

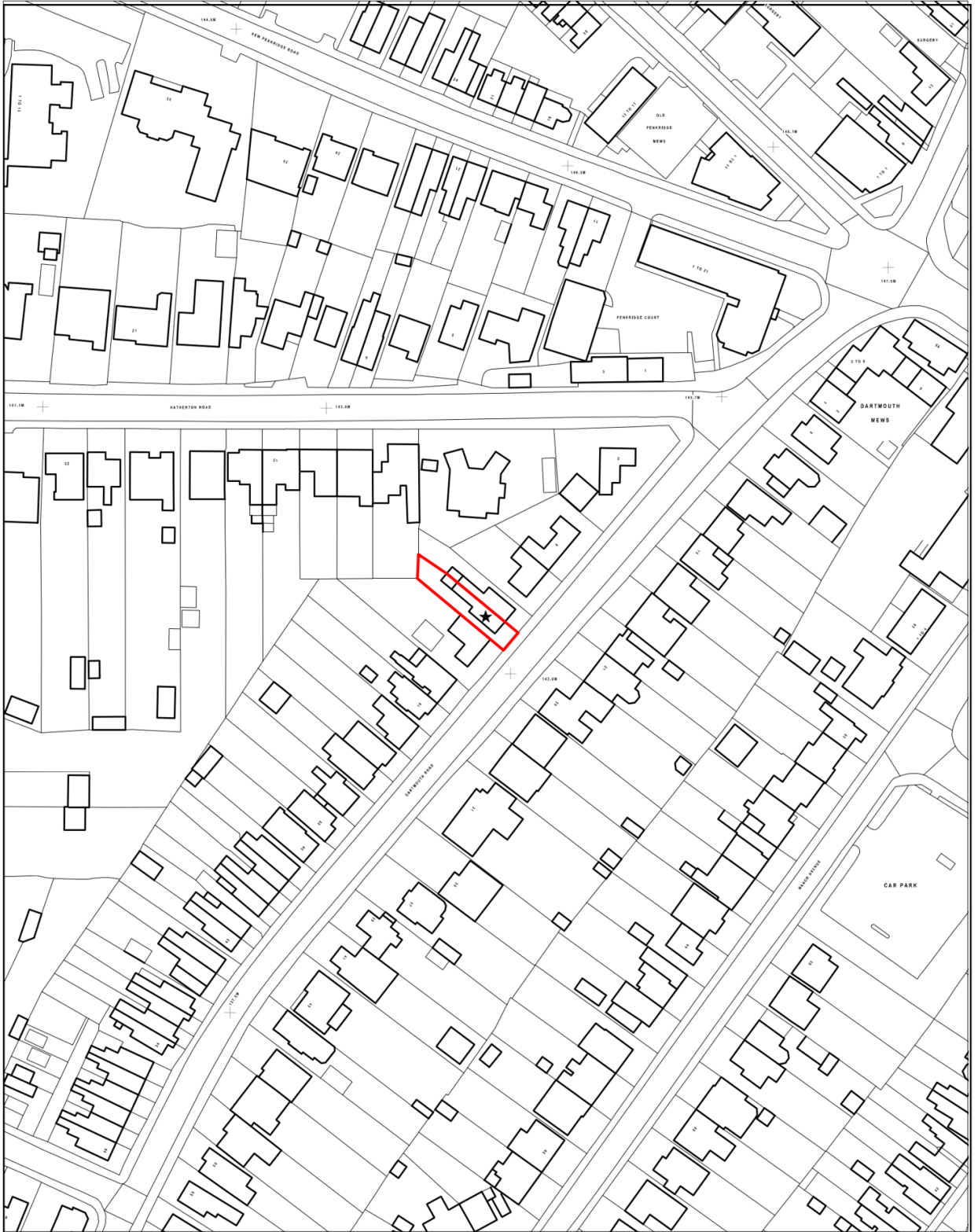
Scale 1:1250

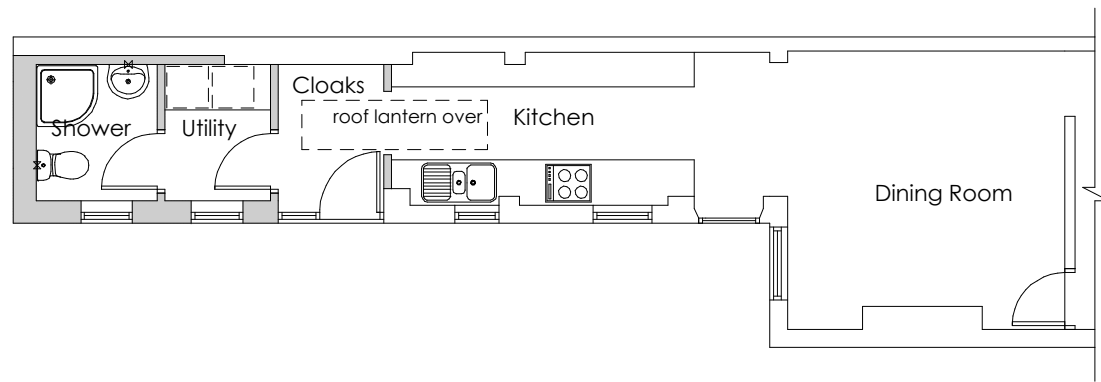
Application No: CH/22/0121

Location: 10 Dartmouth Road, Cannock, WS11 1ER

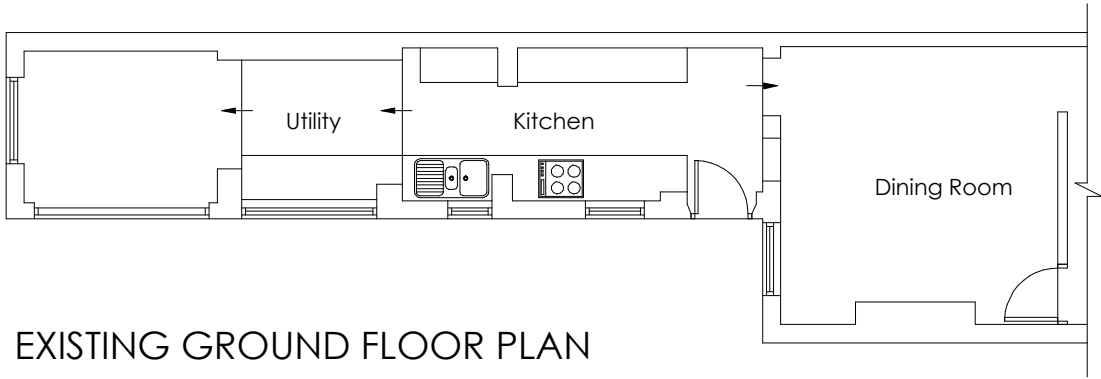
Proposal: Partial demolition of existing structure and the construction of a new single storey rear extension

Item 6.1





PROPOSED GROUND FLOOR PLAN



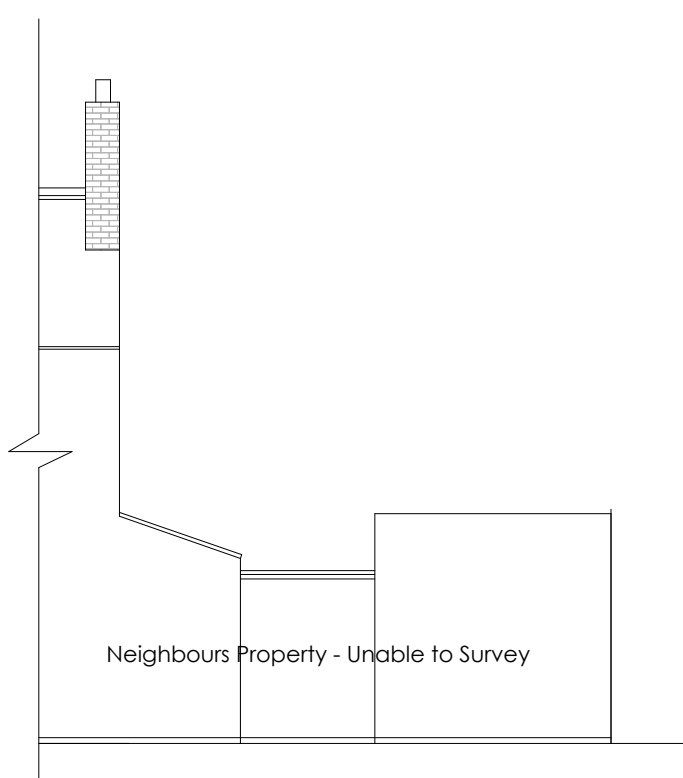
EXISTING GROUND FLOOR PLAN



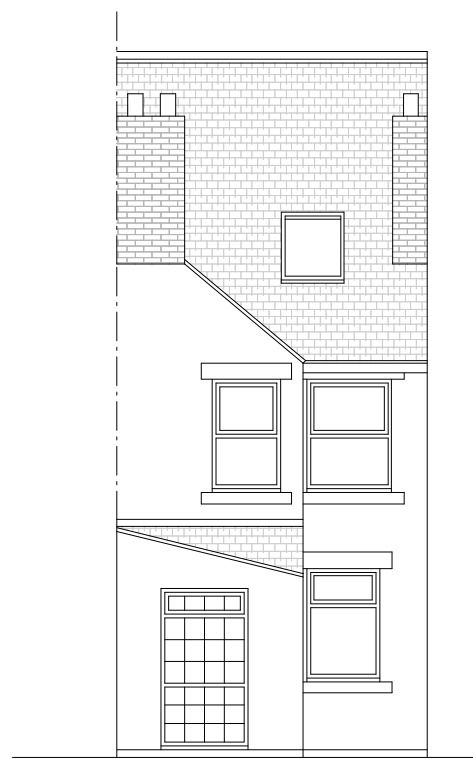
SITE PLAN 1:500



LOCATION PLAN 1:1250



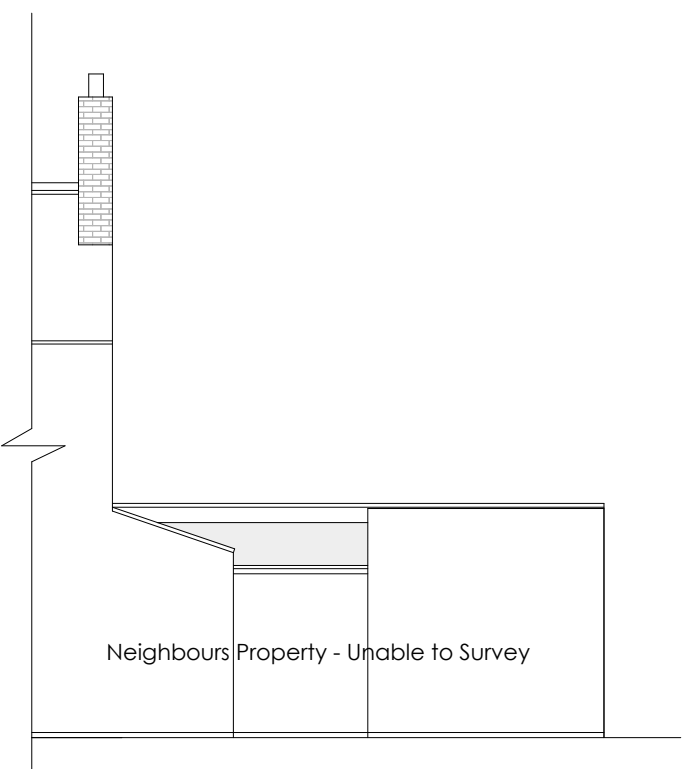
EXISTING SIDE ELEVATION



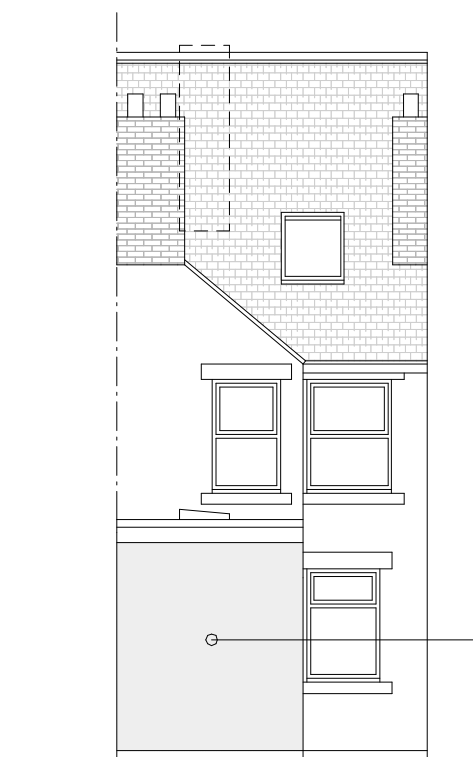
EXISTING REAR ELEVATION



EXISTING SIDE ELEVATION



PROPOSED SIDE ELEVATION



PROPOSED REAR ELEVATION

Render to match existing



PROPOSED SIDE ELEVATION

Rev	Details	By / Chk	Date
X	FIRST ISSUE		

Copyright of this drawing is vested in J Mason Associates and it must not be copied or reproduced without formal consent. Do not scale off this drawing for construction purposes. All contractors and sub-contractors are responsible for taking and checking all dimensions relative to their work.

Notify J Mason Associates immediately of any variation between drawings and site conditions.

DO NOT SCALE OFF THIS DRAWING FOR CONSTRUCTION PURPOSES - IF IN DOUBT ASK.

Where drawings are based on survey information received, surveys are available on request.

All drawings to be read in conjunction with all relevant Structural and M&E Engineers drawings and specifications.

H&S HAZARDS:

Significant hazards relative to the architectural design shown on this drawing have been assessed and highlighted with reasonable skill and care using a warning triangle system.

This drawing is to be read in conjunction with all other hazards/risks which have been identified and recorded within the construction phase H&S plan.

It is assumed that all works on this drawing will be carried out by a competent contractor working, where appropriate, to an approved method statement.

Significant hazards are defined as:-

- Those not likely to be obvious to a competent contractor or other designers.
- Those of an unusual nature.
- Those likely to be difficult to manage effectively.

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Client:
Mr D Sutton

Project:
**10 Dartmouth Road
Cannock**

Drawing Title:
Sketch Proposals

Stage:	Status:	Sheet Size: A2
Job Number: 2762	Date: 11-03-22	Scale: 1:100
Revision: 2762-01		

Contact Officer: Claire Faulkner

Telephone No:01543 464337

Planning Control Committee

6 July 2022

Application No: CH/22/0121

Received: 29-Mar-2022

Location: 10, Dartmouth Road, Cannock, WS11 1HF

Parish: None Parish

Ward: Cannock West

Description: Single storey rear extension

Application Type: Full Planning Application

RECOMMENDATION: Approve subject to 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 hereby permitted shall be carried out in accordance with the following approved plans:

2762-01 Sketch Proposals

Reason

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

2. 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.

3. The materials to be used for the external surfaces of the development shall be of the same type, colour and texture as those used on the existing building.

Reason

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

Note to applicant

Coal Authority

The proposed development lies within a coal mining area which may contain unrecorded coal mining related hazards. If any coal mining feature is encountered during development, this should be reported immediately to the Coal Authority on 0345 762 6848. Further information is also available on the Coal Authority website at:

www.gov.uk/government/organisations/the-coal-authority

Consultations and Publicity

Internal Consultations

None undertaken

External Consultations

None undertaken

Response to Publicity

The application has been advertised by site notice and neighbour letter. Two letters of representation have been received which are summarised below:-

- The existing single storey rear extension was constructed without the benefit of planning permission
- The tree in the garden of No.6 Hatherton Road overhangs the application site and is likely to cause damage to the foundations. Known guidance is that no building should be constructed within 1.5 times the height of the tree to avoid foundation issues. The proposed extension would be within the accepted root ball of the tree and no tree survey was submitted.
- The applicant has no legal right to alter or interfere with the property not owned by the applicant.

- The applicant failed to mention partial demolition within the application form. The demolition works could result in significant disturbances, noise and airbourne dust. The applicant has failed to carry out a hazard assessment.
- The applicant has failed to reference the existing parking issues along Dartmouth Road. On most days non resident car parkers block one side of the highway. Recently Cannock Council issued parking fines to contractors working at No.17 Dartmouth Road for illegal parking. Should this application be approved, similar parking problems will occur.
- The applicant has stated on the application plans that they were unable to survey the neighbouring property. The objector states that no request was made so this is a false statement.
- The application form states render to match existing however the existing is painted stucco not render.
- There are no measurements on the plans.

Relevant Planning History

None relevant

1 Site and Surroundings

- 1.1 The application site is comprised of a semi-detached dwelling sited along the north-western side of Dartmouth Road, Cannock
- 1.2 The application site comprises a traditional style semi-detached dwelling set behind a short frontage and with a private garden to the rear.
- 1.3 The existing frontage is open and comprises of hardstanding currently used for off road parking. There is a gated side access that runs along the side of the dwelling and leads to the private garden. The rear boundaries are delineated with a combination of brick walling and fencing. There is hardstanding that runs along the side of the dwelling from the frontage and terminates at the end of the existing extension.
- 1.4 The wider street scene is varied however the application site adjoins a similar dwelling in terms of scale and design.
- 1.5 The application site is unallocated and undesignated. The application site is also located within a Mineral SafeGuarding Area and considered to be in a low risk area by the Coal Authority.

2 Proposal

- 2.1 The application seeks consent for the demolition of the existing rear extension and the construction of a new single storey rear extension.
- 2.2 The proposed rear extension would project back for 6.3m from the main rear wall of the host dwelling and would comprise a width of 2.5m. The proposed extension would be constructed with a flat roof to a height of 3m.
- 2.3 The demolition would include the removal of the inner part of the shared boundary wall, the partial removal of the side wall and the total removal of the existing end wall.
- 2.4 The proposed extension would be finished in render to match the host dwelling.

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 Part 1(2014) and the Minerals Local Plan for Staffordshire (2015 – 2030).

3.3 Relevant policies within the Local Plan include: -

- CP1 - Strategy – the Strategic Approach
- CP3 - Chase Shaping – Design

3.4 Relevant policies within the minerals plan include: -

- Policy 3: - Safeguarding Minerals of Local and National Importance and Important Infrastructure

3.5 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
- 111: Highway Safety and Capacity
- 126, 130, 132, 134: Achieving Well-Designed Places
- 218, 219 Implementation

3.6 Other relevant documents include: -

- (i) Design Supplementary Planning Document, April 2016.
- (ii) Cannock Chase Local Development Framework Parking Standards, Travel Plans and Developer Contributions for Sustainable Transport.
- (iii) Manual for Streets.

4.0 **Background**

4.1 The Council received a complaint regarding the construction of a rear extension at the application site. It was alleged that the extension was constructed approx. 30 years ago.

4.2 Your Officers investigated the complaint and confirm that the extension would have required planning permission at the time of construction due to the size.

4.3 However, given that the development occurred more than 4 years ago your Officers confirm that it is now lawful and immune from any formal action.

4.4 The windows in the extension appear to be more recent however they have replaced windows that were similar in appearance and size and therefore considered to be a permitted alteration.

4.5 Notwithstanding the above, the current application seeks the partial demolition of this structure and for the construction of a new single storey extension in its place.

5.0 **Determining Issues**

5.1 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) Flood Risk
- v) Safeguarding Minerals
- vi) Ground Contamination

5.2 Principle of the Development

5.2.1 The proposal is for the extension of an existing residential property that is sited within a residential location within Cannock. As such, the proposal for a rear

extension to an existing dwelling would meet the thrust of Local Plan Policy CP1 and be acceptable in principle.

5.2.2 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.

5.3 Design and the Impact on the Character and Form of the Area

5.3.1 In this respect the dwelling is located within a residential location in Cannock wherein properties are already varied in terms of design styles and finishes. The majority are set within modest plots with short frontages and private gardens to the rear. It is noted that a number of dwellings in this location benefit from some degree of extension.

5.3.2 In this instance, it is noted that the proposed extension would be of a similar size, height and design of extension as the one it seeks to replace. The proposed extension comprises of modern flat roof extension with roof lantern which would not reflect the pitched roof over the main dwelling. However, the extension is of a typical domestic extension commonly found on residential properties often built under permitted development rights. Furthermore, the host dwelling is surrounded on all sides by residential development including the projecting outbuilding at No.8 Dartmouth Road and well screened from the public domain.

5.3.3 As such, the proposal is considered to be proportionate to the host dwelling and would reflect the character of the dwelling as well as that of the wider residential location wherein dwellings comprise varied designs that also benefit from some degree of extension.

5.3.4 The neighbour objection letter makes reference to a tree which is located in the rear garden of No.6 Hatherton Road and overhangs the application site. Concern is raised that this tree will impact on the foundations of the proposed extension as it has on the boundary wall. It is worth noting that the boundary wall in question lies to the immediate side of the tree in question. The objector states that a tree survey should have been produced in support of the application.

5.3.5 In this instance, the tree is sited approx..6m from the nearest corner of the proposed extension. The proposed extension would be constructed on the same footprint as the existing extension and will, where feasible, use the same foundations as the existing extension. However, the use of the existing foundations cannot be clarified until they have been exposed and tested. If, new

foundations are required, the applicant's agent has confirmed that they would be in place of the existing foundations and no greater in volume.

- 5.3.6 The Councils Tree Officer has confirmed that given the extension is within an existing area of hard standing and if the foundations are not encroaching on the soft ground it would mean any existing tree roots are unlikely to be affected. As such, the submission of a Tree Report would serve no planning purpose as the proposed development would be no different to the existing development.
- 5.3.7 Therefore, having had regard to Policy CP3 of the Local Plan and the appropriate sections of the NPPF it is considered that the proposal would be well-related to existing buildings and their surroundings and would successfully integrate with existing features of amenity value such that it would be acceptable in respect to its impact on the character and form of the area.

5.4 Impact on Residential Amenity

- 5.4.1 In terms of the neighbouring properties the proposed extension would be located to the rear of the host dwelling along the shared boundary with No.8 Dartmouth Road. The proposed extension would be sited within close proximity to the boundary with No.12 Dartmouth Road. In this respect the objections from the neighbour are noted.
- 5.4.2 The proposed extension would extend back 6.2m from the main rear elevation and would comprise a single storey flat roof extension. The proposed extension would replace an existing structure comprising of the same size and to a similar height. It is noted that No.8 Dartmouth Road also benefits from a structure that runs along the shared boundary with the application site. The two structures appear to share the wall that divides the two properties.
- 5.4.3 The proposal includes the partial demolition of the existing structure, including the applicants side of the shared wall that runs along the boundary. The existing extension is of an adhoc arrangement comprising of varied roof designs and heights. The height of the existing extension that comprises of a flat roof would be increased in height by way of extending the shared wall up by 0.8m to provide one continuous roof height.
- 5.4.4 The proposed extension would not result in a detrimental impact to the amenity of the neighbouring occupiers of No.8 in terms of daylight / outlook or privacy.
- 5.4.5 With regard to No.12 Dartmouth Road, the proposed extension would be sited approx.. 3m from the shared boundary. The proposed single storey extension would face towards the shared boundary with No.12 however the intervening boundary wall would prevent any overlooking from the windows. Notwithstanding this, the proposed extension is of a similar scale and design as the existing structure and would not result in any additional impact to the

occupiers of No.12 over and above the current situation in terms of outlook / daylight or privacy.

5.4.6 The dwellings to the rear of the application site are located approx.. 16m distant, at the nearest point and at an angle to the application site.

5.4.7 Given the above, the proposed extensions are considered to accord with the requirements of Policy CP3 of the Cannock Chase Local Plan and they meet the requirements of the Council's Design SPD.

5.5 Drainage and Flood Risk

5.5.1 The site is located in Flood Zone 1 on the Environment Agency's Flood Zone Maps which is at least threat from flooding. In this instance, the proposed extension would be constructed within an existing residential curtilage and as such would have no further impact on flood risk in this location.

5.5.2 As such, the proposal would accord with the requirements of paragraph 155 of the NPPF which seeks to steer new development away from areas of flooding.

5.6 Mineral Safeguarding

5.6.1 The site falls within a Mineral Safeguarding Area (MSAs). Paragraph 209, 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.

5.6.2 The application site is located within 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.

5.6.3 As such, the proposal would not prejudice the aims of the Minerals Local Plan.

5.7 Ground Conditions and Contamination

5.7.1 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, and it is advised that any risk can be managed by the attachment of an advisory note to any permission granted.

5.8 Impact on Highway Safety

5.8.1 Paragraph 111 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. In this respect the comments of the neighbour are noted.

- 5.8.2 The proposal would not be constructed in an area currently used for parking provision. The proposed extension would not increase the bedroom capacity for the dwelling and as such would not require any additional parking.
- 5.8.3 It is noted that there is parking to the front of the dwelling however, it is also noted that this is of a substandard size however as existing parking isn't impacted by the proposal and the proposal does not require any additional parking to be required the proposal would have a neutral impact on highway safety in accordance with The Parking Standard SPD.
- 5.8.5 The comments of the neighbour are noted in terms of the current parking issues and the position of the parking restrictions within Dartmouth Road. However, the proposed development would not alter the current parking provision for the property and therefore there is no impact to highway safety. It is not the role of the Planning Authority to police the on-street parking and any issues caused by inconsiderate / illegal parking should be reported to the police.
- 5.8.5 Given the above, the proposal would meet the guidance within the Parking SPD and as such would not result in an unacceptable impact on highway safety and as such would accord with the policy set out within paragraph 111 of the NPPF.

5.9 Objections raised not already covered above:-

- 5.9.1 The objector states that the property is a semi-detached property and the applicant has no legal right to alter or interfere with property not owned by the applicant. The objector understands that no such permission is granted. Your Officers note that the wall proposed to be removed and replaced is within the ownership of the applicant. Also, no works are proposed outside the redline boundary. The issue of ownership would fall within the Party Wall Act and would be between the applicant and the landowner of No.8 Dartmouth Road. Your Officers confirm that the Party Wall Act does not fall within the remit of the Planning Authority.
- 5.9.2 The objector has raised concerns relating the noise and disturbance the partial demolition would create. The objector states that a hazard assessment should have been provided. Your Officers confirm that the demolition of part of the existing wall and the construction of a new extension may cause some noise and disturbance however given the size and scale of the proposal, it would be for a short period of time only. Your Officers also confirm that there is no requirement for a hazard assessment to be submitted for a house holder application.
- 5.9.3 The objector states that no request was made by the applicant to survey the neighbouring property as stated on the plans. As such, the objector continues that the applicant has made a false statement on the application form. Your Officers note that the side of the application site not surveyed relates to No.8 Dartmouth Road, being the semi-detached property adjoined to the host

dwelling. The property at No.12 Dartmouth Road (objector) would not need to be surveyed as this would serve no planning purpose. Notwithstanding the above, the application proposal relates to a single storey linear extension and would not require a detailed assessment from the adjoining property.

- 5.9.4 The objector states that the proposal would be finished in render to match the existing property. The objector continues that the existing is not render but is painted stucco that requires specific planning consent. Your officers confirm that a condition has been recommended for materials to reflect the existing property in terms of appearance, colour and finish. As such a render finish would be an acceptable material in relation to the host dwelling.
- 5.9.5 The objector states that the actual size of the proposed extension cannot be determined from a computer screen. The objector contends that the application fails to provide information / fundamental dimensions. Your Officers confirm that any plan submitted with an application are required to be drawn to scale with a north arrow shown which is the case with the plans in relation to this application. There is no requirement for the plans to be labelled with measurements and your Officers confirm that a north arrow was provided on the submitted Location Plan

6.0 **Human Rights Act 1998 and Equality Act 2010**

Human Rights Act 1998

- 6.1 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.

Equality Act 2010

- 6.2 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 Equality Act.

7.0 **Conclusion**

7.1 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.

