; Mill Green Designer Outlet

**Application Type:** Not applicable

**RECOMMENDATION:**

Approve the written request made pursuant to condition 42 of planning permission CH/17/279 to amend the opening hours of the store to: -

- (i) Allow extended opening hours on Sundays by 1 hour (10am to 6pm), however this will not apply to units that are larger than 280sqm as their opening hours are restricted by the Sunday Trading Act 1994; and

- (ii) Allow extended opening hours on Public Holidays by 3 hours from 9.00am until 10.00pm (if required) to match those permitted on the 2 Promotion Days on Saturdays.

**Conditions (and Reasons for Conditions):**

Not applicable.

**Consultations and Publicity**

**External Consultations**

None.

**Internal Consultations**

Environmental Health

No objections.

**Response to Publicity**

This request has not been subject to publicity.

**Relevant Planning History**

An application “

(under Section 73 of the Town and Country Planning Act 1990 (as amended)) to vary conditions 33 (control of mezzanine floorspace), 36 (control of A1 & A3 floorspace) & 44 (approved plans) to permit minor material amendments to Phase 1 in terms of elevation treatment, place-making, layout, form and services provision and Addendum to Environmental Statement of planning permission CH/15/0048 - Hybrid planning application for a designer outlet village development comprising:

Full application for Phase 1- Comprising remodelling of existing landform of the site; erection of up to 23,758 sqm (GEA) of commercial units comprising a mix of uses at ground floor, including retail, restaurants/cafes and drinking establishments (Classes A1, A3 and A4) and outdoor play areas and centre management suite and retail storage areas at first floor level; diversion of water courses and sewers and associated drainage works. Associated works include hard and soft landscaping, new vehicular and pedestrian access from A460/Eastern Way including underpass and formation of two pedestrian accesses to the adjoining Mill Green Nature Reserve and associated works to include formation of part of the Heritage Trail, and upgraded pedestrian and cycle route along Eastern Way, provision of temporary and permanent car and coach parking.

Outline application for Phase 2 - Comprising erection of up to 10,389 sqm (GEA) of commercial units comprising retail uses at ground floor (Class A1), erection of multi storey car park with associated access and hard/soft landscaping (all matters reserved except access)”;

was subsequently approved by Planning Control Committee and issued on 11 October 2017 following the completion of an Agreement under Section 111 of the Local Government Act 1972 which required the completion of an Agreement under Section 106 of the Town and Country Planning Act 1990 (as amended). That was completed on 12 February 2018.

The planning permission is subject to several conditions including condition 42 which states:

“The premises shall not be open for business outside the hours of 10.00a.m. to 8.00pm on Mondays to Friday, 9.00am to 8.00pm on Saturdays and 10.00am to 5.00pm on Sundays and public holidays, unless otherwise agreed in writing with the Local Planning Authority.”

At the meeting of Planning Control Committee on 2<sup>nd</sup> December 2020, Committee resolved: -

“That the written request made pursuant to condition 42 of planning permission CH/17/279 to amend the opening hours of the store be approved, as follows:

- (i) Extend opening hours on Public Holidays by 3 hours to match those permitted on Mondays to Friday;
- (ii) Allow extended opening hours from 9.00am to 10.00pm on a maximum of 5 promotion days in any calendar year on Mondays to Fridays; and
- (iii) Allow extended opening hours from 9.00am to 10.00pm on a maximum of 2 promotion days in any calendar year on a Saturday.”

Please note that this request is for an extension of the hours over and above that approved at the Meeting on the 2<sup>nd</sup> December 2020.

## **1.0 Site and Surroundings**

- 1.1 The application site is the West Midlands Designer Outlet Village, situated off Eastern Way Cannock. Phase 1 of the Village is nearing completion although has not opened to the public yet.

## 2.0 Proposal

- 2.1 When one seeks to vary a condition an applicant would normally be required to submit an application under either section 96A (if it relates to a non material amendment to the condition) or section 73 (if it relates to a material minor amendment). However, some conditions are so constructed that they do allow for some variation within the wording of the condition, usually under the caveat “unless otherwise agreed in writing with the Local Planning Authority”.

- 2.2 Condition 42 is one such condition and reads

“The premises shall not be open for business outside the hours of 10.00a.m. to 8.00pm on Mondays to Friday, 9.00am to 8.00pm on Saturdays and 10.00am to 5.00pm on Sundays and public holidays, **unless otherwise agreed in writing with the Local Planning Authority.**”

- 2.3 At the meeting of Planning Control Committee on 2<sup>nd</sup> December, Committee resolved: -

That the written request made pursuant to condition 42 of planning permission CH/17/279 to amend the opening hours of the store be approved, as follows:

- (ii) Extend opening hours on Public Holidays by 3 hours to match those permitted on Mondays to Friday;
  - (ii) Allow extended opening hours from 9.00am to 10.00pm on a maximum of 5 promotion days in any calendar year on Mondays to Fridays; and
  - (iii) Allow extended opening hours from 9.00am to 10.00pm on a maximum of 2 promotion days in any calendar year on a Saturday.
- 2.4 Subsequently the Council has received correspondence from Carter Jonas on behalf of McArthurGlenn requesting additional extensions, stating: -

“A request to extend the hours at the WMDO was unanimously approved on 2nd December and this submission relates to two omissions from the previous submission but it was unfortunately too late to request the amendment.