7.2 It is therefore recommended that the application be approved subject to the attached conditions.

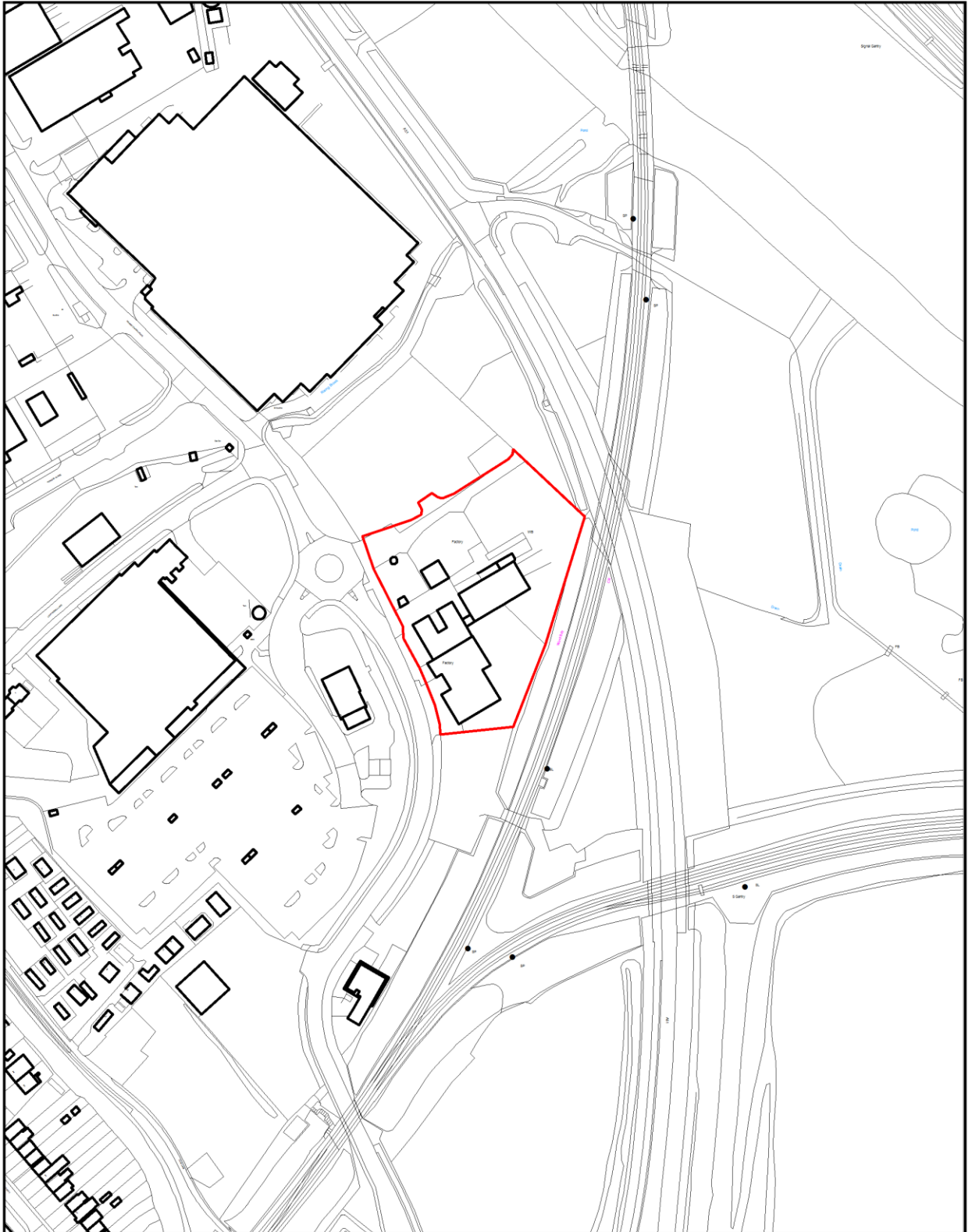


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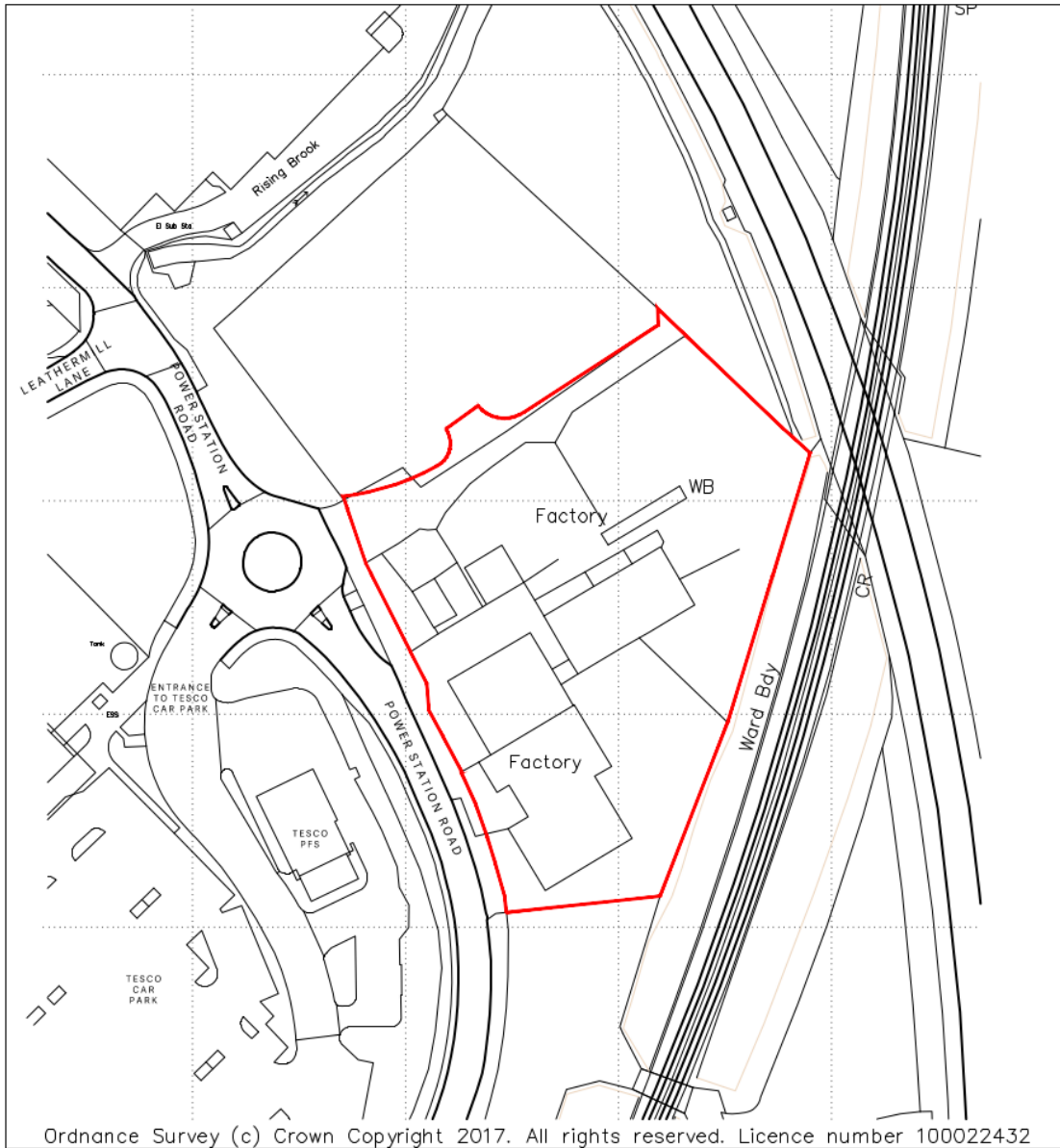
Location: Timber Yard, Power Station Road, Rugeley, WS15 2WD

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

Item 6.15



Location Plan



STOAS Architects Ltd
PLANNING

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

CLIENT **ALDI STORES LIMITED**

PROJECT **POWER STATION ROAD, RUGELEY**

TITLE **SITE LOCATION PLAN**



STOAS
ARCHITECTS

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1 DUNSTON PLACE - DUNSTON ROAD - CHESTERFIELD - S41 8NL - TEL 01246 389 860

SCALE **1:1250 @ A4** DRAWN **SPK**

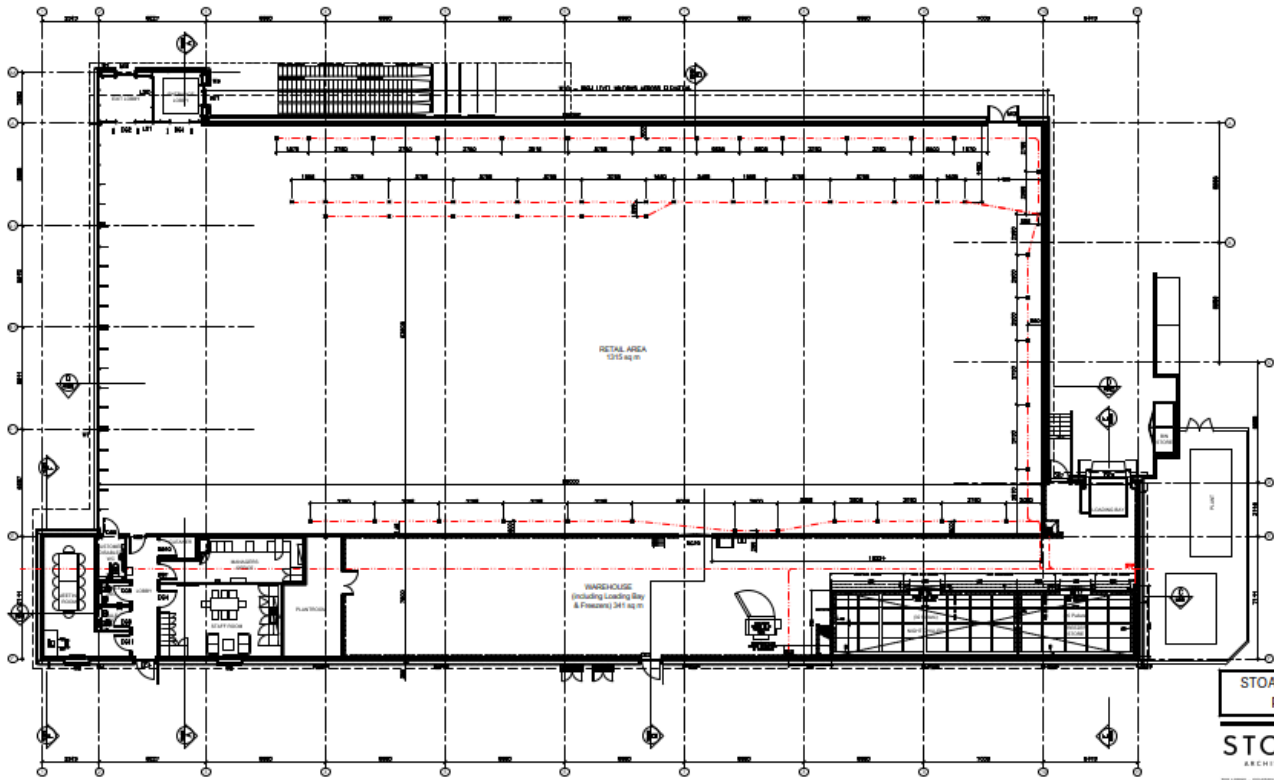
DATE **12-03-2020** CHECKED **SB**

NORTH DWG No. REV

E17A118 - P001 **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 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 Freights)	341 sq m	3,670 sq ft

STOAS Architects Ltd
PLANNING

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ALDI STORES LIMITED

FORMER TIMBER YARD,
POWER STATION ROAD,
RUGELEY

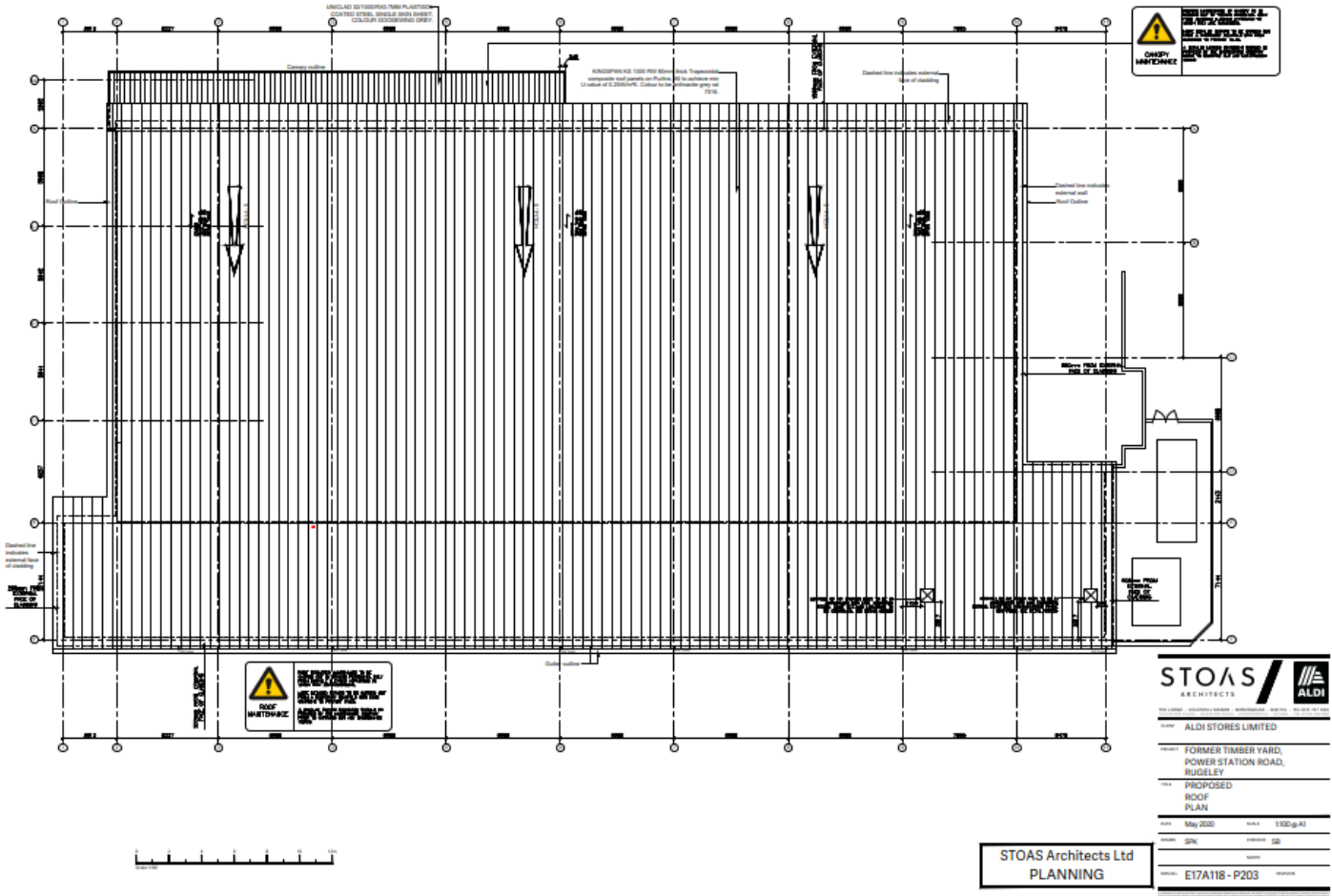
PROPOSED
FLOOR
PLAN

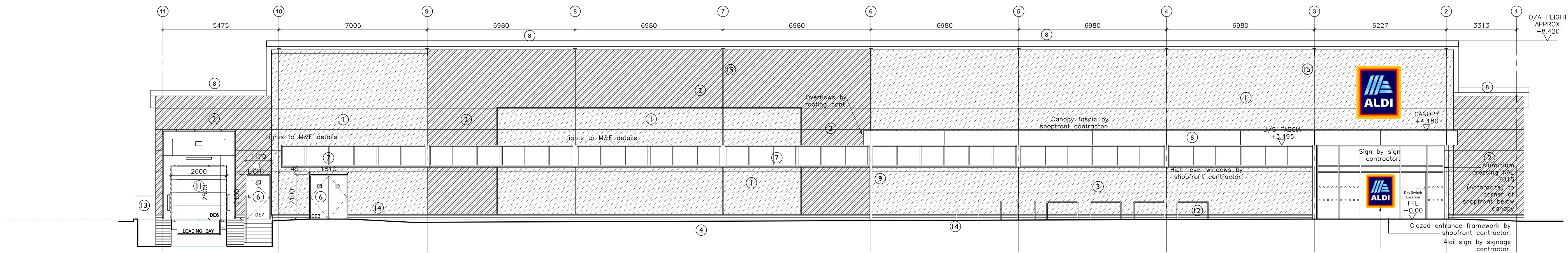
April 2020 1:500 (p.4)

SPK

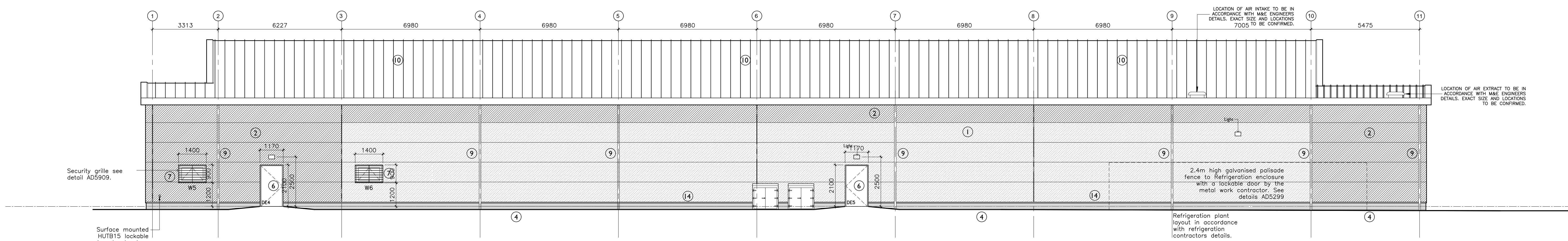
E17A118 - P200

Proposed Roof Plan

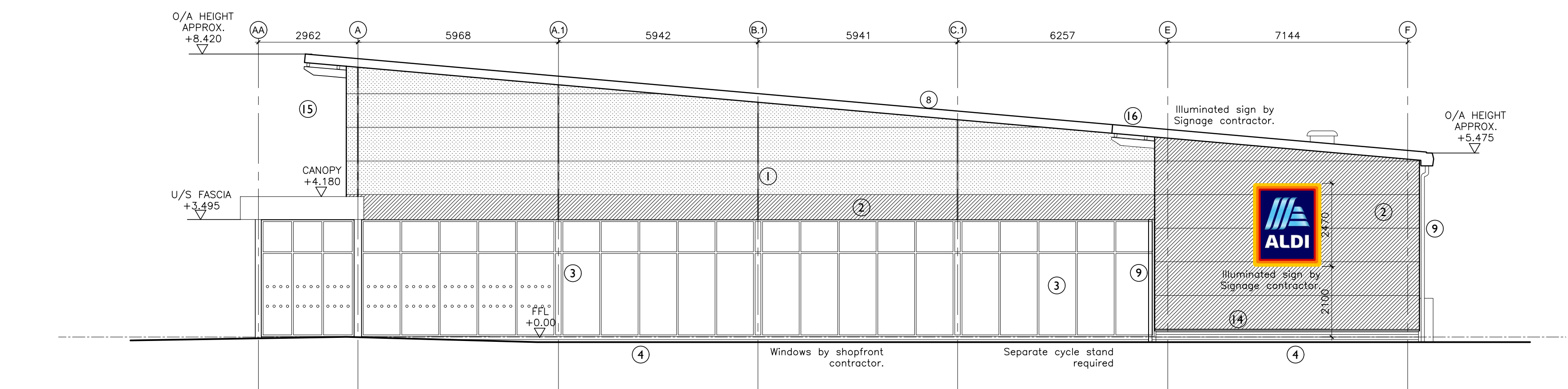




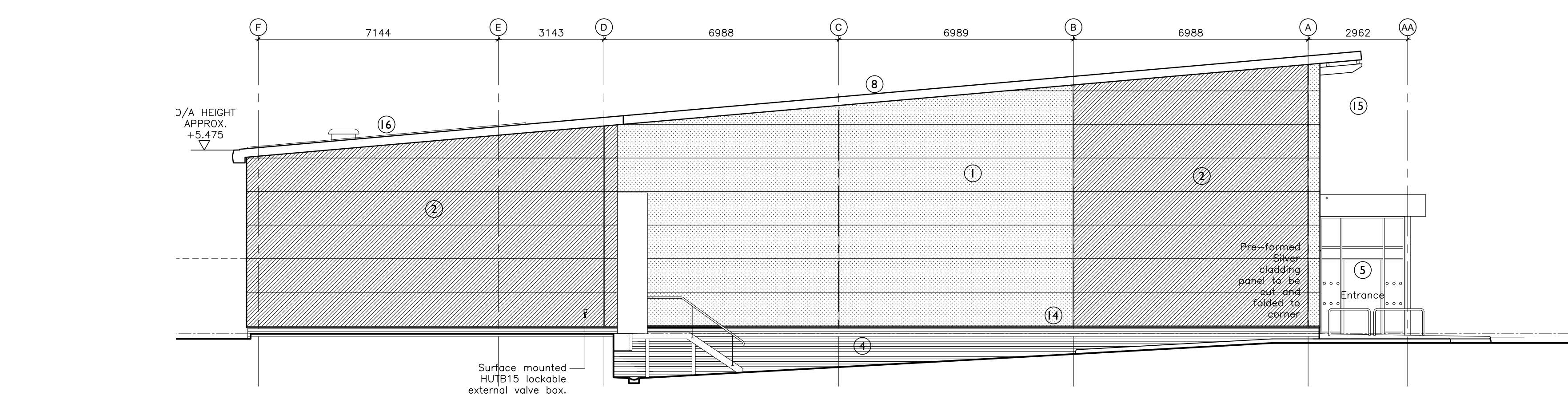
MAIN ENTRANCE ELEVATION



REAR ELEVATION



SHOPFRONT ELEVATION



LOADING BAY ELEVATION

- EXTERNAL FINISHES**
- 1 KINGSSPAN KS1000MR METALLIC SILVER CLADDING RAL 9006 (NOTE: ANY ELEVATIONS NOT VISIBLE TO THE PUBLIC ARE TO BE CLAD WITH KINGSSPAN KS1000RW OR KINGSSPAN KS1000FC FINISHED RAL 9006)
 - 2 KINGSSPAN KS1000MR ANTHRACITE GREY CLADDING RAL 7016
 - 3 SHOPFRONTS - POLYESTER POWDER COATED ALUMINIUM (RAL 7016)
 - 4 BLOCKLEYS BRICK LTD. 'SMOOTH BLACK' BRICKWORK WITH TARMAC Y14 (BLACK) COLOURED MORTAR
 - 5 ENTRANCE - POLYESTER POWDER COATED ALUMINIUM (RAL 7016 ANTHRACITE)
 - 6 STEEL ESCAPE DOORS - POLYESTER POWDER COATED COLOUR GREY (RAL 7016) (FRAME COLOUR RAL 7016)
 - 7 WINDOWS - POLYESTER POWDER COATED ALUMINIUM (RAL 7016)
 - 8 FASCIAS - POWDER COATED ALUMINIUM TO BS6496 RAL 7016
 - 9 RAINWATER GOODS POLYESTER POWDER COATED ALUMINIUM (RAL 7016)
 - 10 KINGSSPAN KS 1000 RW 80MM THICK TRAPEZOIDAL COMPOSITE ROOF PANELS ON FURLINS. ALL TO ACHIEVE MIN U-VALUE OF 0.25W/M²K. COLOUR TO BE ANTHRACITE GREY RAL 7016.
 - 11 SECTIONAL OVERHEAD DOOR - PVF COATED STEEL (RAL 7016)
 - 12 TROLLEY BAY RAILS - SATIN FINISH STAINLESS STEEL
 - 13 HANDRAILS - GALVANISED TUBULAR STEEL
 - 14 PVF2 COATED ALUMINIUM PRESSED DRIP FLASHING. COLOUR METALLIC SILVER RAL 9006
 - 15 ALL EXPOSED STEELWORK TO BE PAINTED STEEL GUARD Z44 FINISH COAT TO BE GLOSS FINISH RAL 7016 ANTHRACITE GREY.

Revision	Description	Date	Drawn	Checked

STOAS Architects Ltd
PLANNING



THE LODGE - COLESHILL MANOR - BIRMINGHAM - B46 1DL - TEL 0121 747 1943
1 DUNSTON PLACE - DUNSTON ROAD - CHESTERFIELD - S41 5NL - TEL 01246 369 866

CLIENT **ALDI STORES LIMITED**

PROJECT **FORMER TIMBER YARD
POWER STATION ROAD
RUGELEY**

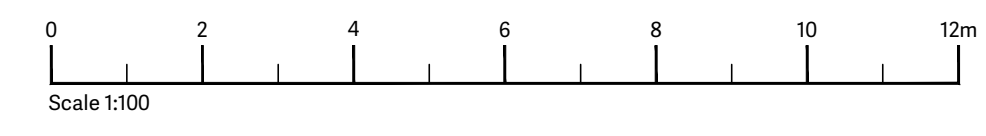
TITLE **PROPOSED
ELEVATIONS**

DATE **APRIL 2020** SCALE **1:100 @ A1**

DRAWN **SPK** CHECKED **SB**

NORTH

DWG No. **E17A118 - P201** REVISION



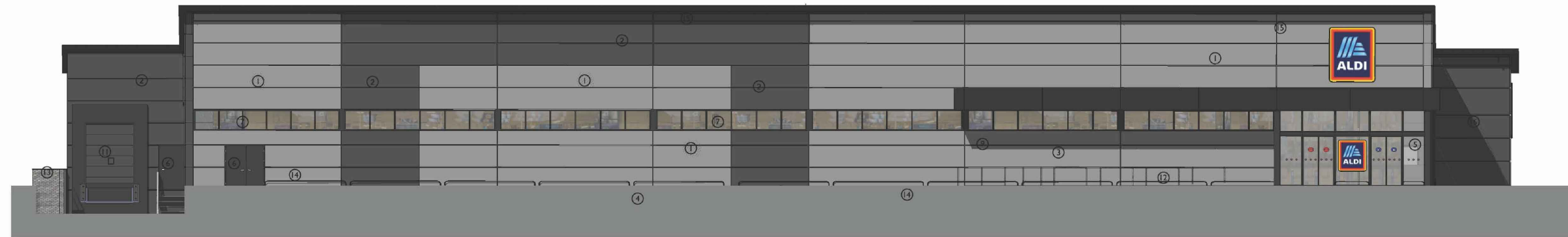
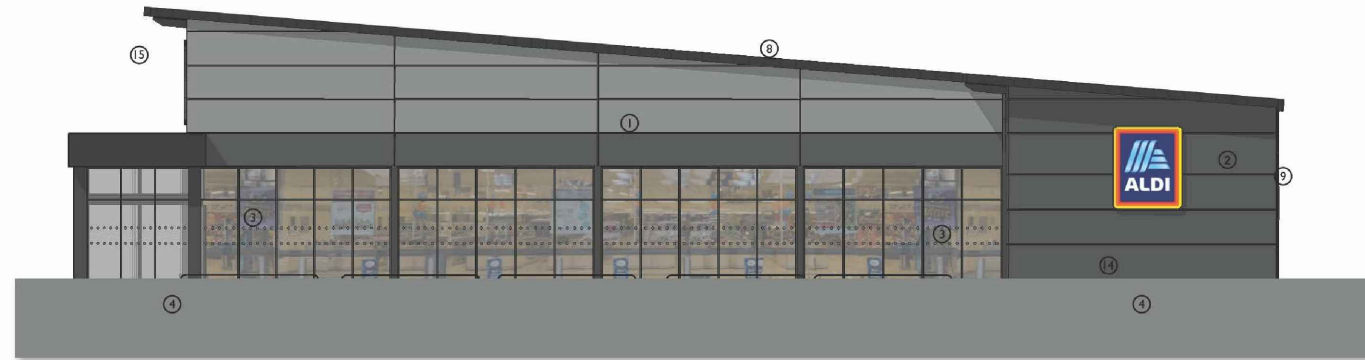
ALL DRAWINGS TO BE CHECKED BY THE ARCHITECT AND APPROVED BY THE CLIENT. THE ARCHITECT'S RESPONSIBILITY IS LIMITED TO THE DESIGN AND CONSTRUCTION OF THE BUILDING. THE ARCHITECT IS NOT RESPONSIBLE FOR THE DESIGN OF THE BUILDING'S INTERIOR OR FOR THE DESIGN OF THE BUILDING'S STRUCTURE. THE ARCHITECT'S DESIGN IS BASED ON THE INFORMATION PROVIDED BY THE CLIENT AND THE ARCHITECT'S DESIGN IS SUBJECT TO THE CLIENT'S APPROVAL. THE ARCHITECT'S DESIGN IS NOT TO BE USED FOR ANY OTHER PURPOSE WITHOUT THE ARCHITECT'S CONSENT.

EXTERNAL FINISHES

- ① KINGSPAN KS1000MR METALLIC SILVER CLADDING RAL 9006 (NOTE: ANY ELEVATIONS NOT VISIBLE TO THE PUBLIC ARE TO BE CLAD WITH KINGSPAN KS1000RW OR KINGSPAN KS1000FC FINISHED RAL 9006)
- ② KINGSPAN KS1000MR ANTHRACITE GREY CLADDING RAL 7016
- ③ SHOPFRONTS - POLYESTER POWDER COATED ALUMINIUM (RAL 7016).
- ④ BLOCKLEYS BRICK LTD. 'CHARCOAL' BRICKWORK WITH TARMAC Y14 (BLACK) COLOURED MORTAR
- ⑤ ENTRANCE - POLYESTER POWDER COATED ALUMINIUM (RAL 7016 ANTHRACITE).
- ⑥ STEEL ESCAPE DOORS - POLYESTER POWDER COATED COLOUR GREY (RAL 7016) (FRAME COLOUR RAL 7016).
- ⑦ WINDOWS - POLYESTER POWDER COATED ALUMINIUM (RAL 7016).
- ⑧ FASCIAS - POWDER COATED ALUMINIUM TO BS6496 RAL 7016
- ⑨ RAINWATER GOODS POLYESTER POWDER COATED ALUMINIUM (RAL 7016).
- ⑩ KINGSPAN KS 1000 RW 80MM THICK TRAPEZOIDAL COMPOSITE ROOF PANELS ON PURLINS. ALL TO ACHIEVE MIN U-VALUE OF 0.25W/M²K. COLOUR TO BE ANTHRACITE GREY RAL 7016.
- ⑪ SECTIONAL OVERHEAD DOOR - PVF COATED STEEL (RAL 7016).
- ⑫ TROLLEY BAY RAILS - SATIN FINISH STAINLESS STEEL.
- ⑬ HANDRAILS - GALVANISED TUBULAR STEEL
- ⑭ PVF2 COATED ALUMINIUM PRESSED DRIP FLASHING. COLOUR METALLIC SILVER RAL 9006.
- ⑮ ALL EXPOSED STEELWORK TO BE PAINTED STEELGUARD Z44 FINISH COAT TO BE GLOSS FINISH RAL 7016 ANTHRACITE GREY.

NOTES

Please refer to Structural Engineers drawings for details of steel frame.



Contact Officer:	David O'Connor
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Planning Control Committee

Wednesday 6 July 2022

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 at the site of a Timber Yard and the erection of a Class E Food Retail Store, with associated access, car parking, servicing and landscaping
Application Type:	Full Planning Application

BACKGROUND

This application was presented to Planning Control Committee on 13th January 2021 when it was resolved: -

RESOLVED:

- (A) That the applicant be requested to undertake a Section 106 Agreement to secure monies for the monitoring of the implementation of the travel plan;
- (B) On completion of the Agreement the application be approved subject to the conditions contained in the report for the reasons stated therein, any issues detailed in the update sheet (Annex A) and to the amendment of Condition 14 to include reference to road sweeping, as follows: -

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 contractor's 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 and a programme of highway inspections and the cleaning of mud brought onto the highway. 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.

The application was one of two applications (the other one was application reference CH/20/306 submitted on behalf of Lidl) on the agenda that day in respect to retail food stores on Power Station Road, Rugeley.

Specialist retail planning advice to the Council was provided at that time by a company called Stantech. Members will therefore see in the report mention of advice from Stantech in representations made by objectors. However, it is important to note that the advice from Stantech has now been wholly superseded by advice from Alder King.

Following the grant of planning permission, on 18 January 2021, the Council received a pre-action protocol ("PAP") letter from Tesco challenging the grant of planning permission and threatening judicial review. Judicial Review proceedings ("JR") were issued. The Council took their own Counsel advice, which advised the JR threat was credible. The Council settled the JR by Consent Order (CO/793/2021 sealed 29.4.2021).

The two grounds of challenge related to the treatment of two issues in the officer report and in essence a failure to apply the test in section 38(6) of the Planning & Compulsory Purchase Act 2004.

In summary, Ground 1 was on the grounds of a failure to apply relevant policies of the Local Plan in that the Council failed to have regard to the: -

- development plan policies relevant to Rugeley Town Centre and or failed properly interpret them – resulting in a failure to meet the legal test under section 38(6) of the Planning & Compulsory Purchase Act 2004;
- impact of the proposals on Policy CP11 and their compliance (or otherwise) with it. For CP11 not to be interpreted or applied by reference to the NPPF;
- Policies RTC1 and RTC2 of Rugeley Town Area Action Plan.

In summary Ground 2 was on the grounds of a failure to consider the cumulative effect of the proposals in assessing impacts.

The Council did not accept Ground 1 of the challenge, and partially accepted Ground 2.

The judicial review ordered the remission back to Planning Committee the redetermination of the application to allow the Council to re-determine the application having regard to a cumulative assessment of the impacts of the food store proposals in the Aldi and Lidl applications.

The applicant has subsequently submitted a Retail Impact Assessment, a Shadow Habitats Regulations Assessment and a Flood Risk Assessment.

In response to the Consent Order Officers have readvertised the application as a Departure from the Development Plan, undertaken full reconsultation with all consultees and have advised both Morrisons and Tesco of the Council's intention to redetermine the application. The application has been readvertised by press notice, by neighbour letter and site notice.

In response to the Consent Order the applicant has submitted a retail impact assessment which includes an assessment of the cumulative impacts of the Lidl and Aldi planning applications. In order to assist in the reassessment of the application Officers have commissioned the services of Alder King to provide expert retail advice.

The application is therefore back before Planning Control Committee for redetermination following quashing of the previous permission.

1. **RECOMMENDATIONS:**

- (A) That the applicant/owner be requested to enter into a planning obligation (s) under Section 106 of the Town and Country Planning Act 1990 (as amended) to secure monies for the monitoring of the implementation of the travel plan and the imposition of a restriction relating to prohibiting retail sales on the site currently occupied by Aldi in Rugeley.
- (B) On completion of the Section 106 planning obligation(s) the application be approved subject to the conditions contained in the report for the reasons stated therein.

2. **EXECUTIVE SUMMARY**

- 2.1 The application seeks planning permission for the demolition of existing buildings at the site of an existing Timber Yard and the erection of a Class E Food Retail Store, with associated access, car parking, servicing and landscaping. The application proposes the closure of the existing Aldi within Rugeley with this to be secured by legal agreement, so the application effectively delivers a relocated and enlarged Aldi store in Rugeley with an additional 565sqm of tradeable floor area.
- 2.2 Officers are satisfied with the conclusions presented by Alder King that there are no sequentially preferable town centre or edge of centre sites available for the development proposed in this application. Officers assess the location is well connected to the town centre and canal and would represent an accessible site by various means of transport. For the reasons set out in this report the application would comply with the sequential requirements of Policy CP11 of the Local Plan 2014 and paragraphs 87 and 88 of the NPPF (2021).
- 2.3 In line with the detailed dialogue and advice from the Council's consultants Alder King, Officers conclude there would be no significant adverse impacts on the turnover levels of existing businesses within the town centre or nearby centres. Officers have been presented with no substantive evidence to suggest there would be significant adverse

impacts on existing investments within the catchment area. A substantial future investment of note nearby is the remediation and redevelopment of the former power station site. The proposals would appear to complement the investment in the power station site by promoting/maintaining investor confidence in the area and providing an additional service to future residents that is convenient and easily accessible from future housing. In providing additional economic and built environment benefits, such effects are consistent with the wider emphasis of CP11 which seeks to strengthen Rugeley's role as a market town serving the shopping needs of Rugeley and nearby settlements. The assessment is also consistent with Para 90 and 91 of the NPPF and overall leads Officers to conclude there would be no significant adverse impact on the vitality or viability of Rugeley or nearby centres.

- 2.4 The development would exceed the 4,900sqm retail floor area set out in Policy CP11 and the AAP of the Local Plan. For this reason, it is technically considered that the proposal constitutes a departure from the Cannock Chase Local Plan. At the same time the proposals would complement the ambition within CP11 to promote the development of Rugeley town centre for retail, align with the ambition to improve the attractiveness of the town centre and would complement or build upon the positive environmental enhancements and linkages to the Canal Corridor carried out as part of the adjacent Tesco development – which the new store would be observed in the setting of. Hence partial conflict with the ambitions of policy CP11 is observed.
- 2.5 In the context of consideration against Policy RTC1 and the accompanying diagram, Officers recognise the environmental improvements to the setting of the Canal Conservation Area and wider regeneration area that the proposals would bring through the removal of the existing poor-quality buildings. In addition, it is noted there is overlap between the red area in Local Plan 'Fig. 5' and the site in question. Policy RTC1 and the accompanying diagram convey at a strategic level that additional retail development around the main allocated sites could potentially come forward to complement the main allocations – albeit with the sequential focus on the Primary Shopping Area and Edge of Centre first in line with other policies. In addition, RTC1 advocates improvements to the public realm which the development achieves and improved access to the canal – which the development positively would reinforce through better natural surveillance and close association to the improvements at the Tesco site under Policy RTC8. Accordingly, Officers assess there is consistency between the development proposals and wider strategic Regeneration Policy RTC1.
- 2.6 In terms of Policy RTC2, the 4th paragraph suggests that redevelopment of any larger sites outside the Primary Shopping Area which are not effectively identified sites in the Local Plan, will be supported for either residential or mixed residential/leisure/business uses that do not undermine the vitality and viability of the primary shopping area and contribute to improving the quality of the urban fabric. The proposals in this case display conflict with Policy RTC2 insofar as they are not 'mixed use' in the manner envisaged in the policy. However, the proposals are proven (as discussed at the retail impact assessment aspect of this report) to avoid undermining the vitality and viability of the

centre in retail impact terms and would lead to improvement to the physical environment. Thus, Officers observe partial conflict with this policy, but also some degree of consistency.

- 2.7 In line with the third criterion in Policy CP8, Officers are not aware of further study of the site for modernisation for industrial purposes having taken place or further study in terms of the existing timber business's viability or assessment of attractiveness of the site to the employment market. Therefore, partial conflict with the first and third criterion of Policy CP8 is apparent. However, this conflict is moderated to a lesser level by the improvement of the immediate environment, the provision/retention of employment opportunities and the way it would complement improved pedestrian access to and from the town centre and the Rugeley Power Station site.
- 2.8 Officers assess a range of other considerations such as the adjacent redevelopment of the Rugeley Power Station site which are of relevance to the decision taking on this application as a material consideration. This is now a committed development under construction for 2300 dwellings and a new All Through School but is not taken into account in current policies within Local Plan 2014. In particular there is a strong affinity between the main pedestrian and cycle linkages to the power station development and the site in question and the development proposed would provide an increased range of services within convenient reach of future residents occupying the new residential development, thus promoting sustainable transport objectives.
- 2.9 This report goes on to consider a range of other detailed planning matters such as drainage, nature conservation interests, ground conditions and design considerations. In all cases, there are no planning reasons for refusal on detailed planning matters and the development is considered consistent with policies in this regard.
- 2.10 In weighing the respective policy principle compliance and partial conflicts highlighted, Officers assess the proposals would on balance weigh modestly in favour of the development in principle on the basis of the policies alone, and it is concluded the application would comply with the overall emphasis of the Development Plan more than not. Add to this the complementary benefits the proposals would bring to serving the Rugeley Power Station development (a matter which could not reasonably have been pre-empted in the current Local Plan) and the absence of detailed planning issues with the proposed scheme and Officers assess the planning balance weighs moderately in favour of the application.

3. **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 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.

Contamination

3. 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 paragraphs 174 and 183 of the National Planning Policy Framework.

4. 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 paragraphs 174 and 183 of the National Planning Policy Framework.

5. 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 paragraphs 174 and 183 of the National Planning Policy Framework.

Drainage

6. 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. 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 in accordance with paragraphs 159 and 169 of the National Planning Policy Framework.

7. 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 in accordance with paragraphs 159 and 169 of the National Planning Policy Framework.

Landscape and Design

8. 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 paragraphs 126, 130, 131 and 134 of the National Planning Policy Framework.

9. 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 paragraphs 126, 130, 131 and 134 of the National Planning Policy Framework.

10. 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 paragraphs 126, 130, 131 and 134 the National Planning Policy Framework.

11. 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 paragraphs 126, 130, 131 and 134 the National Planning Policy Framework.

12. 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.

13. 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 and paragraphs 126, 130, 131 and 134 the National Planning Policy Framework.

14. 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 9th 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 paragraphs 174 and 180 of the National Planning Policy Framework and having due regard to the provisions of the Conservation of Habitats and Species Regulations 2017.

15. 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 111 of the National Planning Policy Framework.

16. 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 111 of the National Planning Policy Framework.

17. 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 highway safety and in combatting climate change in accordance with paragraph 111 of the National Planning Policy Framework .

18. 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 111 of the National Planning Policy Framework.

19. 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 111 of the National Planning Policy Framework.

20. 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 111 of the National Planning Policy Framework.

21. 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 in accordance with paragraph 112(a) of the National Planning Policy Framework .

22. 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 Case Local Plan and paragraphs 126, 130, 131 and 134 the National Planning Policy Framework.

23. 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 in accordance with 112 and 113 of the National Planning Policy Framework.

24. 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 111 of the National Planning Policy Framework.

25. 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 . in accordance with paragraph 112(e) of the National Planning Policy Framework.

Floorspace Restriction

26. The total Class E(a) floorspace hereby permitted shall not exceed 1881sqm gross external area. The net sales area (defined as all internal areas to which customers have access, including checkouts and lobbies) shall not exceed 1,315sqm.

Reason

In the interests of protecting the vitality of Rugeley town centre, Hednesford town centre and nearby town and local centres and to ensure compliance with Local Plan Policies CP11 and paragraphs 86-91 of the National Planning Policy Framework.

Sale of Goods Restriction

27. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (or any order revoking or re-enacting or amending that Order with or without modification), the Class E(a) (retail) floorspace hereby permitted shall be used primarily for the sale of convenience goods with a maximum of 282sq m of the net sales are devoted to comparison goods. There will be no sale of tobacco and related products. In addition, no provision of the following in-store facilities/services:

- Fresh meat counter
- Fresh fish counter
- Delicatessen counter
- Hot food counter
- Pharmacy

- Dry cleaning service
- Photography service
- Post office counter
- Café/restaurant

Reason

In the interests of protecting the vitality of Rugeley town centre, Hednesford town centre and nearby town town and local centres and to ensure compliance with Local Plan Policies CP11 and paragraphs 86-91 of the National Planning Policy Framework.

Subdivision

28. The Class E(a) (retail) unit hereby permitted shall be used as a single unit and shall not be sub-divided into two or more units, and no concessions shall be permitted within the unit..

Reason

In the interests of protecting the vitality of Rugeley town centre, Hednesford town centre and nearby town town and local centres and to ensure compliance with Local Plan Policies CP11 and paragraphs 86-91 of the National Planning Policy Framework.

Mezzanine Restriction

29. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development (England) Order 2015 (as amended) or Article 44 of the Development Management Procedure Order 2015 (as amended) or any order revoking or re-enacting or amending that order with or without modification, no mezzanine floor or other form of internal floor to create additional floorspace other than that hereby permitted shall be constructed in the hereby permitted Class E(a) (retail) unit without the express consent of the Local Planning Authority.

Reason

In the interests of protecting the vitality of Rugeley town centre, Hednesford town centre and nearby town town and local centres and to ensure compliance with Local Plan Policies CP11 and paragraphs 86-91 of the National Planning Policy Framework.

Limited Assortment Discounter

30. The development hereby approved shall only be used as a Class E(a) retail food store and shall be restricted to 'limited product line deep discount retailing' and shall be used for no other purpose falling within Class E of the Town and County Planning (Use Classes) (Amendment) Regulations 2020 (or any order revoking or re-enacting or amending that order with or without modification). 'Limited product line deep discount retailing' shall be taken to mean the sale of no more than 4,500 product lines, except for

the Christmas period (November – December Annually) where up to 5,000 products lines can be sold

Reason

In the interests of protecting the vitality of Rugeley town centre, Hednesford town centre and nearby town and local centres and to ensure compliance with Local Plan Policies CP11 and Paragraphs 86-91 of the National Planning Policy Framework.

31. No development shall commence until a waste audit has been submitted to and approved in writing by the Local Planning Authority. The waste audit shall set out the following details: -

- the anticipated nature and volumes of waste that the development will generate
- where appropriate, the steps to be taken to ensure the maximum amount of waste arising from development on previously developed land is incorporated within the new development
- the steps to be taken to ensure effective segregation of wastes at source including, as appropriate, the provision of waste sorting, storage, recovery and recycling facilities
- any other steps to be taken to manage the waste that cannot be incorporated within the new development or that arises once development is complete.

Thereafter, the development, shall be carried out in accordance with the approved Waste Audit.

Reason

In order to facilitate the use waste as a resource, minimise waste as far as possible and demonstrate the use of sustainable design and construction techniques, in accordance with Policy 1.2 of the Staffordshire and Stoke-on-Trent Joint Waste Local Plan.

32. The development hereby permitted shall not be commenced until a Delivery Servicing and Waste Management Plan (DSWMP) has been submitted to and approved in writing by the Local Planning Authority. The DSWMP shall detail the route to be taken by Heavy Goods Vehicles undertaking deliveries to the site. Thereafter, all heavy goods vehicles undertaking deliveries to the Aldi store on Power station Road shall adhere to the DSWMP unless otherwise approved in writing by the Local Planning Authority.

Reason

In the interest of protecting the integrity of Cannock Chase Special Area for Conservation in accordance with policies CP12 and CP13 of the Local Plan and paragraphs 174 and 180 of the NPPF.

4. CONSULTATIONS AND PUBLICITY

- 4.1 Subsequent to the Consent Order all consultees have been reconsulted. Where that has resulted indifferent consultation responses to those initially received the most recent response is provided. In those situations where the consultee has provided additional comments over and above those originally provided both the responses are shown. In those instances where the consultee has reiterated the same comments submitted in their initial or have indicated that their initial comments still stand that initial response is provided below.

External Consultations

- 4.2 AONB Unit – No objection

The AONB Unit has confirmed that it has no comments to make on this application.

- 4.3 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.

- 4.4 European sites – Cannock Chase Special Area of Conservation

Natural England notes that your authority, as competent authority under the provisions of the Habitats Regulations, has screened the proposal to check for the likelihood of significant effects.

Your assessment concludes that the proposal can be screened out from further stages of assessment because significant effects are unlikely to occur, either alone or in combination. On the basis of the information provided, Natural England concurs with this view.

- 4.5 Staffordshire County Council Planning and Minerals – No objection

We have records of three waste management operations within or immediately adjacent to the red line for the proposed development. Sites operated by Rick Strain & Sons Ltd. (our ref: 720 W), and B&J Skips (subsequently taken over by Coopers Recycling) (our ref: 731W), appear to lie within the current application site, and are both recorded as waste transfer stations. Another site also operated by Coopers Recycling Ltd., (our ref: 732 W), lies immediately to the north-west of the application site, and shares an access. In addition, an aggregate recycling facility (our ref: 725 W) lies within 40 m of the north eastern corner of the application site.

Policy 2.5 of the Staffordshire and Stoke-on-Trent Waste Local Plan (2010 to 2026) states that the Waste Planning Authority will not support proposals for non-waste related development on or in the vicinity of all permitted waste management facilities, as listed in the Schedule in Appendix 5: Staffordshire and Stoke-on-Trent Waste Infrastructure at 1 May 2012 (and updated in the Annual Monitoring Report (AMR)), which would:

- a) Unduly restrict or constrain the activities permitted or allocated to be carried out at any waste management facility; or
- b) Restrict the future expansion and environmental improvement of existing operational waste management facilities.

The Waste Planning Authority does not have records of recent activity at any of the first 3 sites. Planning applications were submitted in connection with sites refs: 731 Wand 732W, but both were invalid and not determined. Unauthorised waste has subsequently been removed from site ref: 732 W. Given the current planning application, it seems reasonable to assume that the waste companies have no interest in continuing to operate from these sites.

Site ref: 725 W is separated from the proposed development by both the Rugeley Bypass, and the West Coast Main Line which runs on an embankment, so the proposed development is unlikely restrict the operations of the waste site in any way.

The application site also falls within a Mineral Safeguarding Area (MSA) for Superficial Sand and Gravel, as defined in the Minerals Local Plan for Staffordshire (2015 -2030), though there are no permitted or allocated mineral sites in the vicinity. Paragraph 206, of the National Planning Policy Framework (NPPF) and Policy 3 of the Minerals Local Plan for Staffordshire (2015 -2030) aim to protect mineral resources from sterilisation by other forms of development, but this particular application would be exempt from the policy as it involves the redevelopment of a site and so would not cause any additional sterilisation of underlying mineral resources.

It is reasonable to conclude that the proposed development would not lead to the sterilisation of significant mineral resources or restrict the operation of important waste management facilities.

Therefore, In accordance with the powers contained in the 'Scheme of Delegation to Officers', this letter confirms that Staffordshire County Council, acting as the Mineral and Waste Planning Authority, has no objection to the planning application for demolition of existing buildings and the erection of a Class A1 Food Retail Store, with associated car parking and landscaping at Timber Yard, Power Station Road, Rugeley for the reasons described above.

4.6 County Highways – No objection subject to conditions

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

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.

4.7 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 m² from 750 m² (Market Street) to 1,315 m² (Power Station Road); and net increase in gross internal area of 706 m² from 1,097 m² (Market Street) to 1,803 m² (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.

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.

4.8 County Flood Risk Management (SUDS) – No objection subject to conditions

10.02.22 - We have reviewed the submitted information, including the Flood Risk Assessment and Drainage Strategy (Rev1, May 2020, Inspire Design and Development Ltd). Whilst we have not identified any specific problems with the general approach, we will require more detail for the proposals to fully demonstrate that the proposed development will meet the technical standards for SuDS.

We would therefore recommend that planning permission should not be granted until full details of the drainage strategy are provided. Specifically:

a) Detailed design

Paragraph 4.1.20 of the FRA report indicates that the drainage design provided in the report is initial/outline. We will need to see the final detailed design.

b) Causeway calculations

The Causeway calculations include a contributing area of 0.721ha, whereas section 2.5 of the report states that the building and hardstanding will create 0.8512ha of impermeable area. We would request clarification to reconcile the difference.

c) Water Quality

Please provide supporting information to demonstrate that sufficient water quality measures have been incorporated into the design. This should be in accordance with the CIRIA SuDS Manual Simple Index Approach (SIA) and SuDS treatment design criteria.

d) Management & Maintenance Plan

Please provide a management and maintenance plan for the surface water drainage system to ensure that it is maintained and managed for the lifetime of the development. This should include a schedule of required maintenance activities and frequencies, and the contact details

for the organisation responsible for carrying out these duties.

e) Exceedance plans

Plans illustrating flooded areas and flow paths in the event of exceedance or blockage of the drainage system. Site layout and levels should direct exceedance flows away from vulnerable areas.

f) 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.

4.9 Crime Prevention Officer – No objection

I have no objections to this application

I recommend that it is possible to secure this site against 'Car Cruising' problems or unwanted vehicle access by making it possible to secure the vehicle access point or through use of a height restriction barrier. It may be beneficial to provide these proposals with an adequate CCTV system with Number Plate Recognition. As a minimum these proposals should be protected by a Monitored Alarm system. A range of other comments are included in this consultee's main response.

4.10 Environment Agency – No objection Severn Trent Water Ltd – No objection subject to conditions

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.

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

- (i) 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
- (ii) 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.

4.11 Inland Waterways Association – No comments received

4.12 South Staffordshire Water Plc – No objections

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.

4.13 Network Rail – No objections subject to conditions

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 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.

4.14 Rugeley Town Council – No comments received

4.15 Trent & Mersey Canal Society – No comments received

Internal Consultations

4.16 Development Plans and Policy Unit – No objections

The proposal seeks to permit a new retail food store to be occupied by Aldi with a total gross new internal floorspace/net tradable area of 1,804 sqm a reduction of 185 sqm

(application form 22/5/2020 / 27.10.21) the Planning and Retail Statement states a gross external area of 1,881 sqm and a retail area of 1,315sqm (July 2021) the existing store is stated as being 750 sqm net (Alder King commenting on Turley report April 2022)

The application is accompanied by a planning and retail statement which contains a sequential test and proportionate impact test which includes the cumulative impacts arising from an additional proposal CH/20/306 for a Lidl store which have been updated. The application is also accompanied by a Unilateral Undertaking to ensure the existing store is not reoccupied by any other retailers (convenience or comparison).

Para 90 of the NPPF states that when assessing applications for retail and leisure development outside town centers, which are not in accordance with an up-to-date plan, local authorities should require an impact assessment if the development is over a proportionate, locally set threshold (if there is no locally set threshold, the default threshold is 2,500sqm 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 centers 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).

The need for the Planning and Retail Statement have been established through earlier considerations of the proposal.

Cannock Chase Local Plan 2014

The Cannock Chase Local plan (Part 1) was adopted in 2014 and is the development plan.

The Local Plan identifies the centres within the district and Rugeley is identified as a town centre. Policy CP11 directs main town centre uses to take a sequential approach and give priority to the regeneration of the town centre within the boundary identified and then edge of centre locations and is in accordance with the NPPF.

Policy CP11 seeks to deliver up to 10,000sqm (gross) comparison and 4,900sqm gross convenience retail floorspace by 2028. As part of this strategy work had commenced at the time of the plan on a Tesco store which the plan states as 4,000sqm net in 2012.

The Local Plan states that previous retail studies had shown that a third of the local population shopped in adjacent towns due to lack of choice in convenience shopping. These factors, together with a lack of investment over many years had led to a

deterioration in the attractiveness of the town centre. A Rugeley Town Centre Area Action plan had thus been prepared to address these issues and seeks to:

- c) Promote the development of Rugeley town centre for retail, commercial, leisure, tourism and transport purposes, focused on the redevelopment of a number of key sites.
- d) Assist in the determination of planning applications for new development proposals.
- e) Ensure that the Council's decisions best reflect the needs and aspirations of residents, shoppers, visitors, businesses and commercial interests in the town centres.
- f) Provide baseline information for the purposes of future monitoring.

A town centre boundary and a smaller primary shopping area boundary are defined within the adopted Local Plan.

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 (P14, ELAA 2021) sets out there is a surplus of employment land provision compared to Local Plan targets. The loss of employment land within the existing established employment area has previously been considered and no change in circumstance has arisen to alter the Council's position.

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.

Rugeley Area Action Plan

The plan is adopted and incorporates RTC1 Regeneration Strategy, RTC 2 Town Centre land uses relating to the Primary Shopping Area and redevelopment of smaller sites RTC4 - RTC8 and incorporates policies RTC 3, RTC9, RTC 10 and RTC 11 which consider the urban fabric, transport and flood alleviation.

Other relevant evidence

Authority Monitoring Report - the latest authority monitoring report was published in 2021 since the construction of the Tesco there has been no reported additional retail floorspace at Rugeley town centre, there has now been a flood alleviation scheme completed which impacted upon a number of the redevelopment sites identified within the Rugeley Town Centre Area Action Plan.

Town Centre vacancy check- the vacancy rate within the centre of Cannock, Hednesford and Rugeley is monitored quarterly. The vacancy rate in Rugeley in April 2021 was 5.6%, the rate is still relatively low. Cannock town centre vacancy rate has worsened in the time frame since the findings of the Retail and Town Centres study, however future investment through the Levelling Up Fund has been secured to assist in addressing this. The data is not directly comparable between the 2 studies. It is not considered that the investment from the Levelling up Fund to enhance the vitality and viability in Cannock town Centre will be negatively impacted by the proposals in Rugeley.

The Cannock Chase Retail and Town Centre Uses Study January 2021 was commissioned to act as the evidence base to assist in the formulation of future development plan policy to sustain and increase the vitality and viability of the town centres across the district as well as providing baseline information to assist in the determination of planning applications for potential retail and leisure development.

The Cannock Chase Retail and Town Centre Uses Study 2021 shows the importance of the convenience sector to the vitality and viability of Cannock Town Centre and how vulnerable it is with limited capacity for growth and a long-term reduction in convenience expenditure. It follows that relatively modest changes in retail could have a significant adverse impact upon the vitality and viability of the town centre and its ability to attract investment and deliver planned investment.

The Study recommends a threshold of 500sqm gross floorspace for retail in an edge or out of centre location should be the subject of an impact assessment due to the current health, performance, unit and floorspace composition, increasing composition from the internet, availability of units in the main shopping areas capable of meeting potential national multiple occupiers.

The Study has also recommended a reduction in the town centre boundary to concentrate retail development although the new use classes order Class E has impacted upon this.

The Study found that in relation to Rugeley, there was only a need for 200sqm of additional convenience floorspace and the future plan should seek to strengthen Rugeley's individuality and aim to attract a mix of additional land uses to the town centre.

Rugeley Health check assessment showed the vacancy rate was just below the national average at 11% and it was displaying reasonably good levels of vitality and viability.

Emerging Policy - Local Plan -Preferred Options

The Council is reviewing the adopted Local Plan and has completed a consultation upon a preferred option. At this moment in accordance with Para 48 of the NPPF little weight to the decision-making process can be afforded to the policies contained within this document. They are not therefore referred to within this response.

Conclusion

The need for the Planning and Retail Statement have been established through earlier considerations of the proposal.

The sequential test

Paragraph 87 and 88 of the NPPF requires the sequential test to be met. This is set out in the Planning and Retail statements prepared by Turley for the applicant. July 2021, the evidence was challenged by Martin Robeson Planning Practice and further consideration was commissioned from consultants on behalf of the Council and reported in April 2022. Consideration is given to the sites within the Rugeley Area Action Plan.

The reports prepared by Turley and considered by the Council's consultants Alder King taking into account the response from Martin Robeson Planning Practice found that there were no suitable sequential sites available for the broad type of development proposed in the Aldi and Lidl applications, even on a flexible basis. Thus, the sequential approach to site selection has been met for each application. (Para 51 SH/93609 Sequential Test 26.04.22)(Alder King). I have no evidence to disagree with this finding.

The impact tests

An impact assessment has been undertaken to assess if the proposal will have a significant adverse impact upon the considerations set out in para 90 of the NPPF.

Since the original submission the council has published the Town Centres and Retail Study 2021, a new ELAA and an Authority Monitoring Report. The data used to prepare this study has been utilized in the preparation of the considerable evidence and analysis which has been undertaken by professionals in their field both on behalf of the applicants, the applicants of application CH/20/306, the Council and on behalf of an objector - Tesco (Martin Robeson Planning Practice) .

Alder King Planning consultants are the consultants acting on behalf of the Council. Their advice of December 2021 which deals with the second part of the impact test relating to the vitality and viability on the town centre. However, it does consider the advice given with regard to the first part of the impact test given in October 2021.

The December advice from Alder King Planning Consultants considers the impacts of just the Aldi proposal upon Rugeley Town Centre, including Morrisons and Iceland, Tesco's Rugeley which is an edge of centre store and the proposed impacts on the existing Aldi in Rugeley. Hednesford and Cannock Town Centres. It then considers the cumulative impact of the Aldi Proposal (CH/20/218) and the Lidl proposal at (CH/20/306).

Para 4.22 states 'the retail policy tests are met in the current case in respect of both applications individually and when considered together. This conclusion is predicated on the basis that the proposed stores trade in line with the form of development tested through the impact assessments prepared by Turley and WP to be secured by condition through any grant of planning permissions, plus the closure for retail purposes of the existing Aldi store secured by legal agreement.

The conclusion of this further advice should be read in association with the October advice in respect of the first part of the impact test. Taken together, it can be concluded that the impact test has been met for each application proposal individually and when considered cumulative.

In April 2022 further retail planning policy advice was prepared by the Council's consultants Alder King (26.04.22) This followed representations made on behalf of Tesco (Martin Robeson Planning Practice) and evidence being provided by consultants acting on behalf of Lidl and Aldi (namely WP and Turleys) The advice found that the representations made by Martin Robeson Planning Practice did not change the conclusions previously provided to the Council on satisfaction of the impact tests. The conclusion is that no significant adverse impact will arise because of the Aldi application and the Lidl application on existing, committed or planned in-centre investment, either alone or in combination. And that the cumulative effects of both the replacement Aldi store and new Lidl store will give rise to impact on Rugeley Town Centre (or other centre), which is higher than that it would experience if only one of the proposals proceeded, but this cumulative impact is unlikely to give rise to concerns in terms of significant adverse impact.(Para 62 SH/93609 Sequential approach 26.04.22)(Alder King) I have no evidence to disagree with this finding.

A number of conditions have been proposed by the consultants. I have no evidence which would give contrary advice to that given.

No comments are offered regarding the design of the proposals, the linkages and proposed signage or the conditions proposed these matters are left to our colleagues.

4.17 Environmental Health – No objection subject to conditions

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.

4.18 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:-

- a) With regard to the amended site plan:-
 - (i) 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.

- (ii) The new pedestrian access point onto Power Station Road is welcomed.
- b) The soft landscape plan needs to be updated to match the revised site layout and outstanding points noted below.

4.19 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 existing 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

4.20 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.

4.21 Waste and Engineering Services

No comments received

4.22 Environmental Services

No comments received.

4.23 Economic Development

No objection

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.

5. **RESPONSE TO PUBLICITY**

The application was advertised by neighbour letter and site notice and newspaper advertisement. Letters of representation have been received from Morrisons and

Tesco.. One other letter outlines an error with the site boundary which has subsequently been resolved.

Representations from Morrisons

“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 in 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 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.

5.1 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.

5.2 The Sequential Test

5.3 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 Men’s 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.

5.4 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 health check 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.

5.5 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.

5.6 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:

- a) Transport Assessment: June 2020;
- b) Technical Note 002 – Response to Stafford County Council Transport Comments (Transport Assessment): 18th September 2020;
- c) Technical Note 003 – Response to Stafford County Council Transport Comments (Travel Plan): 18th September 2020;
- d) 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:

- a) Public Transport Accessibility;
- b) Assessment of Existing Aldi Food Store Site;
- c) Traffic Impact Assessment.

5.7 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 site’s 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.

5.8 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 been 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):

- a) CCL Junction ref: (4) Power Station Road / Station Road – Mini Roundabout (+79 Weekday PM, +118 Saturday);
- b) CCL Junction ref: (5) Power Station Road / Station Road / Cotton Road / A51 Roundabout Junction – Roundabout Junction (+31 Saturday).
- c) 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.

5.9 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.

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 relocation of the Aldi store to a new, out-of-centre site.

5.10 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 pedestrianized [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.

5.11 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.

5.12 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.

5.13 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.

Further letter of Representation dated 12 January 2021

"We refer to the above planning application currently being determined under ref: CH/20/306 for a proposed new Lidl store in advance of tomorrow afternoon's planning committee meeting.

We act on behalf of our client, Wm Morrison Supermarkets plc (Morrison's), to uphold the strong objections set out in our letter dated 17 December 2020.

As you are aware, we have also objected to the Aldi proposal and have said how important it is that both the Lidl and Aldi applications are considered at the same committee meeting but it is disappointing that the cumulative impact both proposals will have on the town centre is not understood at this time.