The additional amendments which will bring WMDO in line with other McArthurGlen designer outlets are:

- (i) Allow extended opening hours on Sundays by 1 hour (10am to 6pm), however this will not apply to units that are larger than 280sqm as their opening hours are restricted by the Sunday Trading Act 1994; and
- (ii) Allow extended opening hours on Public Holidays by 3 hours from 9.00am until 10.00pm (if required) to match those permitted on the 2 Promotion Days on Saturdays.

Following the approval to the original amendment, the hours controlled by Condition 42 state:

The premises shall not be open for business outside the hours of 10.00am to 8.00pm on Mondays to Friday except for 5 Promotion Days in a calendar year when opening hours can be extended from 9.00am to 10.00pm, 9.00am to 8.00pm on Saturdays except for 2 Promotion Days in a calendar year when opening hours can be extended from 9.00am to 10.00pm, 10.00am to 5.00pm on Sundays and 10.00am to 8.00pm on public holidays, unless otherwise agreed in writing with the Local Planning Authority.

The revised opening hours for which approval is sought are set out below:

The premises shall not be open for business outside the hours of 10.00am. to 8.00pm on Mondays to Friday except for 5 Promotion Days in any calendar year when opening hours can be extended from 9.00am to 10.00pm, 9.00am to 8.00pm on Saturdays except for 2 Promotion Days in any calendar year when opening hours can be extended from 9.00am to 10.00pm, 10.00am to 6.00pm on Sundays and 10.00am to 8.00pm on public holidays (with extended hours between 9.00am to 10.00pm (if required)), unless otherwise agreed in writing with the Local Planning Authority.

### **3.0 Planning Policy**

- 3.1 Section 38 of the Planning and Compulsory Purchase Act 2004 requires planning applications to be determined in accordance with the provisions of the Development Plan, unless material considerations indicate otherwise.
- 3.2 The Development Plan currently comprises the Cannock Chase Local Plan (2014) and the Minerals Local Plan for Staffordshire (2015-2030).



### 3.3 Relevant Policies within the Local Plan Include:

CP3: - Design

### 3.5 National Planning Policy Framework

### 3.6 Relevant paragraphs within the NPPF include paragraphs: -

8:	Three dimensions of Sustainable Development
11-14:	The Presumption in favour of Sustainable Development
47-50:	Determining Planning Applications
127:	Standard of Residential Amenity
180:	Noise
212, 213	Implementation

## 4.0 **Determining Issues**

4.1 The sole determining issue for the proposed development is the impact of the proposed extension of opening hours in the standard of amenity of the occupiers of surrounding neighbouring properties through noise and general disturbance.

### 4.2 Impact on Residential Amenity

4.2.1 Policy CP3 of the Local Plan states that the following key requirements of high quality design will need to be addressed in development proposals and goes on to include [amongst other things] the protection of the "amenity enjoyed by existing properties". This is supported by the guidance as outlined in Appendix B of the Design SPD which sets out guidance in respect to space about dwellings and garden sizes.

4.2.2 Paragraph 127(f) of the NPPF states that planning policies and decisions should ensure that developments [amongst other things] create places with a high standard of amenity for existing and future users.

4.2.3 Having had regard to the above policy it is noted that the Environmental Health Officer has no objections to the extended hours of opening.

4.2.4 Given that the extended hours would only relate to a limited number of days a year it is considered that the proposal would still maintain a high standard of residential amenity for the occupiers of the neighbouring residential properties in accordance with Policy CP3 of the Cannock Chase Local Plan and Paragraph 127(f) of the NPPF.

## **5.0 Human Rights Act 1998 and Equalities Act 2010**

### **Human Rights Act 1998**

- 5.1 The proposals set out in this report are considered to be compatible with the Human Rights Act 1998. The recommendation to approve the application accords with the adopted policies in the Development Plan which aims to secure the proper planning of the area in the public interest.

### **Equalities Act 2010**

- 5.2 It is acknowledged that age, disability, gender reassignment, pregnancy and maternity, religion or belief, sex and sexual orientation are protected characteristics under the Equality Act 2010.

By virtue of Section 149 of that Act in exercising its planning functions the Council must have due regard to the need to:

Eliminate discrimination, harassment, victimisation and any other conduct that is prohibited;

Advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;

Foster good relations between persons who share a relevant protected characteristic and persons who do not share it

It is therefore acknowledged that the Council needs to have due regard to the effect of its decision on persons with protected characteristics mentioned.

Such consideration has been balanced along with other material planning considerations and it is considered that the proposal is acceptable in respect to the requirements of the Act. Having had regard to the particulars of this case, officers consider that the proposal would not conflict with the aim of the Equalities Act and would be a positive step in advancing the equality of opportunity in respect to accommodation provision for the traveller community

## **6.0 Conclusion**

- 6.1 Given that the extended hours would only relate to a limited number of days a year it is considered that the proposal would still maintain a high standard of residential amenity for the occupiers of the neighbouring residential properties in accordance with Policy CP3 of the Cannock Chase Local Plan and Paragraph 127(f) of the NPPF.

6.2 It is therefore recommended that the extended hours are approved.