The cumulative impact of both proposals has been raised in our previous letters of objection and despite planning policy offers requiring a 'policy justification for the quantum of floorspace proposed'; such justification has not been forthcoming. We note that advice has been taken on this matter from Santec but we disagree with their conclusion. The NPPF seeks to ensure the vitality of town centres and given the uncertain times and economic struggles retailers and town centres are currently facing, 4,160 sq. M of new out of centre floorspace could have a significantly adverse impact. If a retail assessment was provided; a more informed decision could be made.

It is worth remembering that the policy threshold set nationally by the NPPF is 2,500 sq. M if a local planning authority does not have their own locally set threshold.

The Rugeley Town Centre Area Action Plan encourages investment and regeneration within and on parts of the periphery of the town centre. Land at Wellington Drive (ref: RTC.7) is a town centre site that is seeking a medium sized food store. The applicants [sic] have dismissed this site as not being suitable or 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.

Finally, if Members are minded to approve the application, we respectfully request that the planning conditions are reconsidered. There are no conditions restricting and controlling the quantum of floorspace, the hours of trading, or the hours and number of deliveries to the store.

We maintain that the justification put forward for the application is weak and that the applicants should seek to address the concerns highlighted, so that a more informed decision can be made – fully understanding the impacts of the proposal and the quantum of new retail floorspace that would come forward. In its present form the application fails to satisfy the sequential and impact tests, and accordingly planning permission should be refused in accordance with Para. 90 of the NPPF.

We should be grateful if you would acknowledge receipt of this letter and forward it on to Committee Members and / or report it in full in tomorrow's meeting."

5.14 Representations from Tesco

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 49,000ft² 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, i.e., CP1 and CP11.

5.15 Assessment of Retail Effects

5.16 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:

- a) The existing viability and vitality of town centres
- b) Cumulative effects of recent developments
- c) Whether local town centres are vulnerable
- d) Likely effects of development on any town centre strategy
- e) 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 1000m² gross rather than the default 2,500m² 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 4,160m². 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.

5.17 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.

5.18 Conclusions

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

- (i) 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.

- (ii) 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.
- (iii) 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.
- (iv) 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:
 - a) causes prejudice the health of the town centre because of its failure to be a future contributor to town centre investment and,
 - b) fails the sequential test,

5.19 Further letter of representation from Tesco

"The Council's advisor deals with a number of matters that I, on my behalf of my client Tesco Stores Ltd, do not think are central to decision-making here. That we have not addressed every single point raised should not be taken as applying agreement to any of them.

It is important to note that the adviser does not provide the Council with an assessment of the health of the town centre, the likely significance of the impact of either, or both, of the proposals together on the vitality and viability of the town centre, the impact on the continuing regenerative initiatives set out in the Action Area Plan or undertake a sequential test assessment. The advice given primarily relates to an attempt at interpretation of part of paragraph 89 on the NPPF.

Significantly, the advisor confirms that "the NPPF does not address situations where there are multiple simultaneous proposals which, collectively, have more than 2500m² of gross floorspace". That is critical to the determinations to be made by the Local Planning Authority

But the advisor having stated that the NPPF does not "*address situations where there are multiple simultaneous proposals*" then either misinterprets his own statement or promotes a different (erroneous) meaning asserting that there is "*no requirement in the NPPF to require an impact assessment in those situations*". To advise that policy does "*not address*" a matter is quite clearly different from an assertion that it provides "*no requirement*". There is a real risk, therefore, that decision makers could be misled by the advice given.

Notwithstanding this, the Council's advisor does not assist the local planning authority to consider whether, in their decision-making, it should exercise discretion and require a full Retail Impact Assessment since there is nothing in the Development Plan or National Policy that presents such an appropriate and effective mechanism to assist decision-making in the current situation.

Finally, it is fundamentally incorrect for the adviser to assert that there is no *“retail impact policies that could be used to resist the proposed applications”*. The NPPF makes it very clear that when there are no relevant Development Plan policies, or the policies which are most important to determining the application are out-of-date, planning permission cannot be granted if *“any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF...”* (see its paragraph 11). As a result, paragraph 90 of the NPPF kicks in requiring that, *“Where an application... is likely to have significant adverse impact on one or more of the considerations in paragraph 89 i.e.:*

“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 in town centre vitality and viability, including local consumer choice and trade in the town centre and the wider retail catchment...” “It should be refused”.

The dilemma for the decision-maker here, is therefore, that without full Retail Impact Assessments the Council is at risk of being unable to come to adequate and informed decisions.”

5.20 Further letter of Representation dated 11th January 2021

“Having now read the officer's Report to Planning Committee, I have instructions on behalf of my client, Tesco Stores Ltd, to provide additional explanation to an aspect of our objection. This arises from the officer's misinterpretation of paragraph 89 of the NPPF as set out in the Report.

As you are aware 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 2,500 sqm 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)".

The combination of the two proposals (Aldi and Lidl) before Planning Committee total 3,460 sqm gross. Thus, ordinarily, any out of centre retail development of this scale in a location where both will have an effect on the same town centre i.e., Rugeley, would be subject to the need for impact assessment. However, The Report at paragraph at 4.2.16 explains that:

"... as the scale of the proposed development falls below the threshold of the requirement to submit a retail impact assessment of 2,500sqm 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 2,500sqm".

The Council has taken advice from Stantec on this matter. That advice sets out the wording of paragraph 89. The advice then explains that the individual floorspace of each store falls below the 2,500 sqm threshold. It then continues by stating "*The NPPF does not address situations where there are multiple simultaneous proposals which, collectively, have more than 2,500 sqm of gross floorspace*".

Subsequently, the advice explains that "Whilst the two proposed food stores have an aggregate gross floorspace that is above the 2,500 sqm 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". There is, of course, a difference between the NPPF 'not addressing' or being silent, to a finding that the NPPF provides 'no requirement' in the sense that there is clarity that such assessment should not be undertaken. Indeed, Stantec's advice is that the NPPF "applies to individual proposals" because it "does not address situations where there are multiple simultaneous proposals which, collectively, have more than 2,500 sqm of gross floorspace".

This is a fundamental matter which, with the availability of an impact assessment might well be shown to "*have significant adverse impact on one or more of the considerations in paragraph 89, (such that) it should be refused*" (see paragraph 90 of the NPPF). It is, therefore, a matter that is "*determinative of the outcome*" (see for instance at paragraph 25 of the Suffolk Costal judgment referred below).

As you may be aware principles relating to the interpretation of planning policy have been the subject of clarification in recent judgments, notably in *Tesco v Dundee* and *Suffolk Costal v Hopkins Homes Ltd*. In the latter (more recent) judgment it was confirmed that "*... policies in the Framework should be approached in the same way as those in a development plan*" (paragraph 23).

As Lord Carnwath made clear in *Suffolk Coastal*, it is important to distinguish, "...between issues of interpretation of policy, appropriate for judicial analysis and issues of judgment in the application of that policy; and not to elide the two" (paragraph 26). More recently Lindblom LJ confirmed in *Samuel Smith Old Brewery v North Yorkshire* that none of "... those familiar principles detract from the need for the Court to intervene where a planning decision has been made by a local planning authority on the basis of a misunderstanding and misapplication of national planning policy".

Notwithstanding the justification thus set out above for requiring the applicant to submit an appropriate retail assessment that addresses the risk of cumulative impacts from the grant of 3,460 sqm gross floorspace, the officer's Reports on both applications demonstrate that there is now a more realistic prospect of this occurring bearing in mind both the Lidl and Aldi applications are currently recommended for approval. It is therefore a matter that is fundamentally determinative to decision making.

On behalf of our client we must therefore urge that the local planning authority require an assessment of cumulative retail impact be undertaken in order to support this application or that it be refused due to the lack of this information."

5.21 Further Letter of Representation dated 17 February 2022

On behalf of our client Tesco Stores Limited we submit further representations of objection to the above planning application. Tesco opened a town centre store in Rugeley in 2013 and as such have historically invested in the town and continue to invest today. Their store plays an important role in supporting the vitality and viability of the wider town centre.

Through opening this facility and providing a series of contributions towards town centre regeneration initiatives, Tesco also continue to support the delivery of the Rugeley Town Centre Area Action Plan.

We previously made objections to the application on 9th December 2020 and 12th January 2021 which are appended to this letter and remain valid. This representation updates our previous comments upon considering the content of the applicant's July 2021 Planning Statement Addendum and advice provided by the Council's retail assessor, Alder King. We comment on the matters arising, as follows:

The need to have regard to worst-case cumulative retail impacts

Our previous objections raised the need for cumulative assessment of both proposals together bearing in mind the exceedance over the NPPF threshold. The Council consented to judgement on this matter. The respective applicants' consultants have now provided their individual assessments of cumulative impact. Unfortunately, they do not provide a consensus as to what this impact would be on the town centre. Surprisingly

that cumulative impact on town centre convenience goods trade ranges from -11.8% (on behalf of Aldi) to -6.7% (on behalf of Lidl). It appears that the Council's consultant has suggested that the level of impact on the town centre will be around the "mid-point" of those assessments (see paragraph 4.10 of their latest December 2021 advice). However in exercising its judgement, the local planning authority ought to have regard to the worst case likelihood of cumulative impact on the town centre i.e. -11.8%. Bearing in mind the town centre is only displaying "reasonably good levels of vitality and viability" (as reported in the Council's 2021 Retail Study) and that Aldi's updated health check has more recently observed a worsening town centre vacancy rate, this level of trade diversion is likely representative of a 'significant adverse impact' which is the level at which planning permission should be refused.

Inappropriate rejection of a sequentially preferable town centre opportunity Paragraph 87 of the 2021 NPPF requires that "...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" (our emphasis). Whilst the term 'reasonable period' is not explicitly defined in the Framework, the NPPG offers useful guidance that "When considering what a reasonable period is for this purpose, the scale and complexity of the proposed scheme and of potentially suitable town or edge of centre sites should be taken into account" (our emphasis).

However, in the above Framework context the applicant fails to appropriately assess whether alternative sites, could, with appropriate intervention, be 'expected to become available within a reasonable period'. In particular, we maintain that Site RTC7 in the Rugeley Town Centre Area Action Plan: ('Land at Wellington Drive') has not been robustly assessed for such 'availability'. The site is inappropriately dismissed by Aldi's agent (Turleys) as 'unavailable' on the basis that "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" (paragraph 7.44). The site, however, is already of a suitable size to accommodate the broad type of development proposed, thus there would be no obvious need to acquire additional land beyond the allocated site boundary (despite the agents attempts to assert this through providing an inappropriate overlay of the exact same size and configuration of store as that proposed superimposed onto the site's area). Furthermore, the Inspector's Report to the Plan's examination (paragraph 94) notes the scope for effective land assembly through the "possible use of CPO powers for specific sites, if necessary" that is "confirmed" in the RTCAAP policies. The RTCAAP recognises this in connection with the RTC7 site and when stated within a statutory development plan this provides a clear message of the site's likely availability. Turleys' assertion of the alleged "vanishingly small" prospects of CPO are without justification or evidential basis. In any event, it is necessary to consider sites that are expected to become available within a 'reasonable period' in order to achieve the development of sustainable town centre sites to place them at the 'heart of local communities' (see NPPF chapter 2). Moreover, the RTC7 site is allocated in the RTCAAP for retail use. In particular, its suitability to provide

for an “additional town centre foodstore” had been noted by officers in their responses to the Rugeley TCAAP Preferred Options

5.22 Consultation

Failure to consider edge of centre and well connected and accessible out of centre potential opportunities . Despite the applicant’s agent’s best attempts to assert otherwise, the application site for the proposed Aldi foodstore occupies an out of centre location. The site’s out of centre policy status is noted by the Council’s retail advisor and by Lidl’s agent in respect of their out of centre proposal at Power Station Road (see paragraphs 1.8 and 1.9 of Alder King’s October 2021 advice). This has implications for sequential testing since Turleys’ (incorrect) assertion that the proposal is edge of centre, leads them to have only considered in-centre opportunities to accommodate their proposal (see paragraph 7.1 of their July 2021 Statement). However in line with the sequential approach, other edge and out of centre of centre opportunities need to be reviewed for their ‘suitability’ and ‘availability’.

Notwithstanding that, even if town centre or edge of centre sites are considered ‘unsuitable’ or ‘unavailable’, the NPPF requires that preference will then be given to out of centre sites that are ‘accessible’ and ‘well connected’ to the town centre (paragraph 88). Not all out of centre sites are equal and decision-makers are entitled to consider the question of ‘sequential superiority’ on the basis that an alternative site is considered to be a ‘potential opportunity’ (this approach taken by an Inspector was endorsed in the leading case of *Telford and Wrekin v SOS* [2014] EWCA1).

Failure to consider the Lidl site as an out of centre opportunity The site at Power Station Road subject to an application by Lidl is a ‘potential opportunity’ to accommodate the type of development proposed, and yet has not been considered in the sequential assessment undertaken on behalf of Aldi. If, it is considered that the Lidl site is ‘sequentially superior’, then it is a requirement of the sequential test that the Aldi and Lidl sites must come forward in the sequentially preferred order. Indeed, this temporal sequence to the sequential approach is fundamental to the delivery of the Town Centre First principle that underpins policy CP11 of the Local Plan. That the site at Power Station Road is subject to an application by another retailer is demonstrative of its ‘availability’ for retailing. That the site may only be available to Lidl is not relevant as decided case law confirms that ‘available’ does not mean available to a particular retailer². Indeed, that the site is subject to an application for discount retailing of a similar size, type and range of goods as that sought by Aldi confirms its ‘suitability’ for the ‘broad type of development proposed’.

5.23 The need for an independent review of the sequential assessment

We maintain our concerns that sites have not been robustly assessed and that reasons for rejecting sites do not appear valid. We are therefore surprised to see that the retail advice provided on the Council’s behalf by Alder King is confined solely to the matter of retail impact. Demonstrating compliance with the sequential test, the other significant

plank of national and local planning policy on town centres, is undoubtedly critical to the determination of both applications. The sequential assessments undertaken by Lidl and Aldi ought to therefore be independently reviewed.

5.24 Failure to consider all relevant Strategic Town Centre policies

We maintain our position in previous representations that the application proposal is likely to conflict with policies CP11, RTC1 and RTC2. These policies are of central importance to both the Lidl and Aldi proposals. In respect of policy RTC2, whilst it is asserted by Aldi's agent that the AAP policies do not "...seek to prevent retail development from being permitted within either Rugeley town centre outside the PCA, or outside the town centre, in 1 Sullivan LJ confirmed in *Telford and Wrekin & Another v SOS* [2014] EWCA Civ 507 in that "...the Inspector) was entitled to consider the question of sequential superiority on the basis that Station Road was a potential opportunity.

Only if she had come to the conclusion that this potential opportunity was sequentially superior would she have had to reach firm conclusions as to the extent to which that potential was a reality in terms of the availability and suitability of Station Road". 2 The reasoning for this was explained in the judgment of *Aldergate Properties v Mansfield D.C* [2016]: "[...] A town centre site may be owned by a retailer already, to use itself for retailing, who is not going to make it available to another retailer. It is plainly available for retailing, though only to one retailer. That does not mean that another retailer can thus satisfy the sequential test and so go straight to sites outside the town centre. "Available" cannot mean available to a particular retailer but must mean available for the type of retail use for which permission is sought". principle" (paragraph 4.31) and that therefore the "policy is not engaged" (paragraph 8.75),

it is still pertinent to demonstrate that the proposal could come forward without undermining the RTC2 objectives. The thrust of the policy seeks to protect the vitality and viability of the town centre and the PSA specifically. Whilst the policy does not set specific criteria for out of centre proposals to accommodate main town centre uses, it is nonetheless relevant, as an important consideration, to consider (with appropriate supporting evidence) the effect of two out of centre proposals coming forward on the policy's objectives.

Failure to appropriately consider impacts on existing investment and the likely significant adverse effects arising from the proposal

Notwithstanding the primacy of the development plan, the NPPF is also material to the determination of the application. Paragraph 90 of the Framework requires that in undertaking a retail impact assessment, "this should include an 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" (our emphasis).

As noted in our previous representations, Tesco invested heavily in the town centre through regenerating a key town centre site identified in the RTCAAP and in providing a series of contributions towards town centre infrastructure enhancements, including upgrades to the Trent and Mersey canal environment. The RTCAAP specifically describes “the canal corridor acting as a catalyst to link with the new Tesco superstore at Leathermill Lane”. This is essential to deliver on the objectives of the AAP by opening a pedestrian throughfare, generating higher levels of footfall between the Tesco regeneration site and the wider town centre. The effects of Tesco’s investment in these respects are still ongoing.

However, the applicant’s agent, whilst having considered (albeit superficially) impacts on planned investment of other identified sites in the RTCAAP, has failed to consider, in the appropriate policy context, impacts of their proposal on existing investment in which Tesco has played a major part in delivering. We are also concerned that this has been overlooked by the Council’s retail advisor, Alder King. Any risk of undermining a town centre strategy in a statutory development plan must not be taken lightly.

This out of centre proposal undoubtedly runs counter to the RTCAAP objectives, not least because the Aldi proposal involves the closure of an edge of centre store. The RTCAAP in this respect specifically seeks to “promote edge of centre retail development balanced by a strengthened core town centre” (see the reasoned justification for the RTCAAP at paragraph 4.1 of the development plan). Moreover, the effect of two out of centre retail proposals using up available market spend is likely to reduce rather than enhance prospects of other regeneration sites in the RTCAAP coming forward, leading to associated losses in investor confidence and thereby deterring future planned investment.

Whilst Turleys’ July 2021 Statement considers effects on existing investment, their analysis (see paragraphs 8.71 to 8.73) has not been carried out in the appropriate development plan policy context. The agent asserts that effects of the existing investment in respect of Tesco’s contributions towards the RTCAAP objectives had “already been addressed in detail in the above retail impact assessment”. However, impacts on town centre vitality and viability and on town centre investment are separate considerations, as set out in paragraphs 90 a) and 90 b) of the NPPF, respectively. Given that the existing town centre investment in Rugeley has policy status in the development plan, it is appropriate to assess impacts on investment first and foremost in this policy context, and whether the effect of two out of centre proposals coming forward would undermine those improvements. Turleys’ attempts to downplay the existing investment on the basis that the “improvements, associated with the Tesco store development, have been delivered” (paragraph 8.71) fails to properly assess matters. That the investment has been ‘delivered’ is quite literally what ‘existing’ investment means. It is real and impacts on it can therefore have identifiable effects.

- 5.25 Lack of clarity of, and the need to disclose Heads of Terms relating to, the planned closure of Aldi’s existing premises

The applicant is proposing to “cease trading” from their existing edge of centre store on Market Street (paragraph 5.16 of the July 2021 Planning and Retail Statement) following the grant of consent for the out of centre application proposal. The future of Aldi’s existing store, and how it is controlled, is of significant importance to the consideration of this application, as accepted by the applicant.

Whether there will be a mechanism to regulate the situation, what it might be, and how it will operate, are matters about which there must be clarity now. Whilst the applicant’s agent’s (Turleys’) Statement proposes an approach via a planning obligation to regulating the future use of Aldi’s existing store, we are not aware of any draft Heads of Terms for any mechanism having been made available in the public domain. Only once they have been made publicly available can interested parties take relevant considerations into account in their representations, officer’s in their advice and any recommendation, and members in their decision making.

It should be stressed that different mechanisms could lead to very different controls on the future of Aldi’s Market Street store. Whilst a planning obligation may be able to regulate the activities on the land being developed or restrict the use, the wording of any such obligation is key to understanding the ‘strength’ of any such restriction. For example, a ‘soft’ planning obligation that only requires a temporary period of marketing may not provide a permanent restriction against continued retail use. A ‘revocation’, or ‘modification’, on the other hand, is a more certain mechanism that goes to the heart of the matter. It is that approach that the Council is asked to adopt, i.e. to remove the lawful use of the existing premises.

5.26 The resulting unevidenced approach to retail impact assessment

The applicant’s impact assessment assumes that the operator’s existing store will cease trading, and that therefore it is only the floorspace ‘uplift’ that needs to be assessed³. That approach has largely been justified by Turleys’ on the basis of their erroneous contention that Aldi’s existing store has an edge of centre policy status.

Notwithstanding that, were the local authority to accept the applicant’s approach to retail impact assessment in this regard, it would be necessary that the Heads of Terms offered provide the permanent restriction against continued food retail use. Since what is proposed is a wholly new out of centre store, with (at present) no clarity of a restriction against continued retail use, it would seem necessary for the impact assessment to be carried out on the basis that both (edge and out of centre) stores will continue to trade at 3 Paragraph 8.34 of the applicant’s July 2021 Planning Statement Addendum states, “The trade draw model assumes that the existing Aldi store at Market Street (£10.98 million at 2024) will be absorbed into the turnover of the replacement store at Power Station Road...” and that “The impact modelling therefore measures the net increase in the turnover of the replacement store above that of the existing store...” their full potential (and in this regard, the identity of the specific retailer is not a material consideration).

However, even if there is clarity on a restriction against continued retail use, the approach to only assessing the floorspace 'uplift' would not seem appropriate in the context that the existing store is edge of centre whereas the proposed is out of centre. The loss and uplift should therefore be taken into account, since both have effects on the town centre.

Turleys' assertion that both edge and out of centre stores are equally as well connected to the town centre and that therefore effects on the town centre would be merely de minimis, is entirely unevidenced, and is premised on their flawed contention that the application site is edge of centre. It would seem necessary, at the very least, to provide sensitivity testing that accounts for both the loss and uplift in floorspace to ensure a robust approach is taken and so that all likely impacts are accounted for.

Thereafter, in making a complete assessment of the likely impacts, the Council should seek independent retail planning advice in order to ensure that matters are thoroughly reviewed.

5.27 Conclusions

There is no consensus between Lidl's and Aldi's agents as to what the cumulative impact of their proposals would be on the town centre. The approach of the Council's retail advisor to apparently select the "mid-point" of this range is not robust. In exercising its judgement, the local planning authority should have regard to the worst case likelihood of cumulative impact on the town centre.

A town centre site at Wellington Drive has not been robustly assessed for its 'availability'. The possible use of CPO powers in site assembly cannot be relied upon as a reasonable basis to reject the site in sequential testing.

The applicant has failed to consider the site at Power Station Road subject to an application for a similar foodstore development as a potential opportunity to accommodate the broad type of development proposed. It would be reasonable, and indeed appropriate, for the Council to consider which of the Aldi or Lidl sites is 'sequentially superior'. Policy CP11 also requires sites to come forward in a temporal sequence i.e. in the sequentially preferred order.

Paragraph 90 of the NPPF requires an assessment of the impact of the proposal on existing town centre investment. The applicant has not appropriately considered the impacts of their proposal on existing investment in which Tesco has played a major part in delivering to help realise the objectives of the Town Centre Area Action Plan.

There is conflicting information in the applicant's Planning and Retail Statement as to the suggested approach of regulating the future use of Aldi's existing premises. Draft Heads of Terms do not exist in the public domain and should be made available at the earliest opportunity. There is no certainty of a continued restriction against food retailing use.

Consequent to the lack of clarity on the above, it is wholly appropriate that trading impacts are assessed on the basis that both out of centre stores are trading at their full potential.

Even if that clarity can be provided, the applicant's approach of only assessing the 'uplift' in floorspace is not appropriate or reasonable in the circumstances that the proposed store is out of centre, whereas the existing store is edge of centre. It should not be assumed, without supporting evidence, that there would be no further effects on the town centre from this loss and uplift in floorspace.

For reasons set out above and in our earlier representations, planning permission should be refused.

5.28 Further letter of Representation dated 28/03/2022

As you are aware we act on behalf of Tesco Stores Limited with regard to representations made to the above planning applications.

It has been brought to my attention that a local planning authority last year Consented to Judgment in respect of a consideration which appears to be fairly central to one of the issues being considered here, including by your retail planning advisors.

I attach a copy of the Consent Order signed on behalf of the local planning authority and Aldi which confirms that:

"The Defendant wrongly interpreted the NPPF to mean that the impact on the primary shopping area of the town centre was all that needed to be assessed. In fact paragraph 89 [now 90 of the 2021 NPPF] required the impact on the town centre as a whole to be assessed"

The Consent Order relied upon the Statement of Facts and Grounds for Review (also attached). This explained that:

"The reference to "town centre vitality and viability" is not constrained to the PSA. "Town centre" is defined in the glossary to the NPPF as the "Area defined on the local authority's policies map, including the primary shopping area and areas predominantly occupied by main town centre uses within or adjacent to the primary shopping area." Straightforwardly, therefore, the impact to be considered is the impact on the town centre, not just the PSA. It is trite law that the planning authority must proceed on a proper interpretation of the relevant policies of the NPPF." (the author's emphasis).

Our client's supermarket falls within the "Area defined on the local authority's policies map" i.e., the Adopted 2014 Local Plan Policies Map.

On behalf of our client we would ask that the Council and those advising it review any implications arising from the above, in particular the importance of relying upon the extent of the town centre as currently defined on the local authority's adopted policies map in making judgements and decisions with regard to retail impact matters.

5.29 Further letter of Representation dated 5th May 2022

As you are aware we have made representations of objection to the above planning application on behalf of our client, Tesco Stores Ltd. We have now seen the Retail Planning Policy Advice issued by the Council's consultants, Alder King, that appears to be dated 26th April 2022.

We make the following representations with regard to reliance on this advice.

At paragraphs 18 and 24 of the advice, Alder King explain that it, "... Is not helpful", that both Aldi's and Lidl's agents fail to explain what '...available within a reasonable time period... might entail, for their respective developments'. This is a critical issue in the operation of the sequential test. It requires of locationally preferable, suitable sites, an examination of whether they are "...expected to become available within a reasonable period..." (paragraph 87 of the NPPF).

In the absence of this important information, Alder King have, in respect of both applications, sought to identify a proxy that might be helpful. They have suggested that in the consideration of impact on the town centre that a design year was adopted in 2021, of 2022. Thus they identify "... a reasonable time period might be deduced as up to 12 months..." (see at paragraphs 19 and 25).

Adopting such a proxy is wholly inappropriate. Borrowing a standard convention for the assessment of retail impact fails to have regard to the particular circumstances of different sequentially preferable sites and the timescales over which they could be expected to become available having regard to the specific circumstances applying to each of them.

The sequentially preferable opportunities that have been identified all sit within the town centre and most have been allocated within the adopted Town Centre Action Area Plan.

Many have constraints that would cause delay to immediate or early delivery. This is not unusual in such circumstances. Indeed, the NPPG cautions that, "When considering what a reasonable period is for this purpose, the scale and complexity of the proposed scheme and of potentially suitable town or edge of centre sites should be taken into account".

Relevant information can be obtained on appropriate time frames for discounter store development in town centre locations through the consideration of planning appeal decisions. An appeal concerning Lidl's consideration of a town centre site in Altrincham reveals that for a regeneration scheme, a period of between three and four years was

seen as appropriate. The Inspector found that, “In my view, this presents a reasonable timeframe, and the suggested timeline for development by Lidl in terms of the application, development and delivery process would also all appear to be reasonable. Whilst I fully acknowledge that the delivery of the Altair site has not been forthcoming, there is no evidence before me to suggest that the 3 to 4 year period envisaged by the appellant could not reasonably be achieved. As such, I am of the view that the Altair site would present a sequentially preferable site which is available within a reasonable timeframe” (paragraph 10 of planning appeal decision APP/Q4245/W/21/3267048, 1st March 2022).

The application of a more realistic timeline for the development of sequentially preferable opportunities within Rugeley town centre would address availability issues including in respect of site RTC7: Land at Wellington Drive. This opportunity has not been ruled out on grounds of “suitability”. It is only discounted on grounds of not being available within the deduced (see above) 12–14 months bearing in mind the possible, but not certain, requirement to engage a CPO process following a planning permission being in place.

Such a route is supported by a favourable local plan allocation and should not be seen as unusual in respect of town centre redevelopment.

In addition, the consideration of sequential opportunities, including site RTC7, has been on the basis that “the site is not being marketed...” (e.g. at paragraph 44). A lack of marketing is not sufficient to judge “availability”. The applicant has dismissed the need to make enquiries with the relevant landowners. Effective testing of the market is an implicit part of the sequential test not least because retail development values can unlock opportunities.

In this regard, the Council’s attention is drawn to the recent general finding by an Inspector that, “The question of whether the site is being actively marketed seems to me to be a peripheral matter. Active marketing is not a prerequisite for a site being available through other channels. Lack of current marketing may indicate no hurry to dispose of the land, but not unwillingness” (Paragraph 14 of planning appeal decision APP/W3005/W/18/3204132 and 20/3265806, 13 April 2021).

For these reasons, the sequential test is failed and planning permission for the proposal should be refused (paragraph 91 of the NPPF).

6. RELEVANT PLANNING HISTORY

CH/17/174:	Change of use of land for retail sales of timber outbuildings 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.

7. SITE AND SURROUNDINGS

- 7.1 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.
- 7.2 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.
- 7.3 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.
- 7.4 The site lies within a Mineral SafeGuarding Area, a Local Plan Highway Scheme, Coal Authority Low Risk Boundary, Environment Agency Flood Zone 2 Boundary, Env Agency Historic Landfill Boundary, Site Investigation Boundary and a Landmark Contaminated Land Boundary.

8. PROPOSAL

- 8.1 The Applicant is seeking consent for the demolition of existing buildings at the site of a Timber Yard and the erection of a Class E Food Retail Store, with associated access, car parking, servicing and landscaping. The application proposes the closure of the existing Aldi within Rugeley with this to be secured by legal agreement, so the application effectively delivers a relocated and enlarged Aldi store in Rugeley.
- 8.2 The applicant's Planning Statement sets out that "This planning application proposes the development of a Use Class A1 food store, comprising a Gross External Area of 1,881sqm, with a retail area of 1,315sqm".
- 8.3 The proposed Aldi would be larger than the existing Aldi on Market Street with a net increase in tradeable floor area of 565 m² from 750 m² (Market Street) to 1,315 m² (Power Station Road); and net increase in gross internal area of 706 m² from 1,097 m² (Market Street) to 1,803 m² (Power Station Road).
- 8.4 The Planning Statement goes on to explain that:
- the proposed food store 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 food store. 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.

9. PLANNING POLICY

- 9.1 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.
- 9.2 The Development Plan currently comprises the Cannock Chase Local Plan (2014) and the Minerals Local Plan for Staffordshire (2015-2030).
- 9.3 Relevant Policies within the Local Plan Include: -
- CP1: - Strategy
 - CP3: - Chase Shaping-Design
 - CP8: - Employment Land
 - CP10: - Sustainable Transport
 - CP11: - Centres Hierarchy
 - CP12: - Biodiversity and Geodiversity
 - CP13: - Cannock Chase SAC
 - CP14: - Landscape Character and Cannock Chase Area of Outstanding Natural Beauty
 - CP16: - Sustainable Resource Use

Section 2: Rugeley Town Centre Area Action Plan

- RTC1: - Regeneration Strategy
- RTC2: - Town Centre Land Uses
- RTC4: - Aelfgar Centre/ Former Squash Courts, Taylors Lane

- RTC5: - Market Street Garages
 RTC6: - Rugeley Market Hall, Bus Station and Surrounding Area
 RTC7: - Land at Wellington Drive
 RTC8: - Leathermill Lane / Trent and Mersey Canal Corridor

9.4 The relevant policies within the Minerals Plan are: -

- (i) Mineral Safeguarding

National Planning Policy Framework

9.5 The NPPF (2021) 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.

9.6 The NPPF (2021) 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.

9.7 Relevant paragraphs within the NPPF include paragraphs: -

8:	Three dimensions of Sustainable Development
11-14:	The Presumption in favour of Sustainable Development
38:	Decision-making
47-50:	Determining Applications
86, 87, 90, 91:	Ensuring the vitality of town centres
110, 111, 112, 113:	Promoting Sustainable Transport
126, 130-132, 134:	Achieving Well-Designed Places
152, 154, 157, 167: 169:	Meeting the Challenge of Climate Change, Flooding and Coastal Change
183, 184, 186:	Ground Conditions and Pollution
212:	Minerals
218, 219	Implementation

Other relevant documents include: -

Cannock Chase District Council (April 2016) Design Supplementary Planning Document,.

Cannock Chase District Council (July 2005), Cannock Chase Local Development Framework; Parking Standards, Travel Plans and Developer Contributions for Sustainable Transport.

Cannock Chase District Local Plan Preferred Options 9 February 2021)

Emerging Policies

- SO6.1 Hierarchy of Town and Local Centres
- SO6.2 Provision of Main Town Centre Uses and Town Centre Services
- SO6.6 Rugeley Town Centre Redevelopment Areas

In respect to the provision of paragraph 48(a) of the NPPF it is noted that the Emerging Local Plan is still at the preparation stage (Regulation 18 of the Town and Country Planning (Local Planning)(England) Regulations 2012 (as amended)). Furthermore, in respect to the provisions of paragraph 48(b) representations have been received to policies SO 6.1, SO 6.2 and SO6.6 and that whilst the representations received were mainly in support for the policies, there are unresolved objections to the emerging policies. As such very little weight be given to these policies at this time.

10. DETERMINING ISSUES

10.1 The determining issues for the proposed development include: -

- a) Principle of development
 - (i) Sequential Test Considerations
 - (ii) Retail Impact Considerations
 - (iii) Vitality and Viability of Rugeley Town Centre
 - (iv) Area Action Plan Policies
 - (v) Employment Land Policies
- b) Design and character and appearance considerations
- c) Residential amenity.
- d) Highways Considerations.
- e) Impact on nature conservation
- f) Drainage and flood risk
- g) Mineral safeguarding
- h) Crime and the fear of crime
- i) Waste and recycling facilities
- j) Ground conditions and contamination

11. PRESUMPTION IN FAVOUR OF SUSTAINABLE DEVELOPMENT

11.1 Both the NPPF, and the Cannock Chase Local Plan (Part 1), in Policy CP1, contain a presumption in favour of sustainable development, the latest version of which is contained within paragraph 11 of the NPPF (2021) and states: -

“For decision-taking this means:

- a) *approving development proposals that accord with an up-to-date*
- b) development plan without delay; or 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^Z; 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.*

Footnote(7) The policies referred to are those in this Framework (rather than those in development plans) relating to: habitats sites (and those sites listed in paragraph 181) and/or designated as Sites of Special Scientific Interest; land designated as Green Belt, Local Green Space, an Area of Outstanding Natural Beauty, a National Park (or within the Broads Authority) or defined as Heritage Coast; irreplaceable habitats; designated heritage assets (and other heritage assets of archaeological interest referred to in footnote 68 in chapter 16); and areas at risk of flooding or coastal change.

12. PRINCIPLE OF THE DEVELOPMENT

- 12.1 The first stage in the determination of the application is to determine whether it is in accordance with the development plan which includes both national and local planning policies. Relevant in this respect is that the proposal is for a retail unit which constitutes a Main Town Centre Use (in line with NPPF definition) that is proposed to be located outside of the Rugeley Town Centre boundary as shown on the Policies Map.
- 12.2 In addition to policy contained within the Cannock Chase Local Plan that is considered elsewhere in this report, relevant national policy is provided by paragraphs 86, 87, 90, 91 of the town centres which aim at '*ensuring the vitality of town centres*'. Paragraph 86 provides the main thrust of retail policy and states
- (i) *'Planning policies and decisions should support the role that town centres play at the heart of local communities, by taking a positive approach to their growth, management and adaptation'*.
- 12.3 In order to support town centres, Paragraph 87 requires the application of a retail sequential test to proposals and Para 90 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 2,500m² 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).*

Finally, paragraph 91 makes it clear that

'Where an application fails to satisfy the sequential test or is likely to have significant adverse impact on one or more of the considerations in paragraph 90, it should be refused.'

13. THE RETAIL SEQUENTIAL TEST

13.1 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...".

13.2 This approach is consistent with the NPPF which at paragraph 87 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';

adding at paragraph 88: -

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.

13.3 In assessing the proposed Aldi site, Officers note the location would be considered as 'Out of Centre' because, despite being well connected to the main town centre area and being immediately adjacent the Local Plan Town Centre Boundary, the NPPF 'Edge of Centre' definition '*For retail purposes, [is] a location that is well connected to, and up to 300 metres from, the primary shopping area.*' The proposed site is approximately 360m from the edge of the Primary Shopping Area and as such would not fall within this definition.

13.4 Paragraph: 011 (Reference ID: 2b-011-20190722; Revision date: 22 07 2019) of the Planning Practice Guidance sets out how the sequential test should be used in decision-making and states: -

'It is for the applicant to demonstrate compliance with the sequential test (and failure to undertake a sequential assessment could in itself constitute a reason for refusing permission). Wherever possible, the local planning authority is expected to support the applicant in undertaking the sequential test, including sharing any

relevant information. The application of the test will need to be proportionate and appropriate for the given proposal. Where appropriate, the potential suitability of alternative sites will need to be discussed between the developer and local planning authority at the earliest opportunity.

The checklist below sets out the considerations that should be taken into account in determining whether a proposal complies with the sequential test:

- with due regard to the requirement to demonstrate flexibility, has the suitability of more central sites to accommodate the proposal been considered? Where the proposal would be located in an edge of centre or out of centre location, preference should be given to accessible sites that are well connected to the town centre. It is important to set out any associated reasoning clearly.*
- is there scope for flexibility in the format and/or scale of the proposal? It is not necessary to demonstrate that a potential town centre or edge of centre site can accommodate precisely the scale and form of development being proposed, but rather to consider what contribution more central sites are able to make individually to accommodate the proposal.*
- if there are no suitable sequentially preferable locations, the sequential test is passed.*

Applicant Submissions

- 13.5 In response to the above policy requirement the applicant has submitted a range of information to enable the local planning authority to undertake a retail sequential test.
- 13.6 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.
- 13.7 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:
- Aelfgar 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).
- 13.8 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.

- 13.9 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.
- 13.10 Having regard to the above it is noted that the applicant, ALDI, as a discount food store 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 Limited Assortment Discount 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 sqm 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.
- 13.11 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?

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

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

The site of Aelfgar 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

food store 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 food store- e.g. the bus station (which would have to operate at ground floor level, creating a requirement for the food store 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 food store 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.

- 13.13 Given the above it is the applicant's assertion that 'there are no sites that would be available (within a reasonable period of time) and suitable and viable for the development proposed, even with flexibility regarding the proposed scale and layout of the unit' and 'the proposed development therefore satisfies the requirements of the sequential test, as set out in the NPPF and Local Plan Policy CP11'.

Objections Received from Tesco and Morrisons in Respect to the Sequential Test

- 13.14 Objections have been received from both Tesco and Morrisons in respect to whether the applicant has passed the sequential test. The objections can be summarised as (although the detailed comments are provided in the Representations section of this report)
- (i) consideration has not been given to an extension of Aldi's existing site, possibly into the Rugeley Progressive Working Men's Club site and therefore fails to pass the sequential test as the current site is sequentially preferable.
 - (ii) The Rugeley Town Centre Area Action Plan encourages investment and regeneration within and on parts of the periphery of the town centre. Land at Wellington Drive (ref: RTC.7) is a town centre site that is seeking a medium sized food store. The applicants have dismissed this site as not being suitable or 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.
 - (iii) 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.

- (iv) 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.
- (v) 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.
- (vi) Failure to consider the respective Lidl site as an out of centre opportunity within sequential test evidence.
- (vii) The objectors consider there is a further need for independent review of the sequential assessment
- (viii) Concerns are raised that in dismissing the availability of current sites, there is insufficient consideration of what sites could become available within a reasonable time period. MRRP highlight is a critical issue in the operation of the sequential test. MRRP seek to use a time period referenced in a planning appeal decision relating to a discounter as more appropriate. In turn it is suggested using this longer time period that would address availability issues including for RTC7: Land at Wellington Drive. Caution is also added that the lack marketing of a site on its own is not sufficient to judge 'availability'.

Analysis of the Sequential Test in the light of the Representations Made

13.15 The information submitted by Aldi has been assessed by an independent retail consultants Alder King. Having had regard to the provisions of the NPPF and the NPPG, comments made by Morrisons and Tesco, Alder King has advised as follows: -

- Turley confirm the catchment area is based on a five minute off-peak, meaning the only centre to be considered in undertaking the sequential approach is Rugeley Town Centre. This is agreed.
- Turley start their consideration of the sequential approach by reviewing the potential of the existing Market Street site to accommodate an extended Aldi to meet the retailer's current requirements. The existing store extends to 750sq m net and is served by 67 car parking spaces and is noted to be deficient in terms of scale, level of customer car parking and internal shopping environment. In

comparison, the current application is for a 1,315sq m net store with 115 car parking spaces. The application site extends to 0.87ha.

- Turley explain that to meet the standard of a modern discount food store would require acquisition of land from adjoining occupiers, notably the Rugeley progressive Working Man's Club. It is explained that discussions over two years, but that no agreement was reached between the two parties. Turley conclude that the existing Market Street store site is unsuitable and that there is no opportunity to extend. This is accepted on the basis of the evidence presented. We note further that an unilateral undertaking is proposed by Aldi Stores to ensure the existing store is not reoccupied by any other retailer (convenience or comparison).
- By reference to policy and case law, Turley emphasis that 'suitable' and 'available' generally means suitable and available for the 'broad type of development which is proposed in the application by approximate size, type and range of goods'. And that in this case, the broad type of development proposed is a 'limited assortment discounter' ('LAD') with a 1,881sq m gross and 1,315sq m net sales area.
- In terms of parameters, Turley set out the following minimum requirements:
 - Site of at least 0.6ha, being the minimum to accommodate a store large enough to sell the standard range of goods that each LAD sells together with a level customer car park and space for HGV to manoeuvre.
 - Typically this is said to require a site of around 0.8ha, providing a store of around 1,900sq m gross and at least 100 car parking spaces.
 - A single storey, open and unrestricted sales floor area.
 - Direct and/or easy vehicular access to the main road network.
 - Visibility from the main road network.
- Turley do not expressly say what 'due regard to the requirement to demonstrate flexibility' might entail, but rather says that alternative sites should be suitable to accommodate 'the proposal' and references the minimum requirements set out above and the need to consider viability, including the timescale over which the applicant requires a new store to be delivered. Turley do not say in their RPRS the context of 'availability' what might constitute 'a reasonable period of time'. This is not helpful.
- That said, we note in consideration of impact that the design year of 2024 is adopted, said to be the second full year of trading after the store opening (RPRS, July 2021), suggesting that the store was assumed to be opening in 2022 in 2021. Thus, a reasonable time period might be deduced as up to 12 months in the current case. A timeframe for delivery of 12-14 months from grant of planning permission has since been confirmed by Turley, which includes an allowance for achieving vacant possession of the application site.
- Looking at flexibility, given the discussion presented by Turley it would appear sites of between 0.6ha and 0.9ha might reasonably deliver the broad type of development proposed. This does not appear to provide any flexibility in terms of store size (a minimum requirement with a larger gross than proposed is quoted) nor multi-level/decked car parking solutions. Given that LADs are now looking at

these type of formats, it would be necessary for consideration to be given to this in looking at available sequential sites.

13.16 In response to 'reasonable time period' considerations, Alder King in their Sequential Advice May 2022 confirm that in line with the Dundee case, it is not the case that the broad type of development proposed should be substantially changed or altered to fit an alternative site, including in terms of timescales. Commenting on both the Lidl and Aldi applications, Alder King suggest the starting point for consideration of a reasonable time frame must be the time period associated with the proposed development. This is confirmed to be 12-14 months for Aldi and 8 months for Lidl (from the date of planning permission). Therefore adopting a timescale of 12-18 months in Alder King's view is reasonable and it would not be realistic to expect a developer to wait double this or longer for a site to become available. The implication of this in relation to specific sites is considered further below.

13.17 Alder King have reviewed the above sites in the light of the above and comment as follows: -

Site RTC4: Aelfgar Centre/Former Squash Courts, Taylors Lane

The site occupies an edge-of-centre location to the west of the primary shopping area defined in the local plan. It extends to 1.9ha and is cleared for development. In the AAP, the site is proposed for mixed housing for market/affordable and housing for the elderly. A food store on this site would be in direct conflict with this policy aspiration.

An application for planning permission was submitted on January 2021 for redevelopment of this site for up to 58 dwellings (LPA ref: CH/21/0022). This has been granted outline planning permission in July 2021.

Thus, it can reasonably be concluded that this site is not available for the broad type of development proposed as it is being actively brought forward for residential development in line with the aspirations of the AAP.

The site is neither available nor suitable and so can be discounted.

Site RTC5: Market Street Garages

The site occupies an edge-of-centre location to the north of the primary shopping area. It is currently occupied by Kwik-Fit and so is in active use and not being actively marketed or promoted for development.

Thus, it is questionable whether the site is available in the time period being considered.

The site extends to 0.2ha and so is too small even on a flexible basis and so can be discounted on this factor alone. It also is proposed for residential development in the AAP, which is consistent with the surrounding land uses to the north and west.

It is concluded that the site is not suitable for the broad type of development proposed.

Site RTC6: Rugeley Market Hall/Bus Station and Surrounding Area

The site extends to roughly 1ha and lies in the south-west corner of the primary shopping area and so comprises a town centre site. The site comprises a market hall with roof top car parking, taxi rank and bus station to the south and small area of car parking to the north of the market hall. The site is currently in active use and it is not currently being marketed for development.

The AAP seeks redevelopment of the for the site for mixed uses to include re-provision of the existing uses (market hall, bus station including food and drink uses, car park and taxi rank) plus an anchor store to meet modern operators and residential at upper floors. The anchor store is understood to be proposed to be for non-food.

It is concluded by AY and Turley that the broad type of development proposed could not be provided together with the re-provision of the existing land uses. This conclusion appears to relate only to a surface level car park, ignoring the city centre formats being considered by deep discounters, which include decked solutions.

That said, given the size of the site it is highly unlikely that in this case the site could provide the broad type of development proposed, even with a decked solution, and re-provide all the existing uses. The space hungry nature of bus stations is particularly noted. Thus, on this basis, it is concluded that the site is not suitable.

In terms of availability, the site is noted to be in active uses and it is not currently being actively promoted for development despite its allocation since 2014. Thus, there is genuine doubt whether this site can be considered to be available within a reasonable time period.

Site RTC7: Land at Wellington Drive

The site lies in the primary shopping area and so lies in the 'town centre'. The site extends to 0.7ha. It lies to the rear of the properties fronting Horse Fair, Upper Brook Street and St Pauls Road/Lichfield Street and so does not benefit from good visibility from the main road network. The frontage properties on Upper Brook Street and St Pauls Road fall within two separately designated conservation areas; there are also a number of local listed heritage assets. The site is occupied mainly by parking and service access for the existing main town centre uses that wrap around the boundaries of the allocation, and a number of builds including the Fairway Motel, sports therapist and martial arts centre all of which are in active use.

The AAP allocates the site for mixed-use development, including a medium sized retail food or non-food store with office and/or residential development and replacement public car parking. The emphasis of the policy is to deliver a mix of uses. RTC7 site allocated in the AAP is smaller than that which was the subject of

a design and development brief in 2003 (consultation draft). That 2003 brief also advocated mixed uses for the site to add to the day and night time economy of the centre and with new pedestrian routes to connect across the site in both north-south and east-west directions.

At 0.7ha the site is at the lower end of the site search parameters for the broad type of development proposed, thus it would be difficult to provide the broad type of development proposed plus additional/replacement public car parking and/or residential and office development too. A decked/multi-storey would need to be considered, we are not aware that either Lidl or Aldi has considered such a scheme for this site.

That said, Turley on behalf of Aldi outline that the configuration of the site means that a store and level car park scheme would not be viable, namely because it would require acquiring land outside the allocated site and demolition of existing buildings. Given the site extends to 0.7ha we are unclear why additional land might be required, unless Turley are seeking to overcome the lack of visibility of the site. In addition, they continue that the necessary location of the car park to the rear of the store does not work operationally, meaning the store is unlikely to trade well which in turn will impact on viability. In addition, the residual land beyond the store means that insufficient (surface level) car parking to adequately service the store; again, given the minimum site size for Aldi is presented as 0.6ha, we are unsure why a store meeting the broad type of development proposed on this 0.7ha site might leave insufficient space to deliver adequate car parking.

The site has previously been promoted for development back in 2003 to include a food store. That application secured a resolution to grant but the legal agreement was never signed to release the planning permission. It is understood from officers of the Council that the primary reason for this was that the site is in fragmented ownership (including the Council) and it was not possible to positively engage all landowners to sign the legal agreement for the site and so ultimately the proposal stalled and planning permission was not granted.

Discussions with officers reveal that the fragmented ownership of the site remains unchanged from the early 2000s. Most of the site remains in active use, including a motel, martial arts fitness centre and separate sports therapist and operationally for rear servicing and parking. The site is not being marketed and there has been no proposals brought forward since the early 2000s. Given the known history of this site, it is an agreed position of the Council that in order to bring forward this site it is likely that compulsory purchase order ('CPO') would be required. This CPO process in turn requires a planning permission to be in place. Together, these processes suggest strongly that this site is not available in the current context, where a reasonable time period is considered to be 12-14 months. Even allowing a greater period for complex town centre sites to come forward, it is concluded that this site is not available.

In their further advice dated May 2022, Alder King suggest:

The specifics of the Land at Wellington Drive case clearly demonstrate that even if a longer timescale beyond 12-18 months is considered, say 3-4 years, the evidence demonstrates Wellington Drive is not available (even if it was suitable)...

The applicants highlighted the site is not assembled, is in many ownerships and has active uses and there has been little to no movement on the site coming forward since the early 2000's when a legal agreement could not be signed as not all owners would participate.

If it is assumed that at least the Council owned car park is readily available for development, that parcel alone only extends to under 0.4ha and so would not be large enough to accommodate the broad type of development proposed even with a suitable level of flexibility (including decked car parking) and ignoring the need to provide replacement town centre car parking and retain servicing rights. Thus, land assembly is required.

The Council recently considered the availability of the RTC7 site in their SHLAA 2021. It was considered alongside a batch of sites that despite being suitable were noted to be not available 'Restricted and Excluded' sites. Specifically, this meant that in 2021 the Council considered the site not to be available within a 5-year period. In terms of definition, the SHLAA states:

'Available (NO): Minor and Major Sites

No recent interest expressed by landowners/developer (typically within last 5 years) e.g. call for sites, Local Plan representations, pre application discussions, Expired planning consents that have not been taken forward (typically within last 3 years).'

Under the terms of the SHLAA methodology, the site could theoretically fall within the 'available 'yes' category as a local plan allocation, however, as there has been no evidence of delivery for over 5 years the site was considered to no longer be available. This includes whether there has been any expressed interest e.g. land promotion or pre-application. A separate review was also undertaken in 2021 looking at the 'Restricted and Excluded' sites to see if these might come forward in the period to 2038. This primarily looked at identifying policy compliant sites. This review considered RTC7 site as a policy compliant site could potentially yield 30 houses by 2038 and, on this basis, the site was

included in the preferred options stage of the local plan review. Thus, the recent local plan work on the availability of this site adds further evidence that this site is not available within a reasonable time period, being 12-18months or even the longer period to 3-4years. This work also reinforces the contribution the Council see this site making to their housing land supply, along the lines of the original mixed-use allocation, and suggesting a solus food store development would not meet the policy aspirations.

Site RTC8: Leathermill Lane/Trent and Mersey Canal Corridor

The site lies in an edge-of-centre location in the north-eastern corner of the town centre boundary, but out of the primary shopping area. The allocated site has been partially redeveloped by Tesco for a 3,200sq m net store under a planning permission granted in 2011 (LPA ref: CH/10/0087). That planning permission also included unit shops extending from the new Tesco store towards the primary shopping area and Leathermill Lane; that element of the planning permission has not yet been delivered.

There are some smaller parcels of land on the wider RTC8 site, which have not been developed as part of the Tesco scheme. Those on the east of Leathermill Lane are small, notably that benefitting from planning permission for two small unit shops as part of the 2011 planning permission and an area extending to circa 0.2ha which now benefits from planning permission for a restaurant/drive thru (LPA ref: CH/21/0026). The land to the west of Leathermill Lane is small, narrow and remains in active use, including for a haulage company and so is unlikely to be available within a reasonable time period, even allowing some flexibility and would not be suitable.

Thus, this site is either not suitable in terms of size and/or is not available within a reasonable time period, even allowing a suitable level of flexibility.

13.18 In respect to the comments raised by Martin Robeson Planning Practice (on behalf of Tesco) on the Sequential Approach, Alder King has advised: -

'MRPP make the point that not all out-of-centre sites are equal and preference needs to be given to sites that are accessible and well connected to the town centre. This is agreed. In this context, in objecting the Aldi Application, MRPP raise that the applicant has not considered the Lidl site as a potential opportunity and vice versa in objecting to the Lidl Application the Aldi Application has not be considered. Moreover, given the temporal sequence of the sequential approach, MRPP state that if the Lidl site is found to be superior then it is a requirement for it to come forward first (and vice versa). We agree with MRPP that the fact that the scheme coming forward by a different retailer on a site is not necessarily relevant, in that the sequential approach needs to be applied facia blind to the broad type of

development proposed i.e. in this case a LAD with associated car parking and servicing.

However, what is relevant is that we (Alder King) have found the cumulative effects of both the Lidl and replacement Aldi stores coming forward will not give rise to significant adverse effects on the town centre on the basis of the evidence available. This conclusion assumes further that any grant of planning permission is conditioned to ensure the stores trade as they have been assessed i.e. as LADs and, in respect of the Aldi Application, the retail use of the existing Aldi store ceases. In such circumstances, it would be reasonable, even if there was a material superiority of one particular out-of-centre application site over the other (which in this case we doubt given their relative connectivity to the town centre and accessibility) that both sites can come forward together. This conclusion relies on there being no town centre or edge-of-centre sites found to be suitable or available for the broad type of development proposed, and the conclusion on the basis of the evidence available is that there is not.'

- 13.19 In conclusion Alder King has stated '*On the basis of the evidence presented, we conclude that there is no suitable sequential sites available for the broad type of development proposed in the Aldi and Lidl Applications, even on a flexible basis,*' and thus, 'the sequential approach to site selection has been met for each application'.

Officer Conclusions on the Sequential Test

- 13.20 Alder King the Council's appointed retail consultants has studied in detail the evidence presented by Aldi's representatives and has worked with Council Officers to examine potentially available sites within the town centre and edge of centre. Officers are satisfied with the above conclusions presented by Alder King with regard to there being no sequentially preferable sites available for this application. The reporting provided was detailed and responded to additional criticisms from outside parties.
- 13.21 Whilst noting the objector's ambition to see Land at Wellington Drive come forward and whilst this is clearly in line with the Council's ambition under 2014 Local Plan, it remains the case that there has been limited progress in assembling the site since the early 2000's. More latterly the Council's recent conclusions under the 2021 SHLAA process suggest the site could potentially yield development for housing by 2032. In line with case law (Dundee) it would not be reasonable, given the delivery could come forward within 12-18 months, to suggest the applicant should wait approx. 10 years (if the Council's time assumptions are considered representative) before bringing forward their proposals. Thus in line with the Alder King Advice May 2022, 'availability within a reasonable time period' means 12-18 months in the current case and on the evidence available Land at Wellington Drive (RTC7) is not available or suitable for the broad type of development proposed. Even if a period of 3-4 years is utilised, it still remains that RTC7 is not available for the broad type of development proposed.

13.22 Accordingly, having applied the sequential test, Officers conclude the main town centre retail use proposed in both the respective Lidl and Aldi applications could not be accommodated within the existing town centre or a site falling within an edge of centre location. Noting the proximity of the site in question is only a small amount beyond what would fall within the definition of Edge of Centre, Officers assess the location is well connected to the town centre and represents an accessible site by various means of transport. Therefore having taken into account all relevant national and local policy together with all relevant points made by the objectors, Officers assess the sequential test, as stated in Policy CP11 of the Local Plan and in paragraphs 87 and 88 of the NPPF has been passed.

14. RETAIL IMPACT ASSESSMENT

14.1 The applicant submitted a Planning and Retail Statement Addendum in August 2021 in order to consider in more detail the cumulative impacts of the proposals. The methodology adopted is consistent with that widely applied in retail assessment work and is based on the approach advocated in the Planning Practice Guidance (PPG, paragraph 18 – ID: 2b018-20190722).

14.2 Discussions with the Council's appointed consultants throughout the course of the application process lead to refinements to the figures and approach used in establishing retail impact. In tandem with the separately produced assessment of retail impact from the Lidl proposals, recommendations from the Council's consultants Alder King sought to assist in providing a robust analysis of the cumulative impacts of the proposals.

Solus Impacts

14.3 In their advice dated December 2021, Alder King set out the revised economic tables present the following solus impact on Rugeley Town Centre:

- Convenience Goods: -1.8%
- Comparison Goods: -2.5%
- Total: -2.2% (Table 5A, 5B, 5C, Turley letter)

14.4 In respect of the Aldi store, when considered alone, Alder King Suggest 'This level of impact is low and unlikely to give rise to concerns of significant adverse levels of impact in terms of direct impacts, particularly in the light of the conclusion that the town centre displays high levels of vitality and viability (#2.9 of the Alder King October advice). If we consider also indirect impacts, in the form of the potential for lost linked trips arising as a result of the proposed new Aldi store from reduced customers visiting existing stores, it can be seen that the assessed convenience goods impacts on Morrisons (-1.8%), Iceland (-1.5%) and Tesco (-2.3%) are again small and so is unlikely that indirect impacts, in our view, will alter the conclusion drawn above (Table 5A, Turley letter). This

conclusion acknowledges the relative absence of statistical evidence on current linked trips.’

- 14.5 The calculated impacts arising on other town centres are even lower and so again do not give rise for concerns in respect of significant adverse impact levels. In the light of the separate updated evidence presented by Turley for the replacement Aldi store and WP for the new Lidl store, Alder King assess in their advice to the Council that on its own neither store would have a significant impact on the Rugeley Primary Shopping Area, wider town area or nearby towns.

Cumulative Impacts

- 14.6 There has been extensive discussion between Aldi’s representatives Turley, Lidl’s representatives WP and objectors to the development about the appropriate methodology to utilise in establishing cumulative impacts. For example: At the outset it is to be noted that the turnover calculated for the new Lidl store is higher than that calculated by WP using the most up-to-date data available (£13.82m as compared to £10.03m at 2024). On this basis, the WP turnover figure is preferred, meaning that cumulative impacts calculated by Turley may be slightly overstated owing to the higher turnover figures used. Officers do not wish to replicate the detailed technical dialogue that has been undertaken during the course of the application within this report.
- 14.7 In summary, having considered the various matters over a prolonged period, Alder King the Council’s consultants advise in their comments:

Considering first Rugeley Town Centre, the assessed level of cumulative impact varies between -11.8% and -6.7% on convenience goods 2024 levels and between -7.0% and -4.8% on total town centre turnovers.

We have noted that Turley has used an out-of-date sales density for Lidl which has inflated the estimated turnover of the new Lidl store. As such, we would anticipate that the upper end of this range is likely to overstate likely impact; as a consequence, we would estimate that impacts are more likely to be in the mid-to-lower end of the ranges identified.

If the mid-point is taken then impact on Rugeley Town Centre as whole is estimated to be circa -5.9%, of which impact on convenience goods impact will be -9.25% at 2024 turnover levels. Given the health of the town centre, our view is that this level of impact is unlikely to give rise to a significant adverse impact. This has regard to the fact that impact will fall most on the Morrisons store, including resulting in a reduction in linked trips from customers of that store. Further, it has regard to indirect impacts arising from reduced customers from the existing edge-of-centre Tesco store, which is assessed to have a convenience goods impact of between -7.1% and -15.2%. This store is understood to be overtrading on the basis of the Council’s Retail Study.

Given the locational characteristics of both the new Aldi and Lidl stores and the details of those proposals, both will benefit from links to the town centre, albeit that these routes are via the existing Tesco store. Thus, there is potential for some links from the new stores will off-set some lost from the Tesco and town centre stores. Thus, on balance and acknowledging the difficulty in quantifying these in direct effects, the additional indirect impacts arising through lost spin off trade through reduced customers at Tesco and the existing town centre stores, is considered to not be at a scale which would change the overall conclusion above.

Therefore, it is concluded that the cumulative effects of both the replacement Aldi store and new Lidl store will give rise to impact on Rugeley Town Centre, which is higher than that it would experience if only one of the proposals proceeded, but this cumulative impact is unlikely to give rise to concerns in terms of significant adverse impact.

...Moreover, the above conclusion reflects the evidence provided by Turley and WP (and Avison Young beforehand) about the trading characteristics of both Aldi and Lidl as deep discounters/Limited Assortment Discounters ('LADs'). Whilst we are of the view that the descriptions offered by the two applicants is largely outdated, the trading performance of the store(s) remains relevant in terms of how it has been assessed by the applicant's agent and likely impact arising. Thus, it is important that a suite of conditions is attached to any grant of planning permission to ensure the new store(s) trade as assessed and found to be acceptable.

- 14.8 In further comments dated 26 April 2022 Alder King examine MRRP's concerns about how the Tesco store has been treated in applying the impact tests. The Tesco store lies within the town centre boundary, but outside of the primary shopping area. As noted in previous advice to the Council, including the October advice, in Alder King's view applying the retail policy tests for retail development the 'town centre' comprises the defined 'primary shopping area' - rather than the town centre boundary.
- 14.9 Thus, the Tesco store in this case should properly be considered as an edge-of-centre store, not forming part of the 'town centre'. It remains the case the wider town centre is still relevant to the consideration of impact, particularly in relation to the effect on consumer choice and loss of linked trips bringing about indirect effects. This is consistent with the approach previously adopted by the Secretary of State and separate private advice from Queen's Counsel. The analysis undertaken on behalf of Lidl and Aldi has adopted this approach and the impact figures quoted above reflect this methodology. As noted by WP in their April 2022 letter, this methodology is 'robust, defensible and based upon widely-accepted best practice'.
- 14.10 Nevertheless, for robustness it was agreed that a sensitivity test with the Tesco store included as part of the 'town centre' was undertaken to understand the potential significance in terms of the conclusions drawn on the impact test. Accordingly, Turley

and WP have provided updated tables to reflect this alternative approach being promoted by MRRP.

- 14.11 This alternative approach has provided the following impact calculations on potential 2024 turnover levels of Rugeley Town Centre arising from the Lidl Application and the Aldi Application proposals alone and in combination:

Rugeley Town Centre				
	Convenience Goods Impact		Total Impact	
	Solus	Cumulative	Solus	Cumulative
Turley	12.0%	13.6%	-	-7.2%
WP	-5.8%	-6.7%	-3.3%	-4.8%

- 14.12 In relation to this additional sensitivity test, Alder King suggest in their advice of April 2022:

As noted previously, Turley estimate the turnover of the proposed Lidl store to be £13.82m (£11.84m convenience goods) which is higher than that calculated by WP on behalf of Lidl at £10.03m (£8.54m). WP use more up-to-date data on sales density, which reflects information provided by Lidl to Mintel, thus this lower turnover is preferred. Therefore, as before, our view is that Turley overstate likely cumulative impact wing to this higher turnover figure and so a mid-point is preferred. If the mid-point is taken then impact on Rugeley Town Centre as a whole is estimated to be circa -6% of which impact on convenience goods impact is calculated to be -10.25% at 2024 turnover levels. This compares with the original, preferred, approach of -5.9% the town centre as a whole at 2024 (-9.25% on convenience goods turnover).

Thus, even in this alternative scenario being promoted by MRRP, given the health of the centre, including the trading characteristics of existing stores, we remain of the view that this level of impact is unlikely to give rise to significant adverse impact in the current case.

...

Overall, we consider the MRPP representations of February 2022 do not change the conclusions previously provided to the Council on satisfaction of the impact tests. That conclusion is that no significant adverse impact will arise because of the Aldi Application and the Lidl Application on existing, committed or planned in-centre investment, either alone or in combination. And that the cumulative effects of both the replacement Aldi store and new Lidl store will give rise to impact on Rugeley Town Centre (or other centre), which is higher than that it would

experience if only one of the proposals proceeded, but this cumulative impact is unlikely to give rise to concerns in terms of significant adverse impact. This conclusion reflects the balance of evidence available, the fact that the existing Aldi store will cease to trade as a food store or any other retail purpose and the trading characteristics of both Aldi and Lidl will be as deep discounters/limited assortment discounters.

Accordingly, as previously noted, it will be important that conditions are attached to any grant of planning permission to ensure the new and replacement stores trade in line with that assessed and found to be acceptable (and a legal agreement dealing with the existing Aldi store is secured). Since the advice previously provided to the Council, there has been further discussion with agents of both Aldi and Lidl relating to conditions.

- 14.13 Therefore in line with the detailed dialogue and advice from the Council's consultants Alder King, Officers conclude there would be no significant adverse impacts on the turnover levels of existing businesses within the town centre or nearby centres. Officers have been presented with no substantive evidence to suggest there would be significant adverse impacts on existing investments within the catchment area. A substantial future investment of note nearby is the remediation and redevelopment of the former power station site. The proposals would appear to complement the investment in the power station site by maintaining investor confidence in the area and providing an additional service to future residents that is convenient and easily accessible from future housing.
- 14.14 Accordingly in providing additional economic and built environment benefits, such effects are consistent with the wider emphasis of CP11 which seeks to strengthen Rugeley's role as a market town serving the shopping needs of Rugeley and nearby settlements and the objectives stated at Pg 183 of 2014 Local Plan (preceding the Area Action Plan) which seek improvement of the built environment and additional provision for the daily shopping needs of the community. The assessment is also consistent with the requirements of Para 90 and 91 of the NPPF and overall leads Officers to conclude there would be no significant adverse impact on the vitality or viability of Rugeley or nearby centres.

15. REGENERATION OF RUGELEY TOWN CENTRE

- 15.1 The Cannock Chase Local Plan (Part 1) is written in two sections. Section 1 sets out the 'Core Strategy' for the District whilst Section 2 sets out the Rugeley Town Centre Area Action Plan. Of particular relevance in respect to town centre proposals is Policy CP11 'Centres Hierarchy' of the Core Strategy, which states: -

'Rugeley's role as a Market Town serving the shopping needs of its hinterland will be continued and strengthened. Main town centre uses including retail, offices, commercial, leisure and cultural facilities should take a sequential approach that gives priority to the regeneration of the town centre within this boundary, followed by edge of centre locations. Previous retail studies have shown that a third of the local population shop in other adjacent towns due to a lack of choice in convenience shopping. These factors, together with a lack of retail investment over many years, has led to a deterioration in the attractiveness of the town centre. In order to address these issues, a Town Centre Area Action (AAP) has been prepared and is now incorporated into the Local Plan. This will seek to:

- *promote the development of Rugeley town centre for retail, commercial, leisure, tourism and transport purposes, focused on the redevelopment of a number of key sites;*
- *assist in the determination of planning applications for new development proposals;*
- *ensure that the Council's decisions best reflect the needs and aspirations of residents, shoppers, visitors, businesses and commercial interests in the town centres;*
- *provide baseline information for the purposes of future monitoring.*

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.'

- 15.2 Section 2 of the Local Plan sets out the Rugeley Town Centre Area Action Plan (AAP) and contains has three 'strategic policies RTC 1 (Regeneration Strategy), RTC2 (Town Centre Land Uses) and RTC3 'Urban Design Principles). In addition to the above the AAP contains 5 'sites policies' (RTC4, RTC5, RTC6, RTC7 and RTC8).



Figure 1: Extract from Fig 5, Pg 186 Cannock Chase Local Plan showing 'Strategic Town Centre Development' envisioned for the area. Red shading denotes 'Food Retail and Associated Regeneration Area based around new leisure destination.'

15.3 Policy RTC1 provides the overarching 'Regeneration Strategy' of the town centre and states: -

'Rugeley town centre, as identified on the Policies Map, will be improved by a series of complementary regeneration measures. The strategy for the plan period, and beyond, envisages consolidation and improvement of the historic core of the town focused on the Rugeley Town Centre Conservation Area, balanced by new growth around the Trent and Mersey Canal (also a Conservation Area) to the east, raising the canal's profile within the town by improving physical links and enhancing its focus as a leisure destination. The strategy is illustrated in [figure 5](#).

Regeneration will include the development of key sites within the core town centre and improvements to its urban fabric, aided by the current Tesco store development to the east of the canal. This will be accompanied by measures aimed at creating an improved public realm between the historic centre and the canal via a combination of landscape improvements and/or new development. The town centre regeneration will be phased over the plan period and will enhance Rugeley's local distinctiveness.'

15.4 Policy RTC2 of the Area Action Plan relates to 'Town Centre Land Uses' and states: -

Retail provision

The Rugeley Primary Shopping Area is defined on the Policies Map. There will be a presumption in favour of retaining a high proportion of A1 uses at ground floor level within the primary shopping area. Other A class uses will be supported only where they would not result in an adverse impact on the primary retail functioning and overall vitality of individual blocks of units and the centre as a whole. Other uses will only be supported at first floor level or above. Priority will be given to developing and maintaining a mixed community of businesses and residential uses above shops and other class A uses, by permitting changes of use of vacant or underused floorspace.

Extensions to existing buildings for the uses described above will be supported provided that the design requirements of Policy RTC3 are met. Provision for cycle storage and waste re-cycling shall be made in connection with extensions or changes of use. Provision of on site car parking will not be required.

Retail premises in Rugeley Town Centre outside the Primary Shopping Area may be appropriate for conversion to residential uses that contribute to meeting local housing need. Small infill sites in Rugeley Town Centre outside the Primary Shopping Area are generally appropriate for residential development unless identified for other uses. These should be high density development and contribute to meeting local and affordable housing need.

Re-development of any larger sites outside the Primary Shopping Area which have not been identified individually in policies RTC4 to RTC8, will be supported for either residential or mixed residential/ leisure/business uses that do not undermine the vitality and viability of the Primary Shopping Area and contribute to improving the quality of the urban fabric by meeting the requirements of design policy RTC3.

Leisure, Community, Cultural and recreational facilities

Development proposals will be supported for the creation of new or enhancement of existing facilities that will add diversity to the cultural scene, such as a cinema, bowling alley, youth drop in centre or other leisure and cultural attractions. Developer contributions for the provision of such facilities would be required from the redevelopment of the Aelfgar; Market Hall/Bus Station; Wellington Drive and Leathermill Lane/Trent and Mersey Canal Corridor sites, as set out in policies RTC4, and RTC6 to RTC8, unless they are provided as part of any development.'

- 15.5 Officers note that Policy CP11 and the AAP set out a strategy for regenerating and growing the town centre via the development of key sites - namely those explored as part of the sequential test approach referenced elsewhere in this report. This, amongst other ambitions is in order 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.
- 15.6 It is also noted that the current Tesco store has provided approximately 4,000sqm net convenience retail floor space. The Aldi proposal would provide a food store of 1,881sqm, with a retail area of 1,315sqm (535sqm net increase if the other store is closed) and this would exceed the threshold in Policy CP11. Additionally, in tandem with the Lidl proposals the development would further exceed the 4,900sqm set out in the Local Plan and in this respect would be contrary to Policy CP11 and the AAP of the Local Plan. For this reason, it is technically considered that the proposal constitutes a departure from the Cannock Chase Local Plan and has been advertised as such.
- 15.7 At the same time the proposals would complement the ambition within CP11 to promote the development of Rugeley town centre for retail, align with the ambition to improve the attractiveness of the town centre and would complement or build upon the positive environmental enhancements and linkages to the Canal Corridor carried out as part of the Tesco development, and more latterly County Council on behalf of the Canal and Rivers Trust.
- 15.8 Similarly Officers note there is synergy between the proposals in this case and the wider strategic ambitions noted in Policy RTC1 as set out in Figure 1 above. I.e. *'new growth around the Trent and Mersey Canal to the east (also a conservation area), raising the canal's profile within the town by improving the physical links ... aided by the current Tesco store development to the east of the canal. This will be accompanied by measures aimed at creating an improved public realm between the historic centre and the canal via a combination of landscape improvements and/or new development.*
- 15.9 Officers recognise the environmental improvements to the vicinity of the Canal Conservation Area the proposals would bring. In addition Officers highlight the above excerpt and in particular the wording 'or new development' because there is overlap between the red area in Local Plan 'Fig. 5' and the site in question. In other words, Policy RTC1 and the accompanying diagram convey at least at some strategic level that additional retail development around the main allocated sites could potentially come forward to complement the main allocations – albeit in line with the sequential focus on the town centre and edge of centre first in accordance with other policies, and only then would less central sites be considered. Accordingly Officers assess there is consistency between the development proposals within this application and the wider strategic Regeneration Policy RTC1.
- 15.10 In terms of Policy RTC2, the majority of the policy is not considered relevant in that it relates to uses acceptable within the Primary Shopping Area which this site is not. However the 4th paragraph suggests that redevelopment of any larger sites outside the

Primary Shopping Area which are not effectively identified sites, will be supported for either residential or mixed residential/leisure/business uses that do not undermine the vitality and viability of the primary shopping area and contribute to improving the quality of the urban fabric. The proposals in this case display conflict with Policy RTC2 insofar as they are not 'mixed use' in the manner envisaged in the policy. However the proposals are proven (as discussed at the retail impact assessment aspect of this report) to avoid undermining the vitality and viability of the centre in retail impact terms and would lead to improvement to the physical environment. Thus Officers observe partial conflict with this policy, but also some degree of consistency.

16. LOSS OF EMPLOYMENT LAND

16.1 *The site 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."*

16.2 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.

16.3 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. In line with the third criterion in CP8, Officers are not aware of further study of the site for modernisation for industrial purposes having taken place or further study in terms of the existing timber business's viability or assessment of attractiveness of the site to the employment market. Therefore, there is partial conflict with the first and third criterion of Policy CP8 in that an available site for the relocation of the business is not understood to be readily available in the short term and Officers are not aware of study of the existing business viability or market attractiveness.

- 16.4 In respect to the benefits arising from the proposal (in line with the second CP8 criterion above) 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 that does not accord well with raising the canal's profile in line with Policy RTC1. The proposal 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.
- 16.5 Other benefits related to employment include that generally Aldi stores employ between 30 - 50 staff. It is Aldi's preference to recruit staff locally and all hourly paid wages for store employees are stated to exceed the Government's National Living Wage and the Living Wage Foundation's recommended national rate. 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. Additional temporary construction phase jobs will also result. This contribution to the local economy and employment weighs in favour of the proposal.
- 16.6 The Policy Officer has considered the case put forward by the applicant and concludes 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 in the medium to long term.
- 16.7 Officers conclude there is partial conflict with the ambition to retain employment premises in Policy CP8 particularly in that a new location for the existing business is not known to have been found in the short term, and that the attractiveness of the site to the market/viability has not been fully assessed. However this conflict is moderated to a lesser level by the improvement of the immediate environment and the way the proposal would complement improved pedestrian access to and from the town centre and the Rugeley Power Station site – which are also relevant criteria referenced in CP8.

17. OTHER MATERIAL CONSIDERATIONS

- 17.1 Separately it is a clear material issue that the nearby Rugeley Power Station site has now been granted planning permission for 2300 dwelling, up to 5 Ha employment land and a new All Through School and publicly accessible Riverside Park amongst other development. This power station development was not envisioned as part of the plan formation processes which lead to the 2014 Local Plan and was in effect an 'off plan' development granted permission following the closure of the power station in 2018 and its subsequent demolition.
- 17.2 Considerable additional population and a broadening of Rugeley town as a whole in the direction of the power station site (east) will occur as the development comes forward over the next 20 years. Approximate delivery rates of around 200 dwellings per year are envisioned and the development of the school phase has commenced with the expectation of use by 2024. Reserved Matters submissions for first phases at the eastern end of the site are expected imminently and the works to form the publicly accessible Riverside Park, for the benefit and enjoyment of the wider town are also underway. The development proposed within this application would not seem to have any obvious negative effect on the planned investment in the power station proposals or the public investment on the power station site in the form of the All Through School under construction there (as relevant to Para .
- 17.3 Aside from the wider economic and social benefits the power station development would bring, a key asset associated is the repurposing of the existing rail connection into the power station site. This is intended to provide a good quality pedestrian and cycle link to Love Lane canal corridor, intended to increase substantially the connectivity by various means of transport of the 2300 dwelling site with the town centre and both railway stations. It is relevant the pedestrian and cycle way will serve the Riverside Park providing walking and cycling access to this facility from the town centre.



Figure 2: Extract from Rugeley Power Station Landscape Design Statement (Pg 30) Copyright BMD 2018. Blue arrow denotes approximate location of application site

17.4 It is the Officer's assessment the development of the Aldi store in the location proposed would contribute to the range of shopping facilities within walking distance of a large portion of the power station development. Joint trips from future commuters to Rugeley Trent Valley railway station could reasonably stop off at the store and the physical enhancements resulting would help reinforce use of the area and complement use of future facilities such as the Riverside Park within the neighbouring power station site. These benefits and the wider proximity of the site to the new residential development within the power station site could not have been envisioned when the AAP policies were originally written. Accordingly there is some argument that the AAP policies are out of step with committed development in Rugeley in they fail to consider the effects of 2300 dwellings being provided in the immediate area. In the officers opinion, this reduces the weight that could be attributed to the conflicts apparent in RTC1 and RTC2 in the 'Planning Balance'.

18. POLICY PRINCIPLE CONCLUSIONS

18.1 Officers are satisfied with the conclusions presented by Alder King that there are no sequentially preferable town centre or edge of centre sites available for the development

proposed in this application. Officers assess the location is well connected to the town centre and canal and represents an accessible site by various means of transport and for the reasons set out in this report would comply with the sequential requirements of Policy CP11 of the Local Plan 2014 and paragraphs 87 and 88 of the NPPF (2021).

- 18.2 In line with the detailed dialogue and advice from the Council's consultants Alder King, Officers conclude there would be no significant adverse impacts on the turnover levels of existing businesses within the town centre or nearby centres. Officers have been presented with no substantive evidence to suggest there would be significant adverse impacts on existing investments within the catchment area. A substantial future investment of note nearby is the remediation and redevelopment of the former power station site. The proposals would appear to complement the investment in the power station site by maintaining investor confidence in the area and providing an additional service to future residents that is convenient and easily accessible from future housing. In providing additional economic and built environment benefits, such effects are consistent with the wider emphasis of CP11 which seeks to strengthen Rugeley's role as a market town serving the shopping needs of Rugeley and nearby settlements. The assessment is also consistent with Para 90 and 91 of the NPPF.
- 18.3 The development would exceed the 4,900sqm retail floor area set out in Policy CP11 and the AAP of the Local Plan. For this reason, it is technically considered that the proposal constitutes a departure from the Cannock Chase Local Plan. At the same time the proposals would complement the ambition within CP11 to promote the development of Rugeley town centre for retail, align with the ambition to improve the attractiveness of the town centre and would complement or build upon the positive environmental enhancements and linkages to the Canal Corridor carried out as part of the adjacent Tesco development – which the new store would be observed in the setting of. Hence partial conflict with the ambitions of policy CP11 is observed, albeit there is also some consistency.
- 18.4 In the context of consideration against Policy RTC1 and the accompanying diagram, Officers recognise the environmental improvements to the vicinity of the Canal Conservation Area the proposals would bring through the removal of the existing poor quality buildings. In addition it is noted there is overlap between the red area in Local Plan 'Fig. 5' and the site in question. In other words, Policy RTC1 and the accompanying diagram convey at a strategic level that additional retail development around the main allocated sites could potentially come forward to complement the main allocations – albeit with the sequential focus on the Primary Shopping Area and Edge of Centre first in line with other policies. In addition, RTC1 advocates improvements to the public realm which the development achieves and improved access to the canal – which the development positively would reinforce through better natural surveillance and close association to the improvements at the Tesco site under Policy RTC8. Accordingly, Officers assess there is consistency between the development proposals and wider strategic Regeneration Policy RTC1.

In terms of Policy RTC2, the 4th paragraph suggests that redevelopment of any larger sites outside the Primary Shopping Area which are not effectively identified sites, will be supported for either residential or mixed residential/leisure/business uses that do not undermine the vitality and viability of the primary shopping area and contribute to improving the quality of the urban fabric. The proposals in this case display conflict with Policy RTC2 insofar as they are not 'mixed use' in the manner envisaged in the policy. However the proposals are proven (as discussed at the retail impact assessment aspect of this report) to avoid undermining the vitality and viability of the centre in retail impact terms and would lead to improvement to the physical environment. Thus Officers observe partial conflict with this policy, but also some degree of consistency.

- 18.5 In line with the third criterion in Policy CP8, Officers are not aware of further study of the site for modernisation for industrial purposes having taken place or further study in terms of the existing timber business's viability or assessment of attractiveness of the site to the employment market. Therefore, partial conflict with the first and third criterion of Policy CP8 is apparent. However, this conflict is moderated to a lesser level by the improvement of the immediate environment, the provision/retention of employment opportunities and the way it would complement improved pedestrian access to and from the town centre and the Rugeley Power Station site.
- 18.6 Officers assess a range of other considerations such as the adjacent redevelopment of the Rugeley Power Station site which are of relevance to the decision taking on this application as a material consideration.
- 18.7 In weighing the respective policy principle compliance and partial conflicts highlighted, Officers assess the proposals would on balance weigh modestly in favour of the proposals in principle on the basis of the policies alone and the application would comply with the overall emphasis of the Development Plan more than not. Add to this the complementary benefits the proposals would bring to serving the Rugeley Power Station development and officers assess the planning balance weighs moderately in favour of the application in principle.

19. DESIGN AND CHARACTER AND APPEARANCE OF THE AREA

- 19.1 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.
- 19.2 Relevant policies within the NPPF in respect to design and achieving well-designed places include paragraphs 126, 130, 131, 132, 134. Paragraph 126 makes it clear that the 'creation of high quality, beautiful and sustainable buildings and places is fundamental to what the planning and development process should achieve' adding 'Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities.
- 19.3 The proposed food store 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. 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.
- 19.4 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 contemporary appearance. As such the building by virtue of its size, scale and materials would be well-related to its immediate commercial/ industrial context. Through the removal of the existing somewhat delapidated and poorer quality buildings on the site, Officers assess there would be a substantial character and appearance benefit that stems from the proposals tabled that is consistent with relevant design policies.
- 19.5 In respect to the landscaping of the site the comments of the Landscape Officer are noted in particular concerning: -
- (i) The colour of the palisade fencing (green rather than black).
 - (ii) Retention of and works to two large black poplars on the frontage and works within the Root Protection Area.
 - (iii) Proposed tree planting.
 - (iv) The use of a timber trip rail.
- 19.6 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. As for the remainder of the observations received, whilst the Landscape Officer would wish to minor changes to the submitted proposals, it is judged the landscaping proposals are nevertheless acceptable as submitted.

20. WIDER LANDSCAPE CONSIDERATIONS

- 20.1 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. In this respect it is noted that paragraph 176 of the National Planning Policy Framework requires great weight should be given to conserving such environments.
- 20.2 Whilst the proposal is clearly not in the limits of the AONB it is with 2km of the designated area and therefore potentially could have an impact on the setting of the AONB. In this context it is noted that Policy CP14 of the Local Plan, which deals with landscape character and the Cannock Chase AONB states the districts landscape character will be protected and conserved.
- 20.3 In addition to the above it is noted that the following publications from the Cannock Chase AONB Partnership provide detailed guidance on assessing impacts.
- 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).
- Of particular importance is the latter document.
- 20.4 Having had regard to the above it is noted that the application site is located within an urban area as shown in Figure 2.2: Cannock Chase Area of Outstanding Natural Beauty (AONB) Landscape Character Framework. The Guide goes on to give a range of viewpoints in and around the AONB. Of particular relevance are View Points 5, 7 and 8 and 9. The descriptions of these are given in Appendix 1 of this report.
- 20.5 On examining the views referenced above it is clear that the application site cannot be seen in them. This is not surprising given that the site lies with an urban area on the far side of Rugeley from the AONB and is seen in the context of surrounding urban form and that to the south of the site the wooded former railway embankment acts as a visual screen. It is also noted that the Cannock Chase AONB Unit has no objections to the proposal.
- 20.6 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 paragraphs 126, 130, 131, 132, 134 of the NPPF.

21. IMPACT ON RESIDENTIAL AMENITY

- 21.1 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".
- 21.2 Paragraph 130(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.
- 21.3 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 permission for a predominantly residential development, which will introduce residential areas across the A51 and hence the potential for conflicts in respect to noise.
- 21.4 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."
- 21.5 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".
- 21.6 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 130(f) of the NPPF.

22. HIGHWAYS CONSIDERATIONS

- 22.1 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.

- 22.2 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. Although objections have been received, 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.
- 22.3 In respect to the representation by Centrebus as to whether the district council will be placing a S106 agreement onto the planning consent requiring the introduction of a new/ revised bus service to serve the site it is noted that as this site is adjacent the main town centre boundary such a requirement would not be necessary. Furthermore, the Highway Authority has not requested such an obligation to be placed on any permission granted. As such it is recommended that such an obligation is not attached to any permission granted.
- 22.4 It is therefore concluded that the proposals, subject to the attached conditions and section 106 obligations in respect to the monitoring of the Travel Plan, would not result in unacceptable impact on highway safety, or residual cumulative impacts on the road network would be severe in line with Para 111 of the NPPF. Instead the proposals would provide for access by various means of transport, in a location that is sustainable and immediately adjacent the town centre boundary. For these reasons it is considered that the proposal is in accordance with Policy CP10 of the Cannock Chase Local Plan and paragraphs 110, 111, 112 and 113 of the National Planning Policy Framework.

23. **IMPACT ON NATURE CONSERVATION INTERESTS**

- 23.1 Policy and guidance in respect to development and nature conservation is provided by Policy CP12 of the Local Plan and paragraphs 174 and 180 of the NPPF.
- 23.2 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.
- 23.3 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.
- 23.4 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.”

- 23.5 It is noted that the national conservation value of a maternity roost for soprano pipistrelle bats is moderate.
- 23.6 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
- 23.7 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
- (i) "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."
 - (ii) provided that "there is no satisfactory alternative" and the development
 - (iii) "will not be detrimental to the maintenance of the populations of the species concerned at a favourable conservation status in their natural range.
- 23.8 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.

23.9 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.

23.10 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".

23.11 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 provided replacement roosting locations suitable to maintain the favourable conservation status of the soprano pipistrelles within the local area”.

23.12 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.

23.13 Officers consider that subject to the above mitigation, which can be controlled through a suitably worded condition, the proposal would maintain the favorable conservation status of the soprano pipistrelles within the local area. Therefore taking all matters together in terms of public interest, effect on conservation status of the species, and their being no lesser alternative, Officers consider it is unlikely that a license would not be granted by Natural England taking account of these factors. The applicants would nevertheless still need to apply to Natural England in due course for a protected species license before impacting the bat roost.

24. IMPACTS OF CANNOCK CHASE SPECIAL AREA OF CONSERVATION

- 24.1 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.
- 24.2 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.
- 24.3 In addition to the above the applicant has submitted a Shadow Habitats Regulations Assessment Report, prepared by Tyler Grange (TG Report No14695_R01_15th

February 2022_MR_TW.) and dated 15th February 2022 to provide sufficient information to the local planning authority for it to exercise its duties under the Habitats Regulations 2017 (as amended).

- 24.4 The European Council Directive on the Conservation of Natural Habitats and of Wild Flora and Fauna, 1992, often referred to as the 'Habitats Directive', provides for the protection of key habitats and species considered of European importance (listed under Annex I, II and IV of the Directive). The Birds Directive (formally known as Council Directive 2009/147/EC on the conservation of wild birds) was also adopted in 2009. These directives have been transposed into UK law through The Conservation of Habitats and Species Regulations, hereafter referred to as 'the Habitats Regulations 2017 (as amended)', and incorporated protections for European sites. It should be noted that the UK's departure from the European Union (EU) does not alter the implementation of this legislation in the UK at the time of writing. Section 6 of the EU (Withdrawal) Act 2018 (as amended) requires retained EU law such as the Conservation of Habitat and Species Regulations 2017 (as amended) to be interpreted in line with "retained case law" which includes retained EU case law.
- 24.5 For the purposes of the regulations the term European sites comprise Special Areas of Conservation (SACs) and candidate SACs designated under the Habitats Directive; Special Protection Areas (SPAs) and potential SPAs, classified under the Birds Directive; Ramsar sites, designated under the Convention on Wetlands of International Importance; and European Marine Sites (EMS).
- 24.6 Under the Habitats Regulations, competent authorities have a duty to consider impacts of any plans or projects which may result in likely significant effect on European sites, either alone or in-combination with other plans and projects. The assessment of the potential effects is termed a Habitats Regulations Assessment (HRA). Such an assessment is split into four stages.

Stage 1 is a screening stage to determine if the proposed development is expected to have an LSE on a European site. If an LSE is determined, appropriate assessment (Stage 2) is required;

If required, Stage 2 refers to an appropriate assessment which is used to determine whether the project will adversely affect the integrity of any given European site(s) (through also considering proposed avoidance and mitigation measures), in view of their conservation objectives. Conservation objectives specify the overall target for a site's qualifying features (habitats and species / populations listed in Annex I and II) in order for that feature to be maintained or restored, to reach favourable conservation status;

Stage 3 is triggered if significant adverse effects are identified in Stage 2 that cannot be avoided or mitigated. This stage requires alternative options to be examined to avoid significant impacts on European sites; and If it is deemed that

the project should proceed for Imperative Reasons of Overriding Public Interest (IROPI), Stage 4 comprises an assessment of compensatory measures which would be required.

- 24.7 The Shadow HRA states that the site is not covered by any areas which are subject to a European site designation but identifies 4 European sites that potentially could be affected by the proposal, namely Cannock Chase Special Area of Conservation (SAC) which lies approximately 3.5km west of the site; Pasture fields Salt March Special Area of Conservation (SAC) which lies approximately 8.8km north-west of the site; Midland Meres & Mosses (Phase 1) Ramsar site, which lies approximately 10km north-west of the site; and West Midlands Mosses Special Area of Conservation (SAC), which lies approximately 19km north-west of the site.
- 24.8 The Shadow HRA report then goes on to look at the potential effects on the SAC and Ramsar sites were identified through consideration of the known threats. The Shadow HRA concludes that after consideration was given to the nature of the development, in addition to the distances from each European site, the only potential 'likely significant effect' (LSE) that required further detailed consideration was that of potential for airborne pollution resulting from traffic associated with the proposed development. However, on the basis of a Technical Note produced by Connect Consultants, dated 7th February 2022 it was possible to determine the predicted level of Additional Annual Average Daily Traffic (AADT) generated by the proposed new ALDI food store. Furthermore, the Shadow HRA report found that
- (i) the AADT traffic forecasts identified a 5-minute drive-time zone from the proposed store, which would not extend beyond any of the SACs and Ramsar sites; and
 - (ii) the ALDI food store would be serviced up to four times a day by articulated Heavy Goods Vehicles (HGVs) from the ALDI Regional Distribution Centre (RDC), and the route taken does not pass within 200m of Cannock Case SAC. As such, it is considered that the proposed development would not result in an LSE as a result of increased air pollution.
- 24.9 Officers concurred with the findings of the Shadow HRA which was used by them to undertake and submit a HRA appropriate assessment to Natural England which concluded that the proposed development would not result in adverse effects upon the integrity of the identified European designated sites. Natural England have accepted the Council's HRA appropriate assessment.
- 24.10 As such officers can confirm that the Local Planning Authority has discharged its duties under the Habitats Regulations and have concluded that the proposal would not harm any SAC.

25. ENVIRONMENT ACT 2021

- 25.1 In November 2021 Environment Bill was given Royal Assent and has now become the Environment Act 2021. This Act requires, by late 2022, the Secretary of State for DEFRA to set long-term legally binding targets on air quality, biodiversity, water, resource efficiency and waste reduction within the UK which will be overseen by a largely independent body.
- 25.2 In respect to Biodiversity Net Gain all new development will be obliged to demonstrate a 10% biodiversity net gain (BNG). On sites where BNG is secured, it would have to be managed for at least 30 years and will most likely need to be secured by a legal agreement. A two-year transition period was set out in the consultation documents so it is anticipated the 10% BNG requirement will be a legally mandatory requirement by 2023. Although, some LPAs already require net gain Cannock Chase District Council has no such policy requirement.
- 25.3 Therefore, although the provisions of the Environment Act 2021 constitute a material consideration there is currently no legislative or policy to require a 10% Biodiversity Net Gain. Notwithstanding this there is still a requirement under paragraph 174 of the NPPF for decisions to contribute to and enhance the natural and local environment. However, it is considered that given the site is currently disturbed with much hard standing, this enhancement would be achieved through an appropriate landscape plan which could be readily achieved through the use of an appropriately worded condition and to some extent the creation of a permanent and specifically designed bat roost.
- 25.4 Therefore it is considered that subject to the attached conditions the proposal would not be contrary to policies CP12 and CP13 of the Local Plan and paragraphs 174 and 180 of the NPPF.

26. DRAINAGE AND FLOOD RISK

- 26.1 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.
- 26.2 In this respect it is noted that paragraph 159 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'.
- 26.3 In addition to the above it is paragraph 169 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;
- d) where possible, provide multifunctional benefits

26.4 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”

26.5 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.

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

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

27. **MINERAL SAFEGUARDING**

27.1 The site falls within a Mineral Safeguarding Area (MSAs) for superficial sand and gravel deposits. Paragraph 2010(c) 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.

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

- a) ‘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:
 - (i) the existence, the quantity, the quality and the value of the underlying or adjacent mineral resource; and

- (ii) that proposals for non-mineral development in the vicinity of permitted mineral sites or mineral site allocations would not unduly restrict the mineral operations.

27.3 Table 7 of Appendix 6 outlines “Exemptions Criteria for Mineral Safeguarding” and includes, amongst other things, safeguarding areas (see 13 below);

27.4 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

27.5 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.

27.6 It is therefore concluded that the proposal is therefore acceptable in respect to mineral safeguarding and the requirements of paragraph 210(c) of the NPPF and Policy 3.2 of the Minerals Local Plan

28. **CRIME AND THE FEAR OF CRIME**

28.1 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'.

28.2 In addition to the above paragraph 130(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.

28.3 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.

28.4 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 and in many respects deal with specifications for locks and windows.

28.5 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 130(f) of the NPPF.

29. WASTE AND RECYCLING FACILITIES

29.1 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).

29.2 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.

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

30. GROUND CONDITIONS AND CONTAMINATION

30.1 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.

30.2 In this respect paragraph 174 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.

30.3 In addition to the above paragraph 183 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.*

30.4 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.

30.5 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 174 and 183 of the NPPF.

31. HUMAN RIGHTS ACT 1998 AND EQUALITY ACT 2010

Human Rights Act 1998

31.1 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.

Equality Act 2010

31.2 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.

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

- (i) Eliminate discrimination, harassment, victimisation and any other conduct that is prohibited;
- (ii) Advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
- (iii) 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 Equality Act.

APPENDIX 1:

Extracts from the Cannock Chase AONB Views and Setting Guide (2020)

Viewpoint 5: View looking south west from the Staffordshire Way, Bellamour Way, Colton

Receptor type

The view lies on the route of the Staffordshire Way, south of Bellamour Way within the village of Colton. Key receptors include users of the Staffordshire Way as well as residential occupants within Colton itself. The viewpoint is characterised by views across the Trent-Sow floodplain and is representative of a westerly outlook towards the AONB and settlement edge of Rugeley.

Description of the view

Low-lying, large scale arable farmland dominates the foreground of this view, providing an open outlook towards the settlement of Rugeley. The route of the Staffordshire Way also dissects the immediate foreground. The left hand frame of the view is characterised by vegetation parallel to Moreton Brook as well as the built form of Rugeley Power Station, which is prominent on the skyline from this location. A network of electricity pylons provide further visual detractors in the view, protruding above the wooded horizon where the settlement edge of Rugeley is just apparent. A hedgerow bordering the B5013 and woodland block at Boathouse Spinney characterise the right hand frame of the view, although glimpsed views of traffic along this route detract from localised tranquillity. Bellamour Lodge Farm is also just perceptible at this location, albeit partially screened by vegetation. The wooded extent of the distinctive upland plateau forming the AONB is evident in the background view.

Viewpoint 7: View looking east from Slitting Mill Road, Slitting Mill

Receptor type

This view is located on Slitting Mill Road, at the eastern boundary of the AONB. Residential properties within Slitting Mill from the primary receptor from this location. Although framed views are also available along the carriageway, these are largely

obscured by hedgerows and appear generally perpendicular to the direction of travel. This view has been included within the

study as it is representative of views from the fringes of the AONB towards Rugeley.

Description of the view

The immediate foreground of the view is dominated by the road frontage of Slitting Mill Road; including residential properties, a bus stop and hedgerow. The view looks east across a narrow panorama, framed by intervening built form parallel to the carriageway. Gently rolling agricultural fields divided by hedgerow field boundary treatments characterise the fore and middle ground of

the view, separating the settlements of Slitting Mill and Rugeley. Rugeley Power Station dominates the view, visible above intervening tree coverage associated with Rising Brook in the middle ground. However, the rising slopes evident in the background view afford open views towards the settlement edge of Rugeley where the church spire of St Etheldreda Church protrudes against the skyline. The wind turbine at Manor Farm in Newton is also just perceptible above the horizon.

Viewpoint 8: View looking north west at Stile Cop Field, Stile Cop Road, Flaxley Green

Receptor type

The view affords north westerly views across the valley landscape at the south western fringes of Rugeley. Located at a gated field access on Stile Cop Road, the view is representative of transport receptors and equestrian users of Stile Cop Field.

However, the extent of vegetation parallel to the carriageway restricts open views from this route. This view is included in the study as it is representative of a glimpsed outlook available towards the south western fringes of Rugeley from the AONB.

Description of the view

Land use associated with the equestrian facility at Stile Cop Field dominates the immediate foreground of the view, although the rising topography of the left hand frame foreshortens the view. The landform of the middle ground gently falls towards the valley of Rising Brook where the linear transport corridors of the A460 and the Chase rail line cross the valley floor, detracting from the rural quality of the foreground. The settlement edge of Rugeley is apparent in the middle ground, beyond a copse of trees occupying the foreground. The landform of the middle ground rises to form a wooded backdrop associated with the wider upland plateau of the AONB. Glimpsed views of Slitting Mill and dwellings at Flaxley Green are visible on these wooded slopes, albeit partially screened by vegetation.

Viewpoint 9: View looking north east from Byway Longdon 0.411 at Castle Ring (scheduled monument)

Receptor type

The view is publicly accessible and representative of recreational users of Byway Longdon 0.411, forming a section of a broadly circuitous route at Castle Ring (scheduled monument). Accessed via Holly Hill Road, the site lies to the north of Cannock Wood and offers panoramic views across the landscape of the AONB and beyond. The view has been selected for inclusion within this study as it forms the highest point within the AONB and is recognised as an important historic and recreational asset.

Description of the view

The foreground of the view is characterised by the route of Byway Longdon 0.411, accommodated on perimeter earthworks within Castle Ring Iron Age hill fort. Vegetation within Stonepit Green, forming a wider component of Beaudesert Old Park, preclude open views to the

north where the view is foreshortened. The extent of this vegetation, when combined with tree cover in the immediate foreground, restricts the availability of direct views towards Rugeley Power Station and the Amazon Fulfilment Centre from this location. However, glimpsed views are afforded towards these features from wider sections of the locally elevated route at Castle Ring due to gaps in the continuity of tree cover. Direct views towards the settlement edge of Rugeley are also concealed due to the proliferation of vegetation in the central frame. The view exhibits a rural quality with the right hand frame of the view framed by tracts of tree cover at Beadesert New Park. Long distance views are afforded to Upper Longdon, located within a patchwork of gently rolling agricultural land where the ridge line associated with Needwood

Forest forms the horizon.

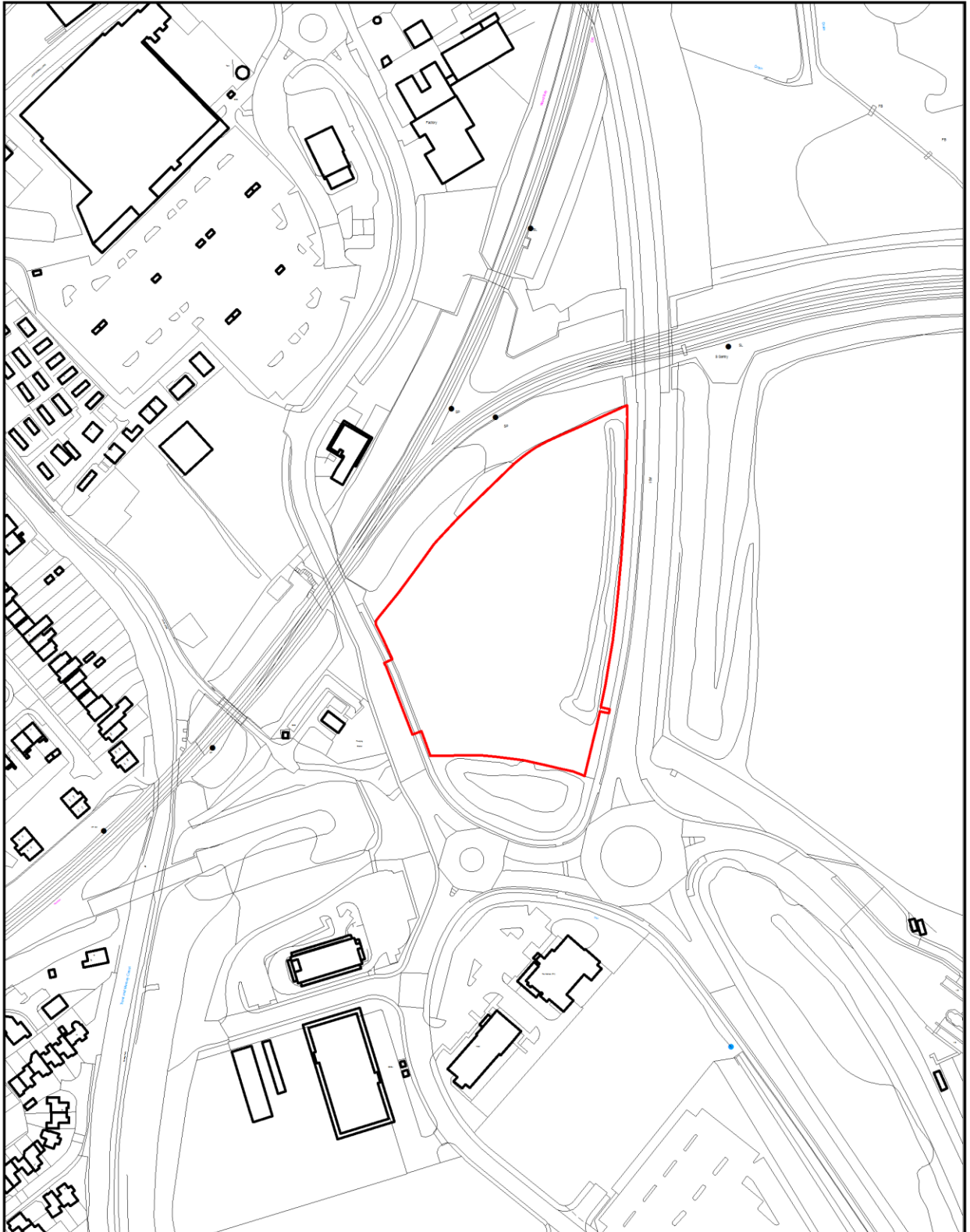


Application No: CH/20/306

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 6.133



Location Plan



Whitlam Cox Architects - Disclaimer:
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Key
 Application boundary
 3.675 acres / 1.487 hectares

Client	Whitlam Cox Architects	Ref No.
Date	2020	2020/01/01

Lidl Great Britain Limited

Project
 Power Station Road
 Rugeley

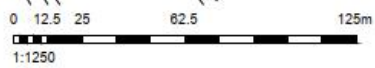
Title
 Location Plan

DRAWING STATUS	
Planning	
DESIGN	DC
SCALE	1:1250 @ A1
DATE	August 2020



DWG NO.	DRAWING NO.	REV
190343	PL-01	A

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Proposed Site Plan



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Key

- Application boundary: 5.67 acres / 2.447 hectares
- LDL 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

LDL Parking Numbers
 160 Proposed parking spaces
 inc 9 disabled (5.0m), 2 parent & child and 2 EVCS bays

LDL Areas - B66 3000 1

Sales floor	-	1,412 SQM	(15,177 SQFT)
Warehouse	-	45,000 SQM	(483,345 SQFT)
Ancillary	-	3,345 SQM	(35,945 SQFT)
Office	-	20,000 SQM	(214,500 SQFT)
LDL	-	1,175 SQM	(12,595 SQFT)
LDL	-	1,175 SQM	(12,595 SQFT)

Project Manager	James Whittam	Architect
Project Designer	James Whittam	Architect
Project Architect	James Whittam	Architect
Project Engineer	James Whittam	Architect
Project Surveyor	James Whittam	Architect
Project Planner	James Whittam	Architect
Project Coordinator	James Whittam	Architect
Project Assistant	James Whittam	Architect
Project Receptionist	James Whittam	Architect
Project Secretary	James Whittam	Architect
Project Administrator	James Whittam	Architect
Project Accountant	James Whittam	Architect
Project Lawyer	James Whittam	Architect
Project Consultant	James Whittam	Architect
Project Specialist	James Whittam	Architect
Project Advisor	James Whittam	Architect
Project Analyst	James Whittam	Architect
Project Researcher	James Whittam	Architect
Project Writer	James Whittam	Architect
Project Editor	James Whittam	Architect
Project Proofreader	James Whittam	Architect
Project Designer	James Whittam	Architect
Project Artist	James Whittam	Architect
Project Photographer	James Whittam	Architect
Project Videographer	James Whittam	Architect
Project Musician	James Whittam	Architect
Project DJ	James Whittam	Architect
Project Sound Engineer	James Whittam	Architect
Project Lighting Designer	James Whittam	Architect
Project Visualizer	James Whittam	Architect
Project Animator	James Whittam	Architect
Project Programmer	James Whittam	Architect
Project Tester	James Whittam	Architect
Project DevOps	James Whittam	Architect
Project System Administrator	James Whittam	Architect
Project Network Administrator	James Whittam	Architect
Project Database Administrator	James Whittam	Architect
Project Security Administrator	James Whittam	Architect
Project Compliance Officer	James Whittam	Architect
Project Risk Manager	James Whittam	Architect
Project Quality Manager	James Whittam	Architect
Project Change Manager	James Whittam	Architect
Project Configuration Manager	James Whittam	Architect
Project Release Manager	James Whittam	Architect
Project Deployment Manager	James Whittam	Architect
Project Operations Manager	James Whittam	Architect
Project Support Manager	James Whittam	Architect
Project Training Manager	James Whittam	Architect
Project Communication Manager	James Whittam	Architect
Project Marketing Manager	James Whittam	Architect
Project Sales Manager	James Whittam	Architect
Project Customer Service Manager	James Whittam	Architect
Project HR Manager	James Whittam	Architect
Project Finance Manager	James Whittam	Architect
Project Legal Manager	James Whittam	Architect
Project IT Manager	James Whittam	Architect
Project Operations Manager	James Whittam	Architect
Project Support Manager	James Whittam	Architect
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Project Customer Service Manager	James Whittam	Architect
Project HR Manager	James Whittam	Architect
Project Finance Manager	James Whittam	Architect
Project Legal Manager	James Whittam	Architect
Project IT Manager	James Whittam	Architect

PROJECT
 Power Station Road
 Rugeley

TITLE
 Proposed Site Plan

DATE
 08/08/2020

DESIGNED BY
 Planning

DESIGN WF | 08/08/20 | DC

SCALE 1:500 @ A1 / 1:1000 @ A3

DATE August 2020

Whittam Cox ARCHITECTS
 www.whittamcox.com

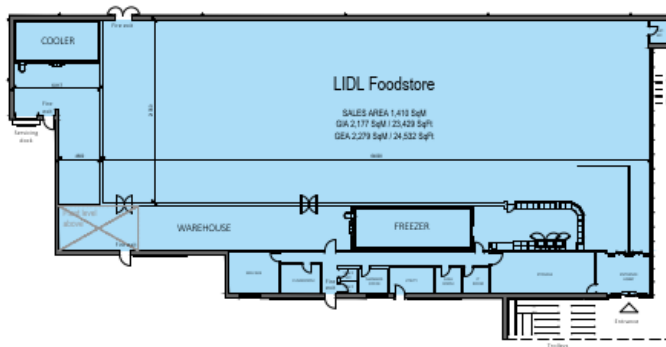
JOB NO 190343 | **DRAWING NO** PL-03 | **REV** F

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
		(3,532 SqFt)
GIA	-	2,177 SqM
		(23,429 SqFt)
GEA	-	2,379 SqM
		(25,532 SqFt)



Client	Lidl Great Britain Limited
--------	----------------------------

Project
 Power Station Road
 Rugeley

File
 Proposed Building Plan

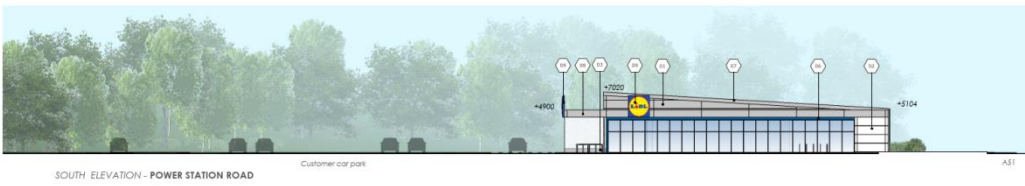
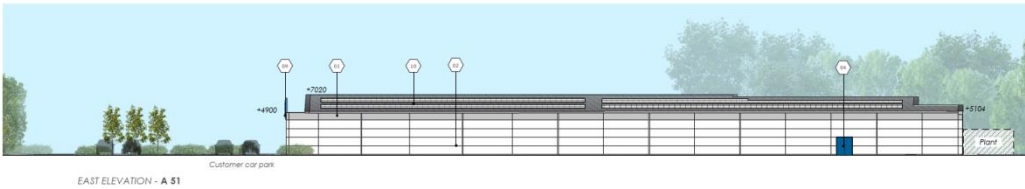
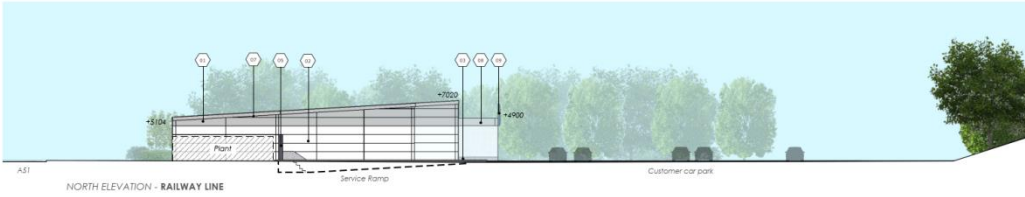
Project Details

Planning
 02/21/2023 12:00:00
 02/21/2023 12:00:00
 02/21/2023 12:00:00

Author	WSP Parsons CoA Architects
Checked by	WSP Parsons CoA Architects
Approved by	WSP Parsons CoA Architects
Date	02/21/2023

Project No.	02/21/2023
Revision No.	01
Revision Date	02/21/2023

Proposed Elevations



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 9004)
- 04 - PFC Steel Door
Colour: Dark Blue (RAL 5003)
- 05 - Spawning door/canopy
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
Issue	August 2020
Whittam Cox Architects	Whittam Cox Architects
208 No. [Drawing No.] 190343 [PL-06]	Rev A

Contact Officer: David O'Connor
Telephone No: 01543 464515

Planning Control Committee

Wednesday 6 July 2022

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

BACKGROUND

This application was presented to Planning Control Committee on 13th January 2021 when it was resolved: -

RESOLVED

- (A) That the applicant be requested to undertake a Section 106 Agreement to secure monies for the monitoring of the implementation of the travel plan and the transfer of the safeguarded land;
- (B) On completion of the Agreement the application be approved subject to the conditions contained in the report for the reasons stated therein, any issues detailed in the update sheet (Annex A) and to the amendment of Condition 14 to include reference to road sweeping, as follows: -

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 contractor's 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 and a programme of highway inspections and the cleaning of mud brought onto the highway. 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.

The application was one of two applications (the other one was application reference CH/20/218 submitted on behalf of ALDI) on the agenda that day in respect to retail food stores on Power Station Road, Rugeley.

Specialist retail planning advice to the Council was provided at that time by a company called Stantech. Members will therefore see in the report mention of advice from Stantech in representations made by objectors. However, it is important to note that the advice from Stantech has now been wholly superseded by advice from Alder King.

Following the grant of planning permission, on 18 January 2021, the Council received a pre-action protocol ("PAP") letter from Tesco challenging the grant of planning permission and threatening judicial review. Judicial Review proceedings ("JR") were issued. The Council took their own Counsel advice, which advised the JR threat was credible. The Council settled the JR by Consent Order (CO/793/2021 sealed 29.4.2021).

The two grounds of challenge related to the treatment of two issues in the officer report and in essence a failure to apply the test in section 38(6) of the Planning & Compulsory Purchase Act 2004.

In summary, Ground 1 was on the grounds of a failure to apply relevant policies of the Local Plan in that the Council failed to have regard to the: -

- development plan polices relevant to Rugeley Town Centre and or failed properly interpret them – resulting in a failure to meet the legal test under section 38(6) of the Planning & Compulsory Purchase Act 2004;
- impact of the proposals on Policy CP11 and their compliance (or otherwise) with it. For CP11 not to be interpreted or applied by reference to the NPPF;
- Policies RTC1 and RTC2 of Rugeley Town Area Action Plan.

In summary Ground 2 was on the grounds of a failure to consider the cumulative effect of the proposals in assessing impacts.

The Council did not accept Ground 1 of the challenge, and partially accepted Ground 2.

The judicial review ordered the remission back to Planning Committee the redetermination of the application to allow the Council to re-determine the application having regard to a cumulative assessment of the impacts of the food store proposals in the Aldi and Lidl applications.

The applicant has subsequently submitted a Retail Impact Assessment, a Shadow Habitats Regulations Assessment and a Flood Risk Assessment.

In response to the Consent Order Officers have readvertised the application as a Departure from the Development Plan, undertaken full reconsultation with all consultees and have advised both Morrisons and Tesco of the Council's intention to redetermine the application. The application has been readvertised by press notice, by neighbour letter and site notice.

In response to the consent order the applicant has submitted a retail impact assessment which includes an assessment of the cumulative impacts of the Lidl and Aldi planning applications. In order to assist in the reassessment of the application Officers have commissioned the services of Alder King to provide expert retail advice.

The application is therefore back before Planning Control Committee for redetermination following quashing of the previous permission.

1. RECOMMENDATIONS:

- (A) Approve subject to the attached conditions and the completion of a section 106 agreement to provide for the: -
- (i) transfer the freehold interest in the safeguarded land; and
 - (ii) payment of the Travel Plan Sum of £ 7000 for the monitoring and review of the Travel Plan.
- (B) On completion of the Section 106 planning obligation(s) the application be approved subject to the conditions contained in the report for the reasons stated therein.

2. EXECUTIVE SUMMARY

- 2.1 The Applicant is seeking consent for removal of existing hardstanding and erection of a retail food store with associated car parking, access, landscaping and associated engineering works. The store would have a building area of 2,279 sqm gross external area (GEA) with a net sales area of 1,410 sqm. Whilst outside of the town centre boundary, the store would be located immediately abutting the town centre boundary as defined on the Local Plan Proposals map. Included as part of the package of measures proposed within the submission is the safeguarding of a portion of land adjacent to the proposed route of the pedestrian/cycle access into the redeveloped former power station site and the inclusion of a travel plan payment.
- 2.2 Officers are satisfied with the conclusions presented by Alder King that there are no sequentially preferable town centre or edge of centre sites available for the development proposed in this application. Officers assess the location is well connected to the town centre and represents an accessible site by various means of transport and for the reasons set out in this report would comply with the sequential requirements of Policy CP11 of the Local Plan 2014 and paragraphs 87 and 88 of the NPPF (2021).

- 2.3 In line with the detailed dialogue and advice from the Council's consultants Alder King, Officers conclude there would be no significant adverse impacts on the turnover levels of existing businesses within the town centre or nearby centres. Officers have been presented with no substantive evidence to suggest there would be significant adverse impacts on existing investments within the catchment area. A substantial future investment of note nearby is the remediation and redevelopment of the former power station site. The proposals would appear to complement the investment in the power station site by maintaining investor confidence in the area and providing an additional service to future residents that is convenient and easily accessible from future housing. In providing additional economic and built environment benefits, such effects are consistent with the wider emphasis of CP11 which seeks to strengthen Rugeley's role as a market town serving the shopping needs of Rugeley and nearby settlements. The assessment is also consistent with Para 90 and 91 of the NPPF and overall leads Officers to conclude there would be no significant adverse impact on the vitality or viability of Rugeley or nearby centres.
- 2.4 The development would exceed the 4,900sqm retail floor area set out in Policy CP11 and the AAP of the Local Plan. For this reason, it is technically considered that the proposal constitutes a departure from the Cannock Chase Local Plan. At the same time the proposals would complement the ambition within CP11 to promote the development of Rugeley town centre for retail, align with the ambition to improve the attractiveness of the town centre and would complement or build upon the positive environmental enhancements and linkages to the Canal Corridor. Hence partial conflict with the ambitions of policy CP11 is observed.
- 2.5 In the context of consideration against Policy RTC1 and the accompanying diagram, Officers recognise the environmental improvements to the prominent site that would result as well as the benefits to the setting of the wider regeneration area that the proposals would bring through the removal of the existing vacant, scruffy and underutilised land. In addition, it is noted there is overlap between the red area in Local Plan 'Fig. 5' and the site in question. These improvements are consistent with Policy RTC1 which advocates improvements to the public realm as well as improved access to the canal – which the development positively would reinforce through better natural surveillance and close association to the improvements carried out around the canal and wider vicinity (e.g. at the Tesco site under Policy RTC8). Accordingly, Officers assess there is consistency between the development proposals and wider strategic Regeneration Policy RTC1.
- 2.6 In terms of Policy RTC2, the 4th paragraph suggests that redevelopment of any larger sites outside the Primary Shopping Area which are not effectively identified sites, will be supported for either residential or mixed residential/leisure/business uses that do not undermine the vitality and viability of the primary shopping area and contribute to improving the quality of the urban fabric. The proposals in this case display conflict with Policy RTC2 insofar as they are not 'mixed use' in the manner envisaged in the policy. However, the proposals are proven (as discussed at the retail impact assessment

aspect of this report) to avoid undermining the vitality and viability of the centre in retail impact terms and would lead to improvement to the physical environment and an improved range of services available within the settlement. Thus, Officers observe partial conflict with this policy, but also some degree of consistency.

- 2.7 Officers assess a range of other considerations such as the adjacent redevelopment of the Rugeley Power Station site which are of relevance to the decision taking on this application as a material consideration. This is now a committed development under construction for 2300 dwellings and a new All Through School but is not taken into account in current policies within Local Plan 2014. In particular there is a strong affinity between the main pedestrian and cycle linkages to the power station development and the site in question and the development proposed would provide an increased range of services within convenient reach of future residents occupying the new residential development, thus promoting sustainable transport objectives. The development proposed would also improve the setting of the main entrance into the power station development through the removal of the underutilised land.
- 2.8 This report goes on to consider a range of other detailed planning matters such as drainage, nature conservation interests, ground conditions and design considerations. In all cases, there are no planning reasons for refusal on detailed planning matters and the development is considered consistent with policies in this regard.
- 2.9 In weighing the respective policy principle compliance and partial conflicts highlighted, Officers assess the proposals would on balance weigh modestly in favour of the development in principle on the basis of the policies alone, and it is concluded the application would comply with the overall emphasis of the Development Plan more than not. Add to this the complementary benefits the proposals would bring to serving the Rugeley Power Station development (a matter which could not reasonably have been pre-empted in the current Local Plan), the additional land proposed to be safeguarded to enhance the entrance to the power station site and the absence of detailed planning issues with the proposed scheme and Officers assess the planning balance weighs moderately in favour of the application.

3. **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 paragraphs 126 and 130 of 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. 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 paragraphs 159 and 169 of 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 and Network Rail. 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.
4. Rainwater goods do not discharge towards or over the railway boundary.
5. All surface waters and foul waters drain away from the direction of the railway boundary.
6. Soakaways for the proposal are placed at least 30m from the railway boundary.
7. Any drainage proposals for less than 30m from the railway boundary ensure that surface and foul waters are carried from site in closed sealed pipe systems.
8. Suitable drainage or other works are to be provided and maintained by the developer to prevent surface water flows or run-off onto Network Rail's land and infrastructure.
9. Proper provision is made to accept and continue drainage discharging from Network Rail's property.
10. Drainage works do not impact upon culverts, including culverts/brooks etc that drain under the railway.
11. there is no surface or sub-surface flow of water towards the operational railway.

Reason

To reduce the risk of surface water flooding to the development and properties downstream for the lifetime of the development in accordance with paragraphs 159 and 169 of the National Planning Policy Framework.

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 Monitoring in the Vicinity of Demolition and Construction Sites October 2018 (version 1.1) and BS 5228 with regards to noise and vibration management. The submission shall also include the mitigation measures proposed in the 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 wheel washing, 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.
- Measures to prevent over-sail into Network Rail air-space.
- Contact details for the site Manager.

The approved Construction Management Plan shall be adhered to throughout the construction period.

Reason

In the interest of protecting the amenity of the surrounding area in accordance with paragraphs 111 and 130(f) of the National Planning Policy Framework.

6. No means of external lighting shall be brought into use until a scheme for external lighting has been submitted to and approved in writing by the Local Planning Authority. Thereafter, all means of external lighting brought into use on the site shall be in accordance with that shown in the approved scheme.

Reason

In the interest of protecting the amenity of the surrounding area in accordance with paragraph 130 of 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 20th 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 20th May 2020. Authored by Applied Geology Ltd) has confirmed the presence of ground gases requiring mitigation in accordance with paragraphs 174 and 183 of 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 paragraphs 174 and 183 of 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 paragraphs 174 and 183 of 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 paragraphs 174 and 183 of 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 Cannock Chase District Council Design Guide Supplementary Planning Guidance 'Trees, Landscape and Development'. The plans shall also show the location of services and site levels. 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 protecting the visual amenity of the area in accordance with Policy CP3 of the Cannock Chase Local Plan (Part 1) and paragraphs 126, 130, 131 and 134 of 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 in the interests of protecting the visual amenity of the area in accordance with Policy CP3 of the Cannock Chase Local Plan (Part 1) and paragraphs 126, 130, 131 and 134 of the National Planning Policy Framework.

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.

Reason

In the interest of sustainability and tackling the causes of climate change in accordance with Policy CP16 of the Cannock Chase Local Plan and paragraphs 152 and 154 the National Planning Policy Framework.

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

- Plan 190343 PL-01A - Location Plan-A3
- Plan 190343 PL-02A - Existing Site Plan-A1
- Plan 190343 PL-03F - Proposed Site Plan-A1
- Plan 190343 PL-04A - Proposed Building Plan-A1
- Plan190343 PL-05A - Proposed Roof Plan-A1
- Plan 190343 PL-06A - Proposed Elevations-A1
- Plan L-03 Rev F Proposed Site Plan
- Plan SCP/190752/F01 Rev C Ghost-Island Right Turn Site Access Proposal
- Plan SCP/190752/F02 Rev B Proposed Site Layout and Ghost-Island Right Turn Site Access Solution
- Plan SCP/190752/F03 Rev B Proposed Site Layout and Ghost-Island Right Turn Site Access Solution Plan Illustrated Against RPS S278 Works
- Plan SCP/190752/ATR01 Rev D Site Access Proposal and Swept Path of Maximum Legal Articulated HGV (Inbound)

- Plan 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. The development hereby permitted shall not be open to the public until the proposed site access from PowerStation Road has been 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 111 of the National Planning Policy Framework.

16. The development hereby permitted shall not be open to the public until the existing site access from the A51 made redundant as a consequence of the development hereby permitted, has been 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 111 of the National Planning Policy Framework.

17. The development hereby permitted shall not be open to the public 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 111 of the National Planning Policy Framework.

18. The development hereby permitted shall not be open to the public until a signage and directional strategy for the car parking area has first been 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 111 of the National Planning Policy Framework.

19. Notwithstanding the submitted details, the development hereby permitted shall not be open to the public 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 111 of the National Planning Policy Framework.

20. 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 paragraphs 112 and 113 of the National Planning Policy Framework.

21. 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 111 of the National Planning Policy Framework.

22. The development shall be carried in accordance with the tree protection plan, as shown in Figure 710 contained with the Lidl Retail Store, Rugeley-Arbicultural Impact Assessment, Ref JSL3692 and dated 5th November 2020.

Reason

In the interest of protecting the visual amenity of the area in accordance with Policy CP3 of the Cannock Chase Local Plan (Part 1) and paragraphs 126, 130, 131 and 134 of the National Planning Policy Framework.

Crime Prevention Measures

23. Notwithstanding the details, of the approved plans the development hereby permitted shall not be open to the public until full details for the provision of: -

- (i) speed bumps in the car park;
- (ii) a height barrier near the entrance;
- (iii) bollards;
- (iv) cycle parking specification;
- (v) fencing and
- (vi) CCTV

have been submitted to and approved in writing by the Local Planning Authority and the works comprising the approved scheme have been carried out.

Reason

In the interests of creating places that are safe and where crime and disorder, and the fear of crime, do not undermine quality of life, social cohesion and resilience. In accordance with paragraph 130(f) of the National Planning Policy Framework

Floorspace Restriction

24. The total Class E(a) floorspace hereby permitted shall not exceed 2,279sqm gross external area. The net sales (defined as all internal areas to which customers have access, including checkouts and lobbies) shall not exceed 1,410sqm.

Reason

In the interests of protecting the vitality of Rugeley town centre, Hednesford town centre and nearby town and local centres and to ensure compliance with Local Plan Policies CP11 and paragraphs 86-91 of the National Planning Policy Framework.

Sale of Goods Restriction

25. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2021 (as amended) (or any order revoking or re-enacting or amending that Order with or without modification), the Class E(a) (retail) floorspace hereby permitted shall be used primarily for the sale of convenience goods with a maximum of 282sq m of the net sales are devoted to comparison goods. There will be no sale of tobacco and related products. In addition, no provision of the following in-store facilities/services:

- Fresh meat counter
- Fresh fish counter
- Delicatessen counter
- Hot food counter

- Pharmacy
- Dry cleaning service
- Photography service
- Post office counter
- Café/restaurant

Reason

In the interests of protecting the vitality of Rugeley town centre, Hednesford town centre and nearby town town and local centres and to ensure compliance with Local Plan Policies CP11 and paragraphs 86-91 of the National Planning Policy Framework.

Subdivision

26. The Class E(a) (retail) unit hereby permitted shall be used as a single unit and shall not be sub-divided into two or more units, and no concessions shall be permitted within the unit without the consent of the Local Planning Authority.

Reason

In the interests of protecting the vitality of Rugeley town centre, Hednesford town centre and nearby town town and local centres and to ensure compliance with Local Plan Policies CP11 and paragraphs 86-91 of the National Planning Policy Framework.

Mezzanine Restriction

27. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development (England) Order 2015 (as amended) or Article 44 of the Development Management Procedure Order 2015 (or any order revoking or re-enacting or amending that order with or without modification), no mezzanine floor or other form of internal floor to create additional floorspace other than that hereby permitted shall be constructed in the hereby permitted Class E(a) (retail) unit without the consented of the Local Planning Authority.

Reason

In the interests of protecting the vitality of Rugeley town centre, Hednesford town centre and nearby town town and local centres and to ensure compliance with Local Plan Policies CP11 and paragraphs 86-91 of the National Planning Policy Framework.

Limited Assortment Discounter

28. The development hereby approved shall only be used as a Class E(a) retail food store and shall be restricted to 'limited product line deep discount retailing' and shall be used for no other purpose falling within Class E of the Town and County Planning (Use Classes) (Amendment) Regulations 2020 (or any order revoking or re-enacting or amending that order with or without modification). 'Limited product line deep discount

retailing' shall be taken to mean the sale of no more than 4,500 product lines, except for the Christmas period where up to 5,000 products lines can be sold

Reason

In the interests of protecting the vitality of Rugeley town centre, Hednesford town centre and nearby town and local centres and to ensure compliance with Local Plan Policies CP11 and Paragraphs 86-91 of the National Planning Policy Framework.

29. The development hereby permitted shall not be commenced until a Delivery Servicing and Waste Management Plan (DSWMP) has been submitted to and approved in writing by the Local Planning Authority. The DSWMP shall detail the route to be taken by Heavy Goods Vehicles undertaking deliveries between the Wednesbury Regional Distribution Centre and the Lidl store on Power station Road. Thereafter, all heavy goods vehicles undertaking deliveries to the Lidl store on Power station Road shall adhere to the DSWMP unless otherwise approved in writing by the Local Planning Authority.

Reason

In the interest of protecting the integrity of Cannock Chase Special Area for Conservation in accordance with policies CP12 and CP13 of the Local Plan and paragraphs 174 and 180 of the NPPF.

30. No development shall commence until a waste audit has been submitted to and approved in writing by the Local Planning Authority. The waste audit shall set out the following details: -

- the anticipated nature and volumes of waste that the development will generate
- where appropriate, the steps to be taken to ensure the maximum amount of waste arising from development on previously developed land is incorporated within the new development
- the steps to be taken to ensure effective segregation of wastes at source including, as appropriate, the provision of waste sorting, storage, recovery and recycling facilities
- any other steps to be taken to manage the waste that cannot be incorporated within the new development or that arises once development is complete.

Thereafter, the development, shall be carried out in accordance with the approved Waste Audit.

Reason

In order to facilitate the use waste as a resource, minimise waste as far as possible and demonstrate the use of sustainable design and construction techniques, in accordance with Policy 1.2 of the Staffordshire and Stoke-on-Trent Joint Waste Local Plan.

4. CONSULTATIONS AND PUBLICITY

4.1 Subsequent to the Consent Order all consultees have been reconsulted. Where that has resulted indifferent consultation responses to those initially received the most recent response is provided. In those situations where the consultee has provided additional comments over and above those originally provided both the responses are shown. In those instances where the consultee has reiterated the same comments submitted in their initial or have indicated that their initial comments still stand that initial response is provided below.

External Consultations

AONB Unit – No objection

The AONB Unit has confirmed that it has no comments to make on this application.

Brereton & Ravenhill Parish Council – No objection

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 within their original response.

Additional response dated 31/01/2022 (in response to the HRA)

Natural England notes that your authority, as competent authority, has undertaken an appropriate assessment of the proposal in accordance with regulation 63 of the Conservation of Species and Habitats Regulations 2017 (as amended). Natural England is a statutory consultee on the appropriate assessment stage of the Habitats Regulations Assessment process.

Your appropriate assessment concludes that your authority is able to ascertain that the proposal will not result in adverse effects on the integrity of any of the sites in question.

Having considered the assessment, and the measures proposed to mitigate for all identified adverse effects that could potentially occur as a result of the proposal, Natural England advises that we concur with the assessment conclusions, providing that all mitigation measures are appropriately secured in any planning permission given.

County Flood Risk Management (SUDS) – No objection subject to conditions

We have no objection to the application at this stage, subject to the recommencement condition below being attached to any planning permission.

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

Please also consult us again on any future major changes to the proposed development or drainage scheme.

Condition

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).

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.

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.

Staffordshire County Council – Minerals and Waste – No objections

Our records show that much of the site falls within the boundary of planning permission ref.:CH .08/01/746 W, which was granted on 10 April 2008 for the construction of a replacement household waste recycling centre. An aggregate recycling site (ref: 725 W) also lies approximately 225m north north-east of the application site.

However, the permission for the household waste recycling centre was never implemented and has since lapsed, and the aggregate recycling facility is separated from the application site by both the Rugeley Bypass, and a railway line running on an embankment, so the proposed development is unlikely [sic] restrict the operations of the waste site in any way.

The application site also falls within a Mineral Safeguarding Area (MSA) for Superficial Sand and Gravel, as defined in the Minerals Local Plan for Staffordshire (2015 - 2030), though there are no permitted or allocated mineral sites in the vicinity.

Having regard to the policies, guidance and observations referred to in our main response, it is reasonable to conclude that the proposed development would not adversely affect any significant waste management infrastructure or lead to the sterilisation of significant mineral

resources.

Therefore, in accordance with the powers contained in the 'Scheme of Delegation to Officers¹, this letter confirms that Staffordshire County Council, acting as the Mineral and Waste Planning Authority, has no objection to the planning application for removal of existing hardstanding and erection of a retail food store with associated car parking, access, landscaping and associated engineering works at land at Power Station Road, Rugeley, for the reasons described above.

Staffordshire Police Crime Prevention Officer – No objections, comments received

The Police have received several incidents reported relating to 'Car Cruising' on large retail car parks. Within the Cannock Chase District Council area, several 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 racetrack.

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.

Staffordshire County Council Highways – No objections subject to conditions

A site visit was carried out on 18/09/2020.

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 m² and the tradable floor area would be up to 1,410 m². 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 recommended conditions.

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

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.

Highways England – No comments

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

Response dated 14 January 2022

As no local bus services run along Power Station Road or in close proximity to the proposed development site I would be interested in the confirmation of whether the district council will be placing a S106 agreement onto the planning consent requiring the introduction of a new/ revised bus service to serve the site.

Network Rail – No objections

With reference to the protection of the railway, Network Rail has no objection in principle to the proposal, but below are requirements which must be met as the proposal includes works within 10m of the railway boundary and an interface with the railway boundary - therefore undertaking the works with the agreement and supervision of Network Rail is required. This is to ensure that the works on site, and as a permanent arrangement, do not impact upon the safe operation and integrity of the existing operational railway and for the avoidance of doubt of both the council and the developer who may not be aware of the potential for outside party proposals to impact upon the railway.

Please forward the attached documents, forms and asset protection contact details to the applicant for actioning

Network Rail recognises that conditions are imposed for a planning purpose and that they are fairly and reasonably related to the development and not be manifestly unreasonable. We believe that the comments included in this email are indeed fair and reasonable and relate to Network Rail's need to ameliorate the impacts that might otherwise flow from the development.

Measurements to railway tracks and railway boundary

When designing proposals, the developer and council are advised, that any measurements must be taken from the operational railway / Network Rail boundary and not from the railway tracks themselves. From the existing railway tracks to the Network Rail boundary, the land will include critical infrastructure (e.g. cables, signals, overhead lines, communication equipment etc) and boundary treatments (including support zones) which might be adversely impacted by outside party proposals unless the necessary asset protection measures are undertaken. No proposal should increase Network Rail's liability. To ensure the safe operation and integrity of the railway, Network Rail issues advice on planning applications and requests conditions to protect the railway and its boundary.

RAMS

The developer is to submit directly to Network Rail, a Risk Assessment and Method Statement (RAMS) for all works to be undertaken within 10m of the operational railway under Construction (Design and Management) Regulations, and this is in addition to any planning consent. Network Rail would need to be re-assured the works on site follow safe methods of working and have also taken into consideration any potential impact on Network Rail land and the existing operational railway infrastructure. Builder to ensure that no dust or debris is allowed to contaminate Network Rail land as the outside party would be liable for any clean-up costs. Review and agreement of the RAMS will be undertaken between Network Rail and the applicant/developer. The applicant /developer should submit the RAMs directly to:

AssetProtectionCentral@networkrail.co.uk

Encroachment

The developer/applicant must ensure that their proposal, both during construction, and after completion of works on site, does not affect the safety, operation or integrity of the operational railway, Network Rail land and its infrastructure or undermine or damage or adversely affect any railway land and structures.

- There must be no physical encroachment of the proposal onto Network Rail land, no over-sailing into Network Rail air-space and no encroachment of foundations onto Network Rail land or under the Network Rail boundary.
- All buildings and structures on site including all foundations / fencing foundations must be constructed wholly within the applicant's land ownership footprint.
- Buildings and structures must not over-sail Network Rail air-space.
- Any future maintenance must be conducted solely within the applicant's land ownership.
- Rainwater goods must not discharge towards or over the railway boundary
- Should the applicant require access to Network Rail land to facilitate their proposal they would need to approach the Network Rail Asset Protection Team at least 20 weeks before any works are due to commence on site. The applicant would be liable for all costs incurred in facilitating the proposal and an asset protection agreement may be necessary

to undertake works. Network Rail reserves the right to refuse any works by an outside party that may adversely impact its land and infrastructure.

- Any unauthorised access to Network Rail air-space or land will be deemed an act of trespass.

Drainage proposals and Network Rail land

The NPPF states:

“178. 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

“163. When determining planning applications, local planning authorities should ensure flood risk is not increased elsewhere.”

[Officer Note: Members are advised that paragraphs 163 and 178 relate to a previous version of the NPPF are now referenced 167 and 183 respectively in the current version]

If the developer and the council insists upon a sustainable drainage and flooding system then the issue and responsibility of flooding, water saturation and stability issues should not be passed onto Network Rail. We recognise that councils are looking to proposals that are sustainable, however, we would remind the council that flooding, drainage, surface and foul water management risk as well as stability issues should not be passed ‘elsewhere’, i.e. on to Network Rail land.

The drainage proposals are to be agreed with Network Rail and surface water drainage on the site should be removed by a closed sealed pipe system.

Excavation and Earthworks and Network Rail land:

The NPPF states:

“178. 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.”

In order to comply with the NPPF, the applicant will agree all excavation and earthworks within 10m of the railway boundary with Network Rail. Network Rail will need to review and agree the works to determine if they impact upon the support zone of our land and infrastructure as well as determining relative levels in relation to the railway. Network Rail would need to agree the following:

- Alterations to ground levels
- De-watering works

- Ground stabilisation works
- Works to retaining walls
- Construction and temporary works
- Maintenance of retaining walls
- Ground investigation works must not be undertaken unless agreed with Network Rail.
- Confirmation of retaining wall works (either Network Rail and/or the applicant).
- Alterations in loading within 15m of the railway boundary must be agreed with Network Rail.
- For works next to a cutting or at the toe of an embankment the developer / applicant would be required to undertake a slope stability review.

BAPA (Basic Asset Protection Agreement)

As the proposal includes works which could impact the existing operational railway and in order to facilitate the above, a BAPA (Basic Asset Protection Agreement) will need to be agreed between the developer and Network Rail. The developer will be liable for all costs incurred by Network Rail in facilitating this proposal, including any railway site safety costs, possession costs, asset protection costs / presence, site visits, review and agreement of proposal documents and any buried services searches. The BAPA will be in addition to any planning consent.

No works are to commence until agreed with Network Rail. Early engagement with Network Rail is strongly recommended.

Should the above proposal be approved by the council and should there be conditions, where the proposal interfaces with the railway (as outlined in this response) the outside party is advised that a BAPA (Basic Asset Protection Agreement) must be in place, in order for Network Rail to review and agree the documentation and works outlined in conditions (and those areas covered by the discharge of conditions).

The applicant is advised that before the proposal progresses (should it be approved) they will be required to submit the development form to Network Rail's Asset Protection team and agree the BAPA before any works commence on site.

Internal Consultations

Development Plans and Policy Unit – No objections

The proposal seeks to permit a sales area of 1,410 sqm with approximately 80% of this used for the sale of convenience items (1,128sqm) and the remaining 20% (282sqm) for comparison goods.

The application is accompanied by a planning and retail statement which contains a sequential test and proportionate impact test for a Lidl store which includes the cumulative impacts arising from an additional proposal CH/20/218 for an Aldi store.

Paragraph 88 states 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 should demonstrate flexibility on issues such as format and scale, so that opportunities to utilise suitable town centre and edge of centre sites are fully explored.

Para 90 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 authorities should require an impact assessment if the development is over a proportionate, locally set threshold (if there is no locally set threshold, the default threshold is 2,500sqm 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).

The need for the Planning and Retail Statement have been established through earlier considerations of the proposal.

Cannock Chase Local Plan 2014

The Local Plan identifies the centres within the district and Rugeley is identified as a town centre. Policy CP11 directs main town centre uses to take a sequential approach and give priority to the regeneration of the town centre within the boundary identified and then edge of centre locations and is in accordance with the NPPF.

Policy CP11 seeks to deliver up to 10,000sqm (gross) comparison and 4,900sqm gross convenience retail floorspace by 2028. As part of this strategy work had commenced at the time of the plan on a Tesco store which the plan states as 4,000sqm net in 2012.

The Local Plan states that previous retail studies had shown that a third of the local population shopped in adjacent towns due to lack of choice in convenience shopping. These factors, together with a lack of investment over many years had led to a deterioration in the attractiveness of the town centre. A Rugeley Town Centre Area Action plan had thus been prepared to address these issues and seeks to:

- Promote the development of Rugeley town centre for retail, commercial, leisure, tourism and transport purposes, focused on the redevelopment of a number of key sites;
- Assist in the determination of planning applications for new development proposals;
- Ensure that the Council's decisions best reflect the needs and aspirations of residents, shoppers, visitors, businesses and commercial interests in the town centres;
- Provide baseline information for the purposes of future monitoring.

A town centre boundary and a smaller primary shopping area boundary are defined within the adopted Local Plan.

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.

Rugeley Area Action Plan

The plan is adopted and incorporates RTC1 Regeneration Strategy, RTC 2 Town Centre land uses relating to the Primary Shopping Area and redevelopment of smaller sites RTC4 - RTC8 and incorporates policies RTC 3, RTC9, RTC 10 and RTC 11 which consider the urban fabric, transport and flood alleviation.

Other relevant evidence

Authority Monitoring Report the latest authority monitoring report was published in 2018 since the construction of the Tesco there has been no reported additional retail floorspace at Rugeley town centre, there has now been a flood alleviation scheme completed which impacted upon a number of the redevelopment sites identified within the Rugeley Town Centre Area Action Plan. The most recent Employment Land Availability Assessment (P15, December 2020) sets out there is a surplus of employment land provision compared to Local Plan targets.

Town Centre vacancy check- the vacancy rate within the centre of Cannock, Hednesford and Rugeley is monitored quarterly. The vacancy rate in Rugeley has increased to 5.6% (April 2021), the rate is still relatively low. Cannock town centre vacancy rate has worsened in the time frame since the findings of the Retail and Town Centres study, however future investment through the Levelling Up Fund has been secured to assist in addressing this. The data is not directly comparable between the 2 studies. It is not considered that the investment from the Levelling up Fund to enhance the vitality and viability in Cannock town Centre will be negatively impacted by the proposals in Rugeley.

The Cannock Chase Retail and Town Centre Uses Study January 2021 was commissioned to act as the evidence base to assist in the formulation of future development plan policy to sustain and increase the vitality and viability of the town centres across the district as well as providing baseline information to assist in the determination of planning applications for potential retail and leisure development.

The Cannock Chase Retail and Town Centre Uses Study 2021 shows the importance of the convenience sector to the vitality and viability of Cannock Town Centre and how vulnerable it is with limited capacity for growth and a long-term reduction in convenience expenditure. It follows that relatively modest changes in retail could have a significant adverse impact upon the vitality and viability of the town centre and its ability to attract investment and deliver planned investment.

The Study recommends a threshold of 500sqm gross floorspace for retail in an edge or out of centre location should be the subject of an impact assessment due to the current health, performance, unit and floorspace composition, increasing competition from the internet; availability of units in the main shopping areas capable of meeting potential national multiple occupiers.

The Study has also recommended a reduction in the town centre boundary to concentrate retail development although the new use classes order Class E has impacted upon this.

The Study found that in relation to Rugeley, there was only a need for 200sqm of additional convenience floorspace and the seek to strengthen Rugeley's individuality and aim to attract a mix of additional land uses to the town centre.

Rugeley Health check assessment showed the vacancy rate was just below the national average at 11% and it was displaying reasonably good levels of vitality and viability.

Emerging Policy - Local Plan -Preferred Options

The Council is reviewing the adopted Local Plan and has recently completed a consultation upon a preferred option. At this moment in accordance with Para 48 of the NPPF little weight to the decision-making process can be afforded to the policies contained within this document. They are not therefore referred to within this response.

Conclusion

Whilst there were no objections in principle to the redevelopment of this site, the site is outside of the town centre boundary. The need for and scope of the Planning and Retail Statement have been established through earlier considerations of the proposal.

The sequential test:

Paragraph 87 and 88 of the NPPF requires the sequential test to be met. This is set out in the Planning and Retail statements prepared by Turley for the applicant. July 2021. Consideration is given to the sites within the Rugeley Area Action Plan

The report considered that no suitable and available sequentially preferable sites within the proposal's catchment area. I have no evidence to disagree with this finding.

The impact test:

An impact assessment has been undertaken to assess if the proposal will have a significant adverse impact upon the considerations set out in para 90 of the NPPF.

Since the original submission the council has published the Town Centres and Retail Study 2021. The data used to prepare this study has been utilized in the preparation of the considerable evidence and analysis which has been undertaken by professionals in their field both on behalf of the applicants, the applicants of application CH/20/218 and the Council.

Alder King Planning consultants are the consultants acting on behalf of the Council. Their advice of December 2021 which deals with the second part of the impact test relating to the vitality and viability on the town centre. However, it does consider the advice given with regard to the first part of the impact test given in October 2021.

The December advice from Alder King Planning Consultants considers the impacts of just the Lidl proposal upon Rugeley Town Centre, including Morrisons and Iceland, Tesco's Rugeley which is an edge of centre store and existing Aldi in Rugeley. Hednesford and Cannock Town

Centres. It then considers the cumulative impact of the Aldi Proposal (CH/20/218) and the Lidl proposal at (CH/ 20/306).

Para 4.22 states 'the retail policy tests are met in the current case in respect of both application individually and when considered together. This conclusion is predicated on the basis that the proposed stores trade in line with the form of development tested through the impact assessments prepared by Turley and WP to be secured by condition through any grant of planning permissions, plus the closure for retail purposes of the existing Aldi store secured by legal agreement.

'4.23 The conclusion of this further advice should be read in association with the October advice in respect of the first part of the impact test. Taken together, it can be concluded that the impact test has been met for each application proposal individually and when considered cumulative.

A number of conditions have been proposed by the consultants. I have no evidence which would give contrary advice to that given.

I have no comments regarding the design of the proposals, the linkages and proposed signage or the conditions proposed I will leave these matters to my colleagues.

Environmental Health – No objections subject to conditions

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 NO₂, PM₁₀ & PM_{2.5}). 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 a construction management plan type condition.

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 20th 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 conditions relating to remediation and validation of remediation

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.

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 planting 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.

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

5. RESPONSE TO PUBLICITY

The application was originally advertised by site notice and newspaper advertisement. Following the consent order and the receipt of additional information in the form of a Retail Impact Assessment, shadow Habitats Regulations Assessment and Flood Risk Assessment the application has been readvertised for a further 21 days, this time as a departure, by site notice and newspaper advertisement, with Morrisons and Tesco being informed by letter of the Council's intention to redetermine the application.

Letters of representation have been received from three parties, Tesco, Morrisons and Engie.

Representation made by Engie

Further to the objection on behalf of ENGIE dated 23rd October, we have reviewed the revised information submitted by Lidl. This includes a revised layout plan which provides a wider strip of land to deliver the pedestrian and cycle link between Power Station Road and the redeveloped Rugeley Power Station. It also commits Lidl to transfer the land to the Council for this purpose.

This reflects the discussions between ENGIE and Lidl and we appreciate the effort Lidl have gone to in order to help facilitate sustainable development for the benefit of the town.

As discussed, we can confirm ENGIE withdraw their objection, providing that the permission is granted subject to a Section 106 Agreement which ensures the land is transferred on commencement or at the latest prior to the store commencing trading (rather than 6 months after occupation), made available and retained as a pedestrian/cycle link for the lifetime of the Rugeley Power Station redevelopment. Should the latter trigger for the land transfer be preferred we would ask for a long stop date that ensures the land will be transferred in the event that the planning permission is implemented, but the store is never opened. We would also ask for the Section 106 to commit Lidl to not obstruct or hinder the delivery of the link through direct or indirect activities on site. We would not expect them to and would therefore hope they would be happy to confirm this. With the above in mind ENGIE would be pleased to input into the drafting of the relevant planning conditions and Section 106 as appropriate, to ensure a practical and pragmatic mechanism is achieved which works for Lidl and does not undermine the delivery of the link.

ENGIE's objection is also withdrawn on the basis that the Highway Authority are satisfied that the new food store will not affect the committed off-site highway works

Representation made by Tesco

Response by Tesco Dated 09 December 2020

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.

As you are aware, the local planning authority is faced with two planning applications which between them have a gross floorspace of 4,160m². 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.

Response by Tesco dated 4th December 2020

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 49,000ft² 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 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, i.e., 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 1 000m² gross rather than the default 2,500m² 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, i.e., it is within 0.1 ha 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, i.e., 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.

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.

[*Officers note that although Policy 'SP11' is mentioned in the above representation, there is in fact no Policy SP11 in the Cannock Chase Local Plan. It is therefore presumed that the reference to Policy SP11 should be construed as referring to Policy CP11 of the Local Plan].

Response by Tesco Dated 30 November 2020

Further to our conversation earlier today I write to confirm on behalf of my client Tesco Stores Ltd that we will be enlarging on their objections, including the matters briefly set out below, before 12 noon on Friday 4th December.

Our client's objections include:

1. Prejudice to the recent, continuing and future implementation of policies and proposals contained within the adopted Local Plan and the Action Area Plan for Rugeley with particular regard to the investment made by Tesco Stores Ltd over recent years and the funding provided to the Council with regard to various important pieces of infrastructure.
2. Failure to comply with the sequential test including in respect of available and suitable sites within or immediately adjacent to the defined town centre and set out as being appropriate for development in the Area Action Plan.
3. The need to take account of (as material considerations) the recommendations contained in the WYG (2015) advice to the Council in respect of the assessment thresholds for retail impact (both in terms of the impact to the health and vitality of the town centre and to recent investment in it), the reasoning for the threshold as it is envisaged for Rugeley, and the likely significant adverse impacts that will arise bearing in mind the role and function of the town centre and its future health.

My client requests that the application be reported to Planning Control Committee for determination permitting Tesco Stores Ltd through their agent to address the Committee in connection with the determination of the application. I understand that this is permitted by virtue of paragraph of 26.5.19 (b) (v) of the Council's Scheme of Delegation.

Response by Tesco, dated 09-03-2022

There is one immediate point which you should be aware of that arises from a very recent appeal decision (attached). This engages Walsingham's suggestion that there are limitations to the flexibility on format and scale that can be applied to their client's (Lidl) business model in it potentially being accommodated on Land at Wellington Drive (RTC7). In that appeal decision, the Inspector found that Lidl's involvement in connection with a scheme (on a sequentially preferable site) on what is known as the Altair site where it "*...is committed to being the anchor tenant for the scheme delivering a metropolitan format store on a leasehold basis as part of the wider mixed-use residential led scheme being developed here.*" The inspector also found that, "*...that this store would be reliant on higher pedestrians footfalls that the appeal site, reflective of the fact that the store would be stored directly off the pedestrianised high street. It would have a reduced range of goods as a result of the smaller format (a sales areas approximately 15% smaller than the appeal scheme) (1,855sqm gross) and would be likely to have access to a shared underground car park. To my mind, this commitment to the Altair site demonstrates the commitment to flexibility on format and scale envisaged by the Framework.*" (my emphasis).

This decision and its finding that Lidl's smaller "metropolitan format store" demonstrates the flexibility envisaged by the Framework, must in our view be a fundamental consideration in the determination of this application before the Council.

For information and to assist in the Council's review of the material just sent, please find attached Lidl's Metropolitan Store brochure which confirms that this model can be located on sites from as small as 3,000sqm i.e. 0.3 of a hectare which is good deal smaller than the available allocated land on the Land at Wellington Drive site.

Response by Tesco dated 28-03-2022

As you are aware we act on behalf of Tesco Stores Limited with regard to representations made to the above planning applications.

It has been brought to my attention that a local planning authority last year Consented to Judgment in respect of a consideration which appears to be fairly central to one of the issues being considered here, including by your retail planning advisors.

I attach a copy of the Consent Order signed on behalf of the local planning authority and Aldi which confirms that:

"The Defendant wrongly interpreted the NPPF to mean that the impact on the primary shopping area of the town centre was all that needed to be assessed. In fact paragraph

89 [now 90 of the 2021 NPPF] *required the impact on the town centre as a whole to be assessed*”

The Consent Order relied upon the Statement of Facts and Grounds for Review (also attached). This explained that:

“The reference to “*town centre vitality and viability*” is not constrained to the PSA. “*Town centre*” is defined in the glossary to the NPPF as the “Area defined on the local authority’s policies map, including the primary shopping area and areas predominantly occupied by main town centre uses within or adjacent to the primary shopping area.” Straightforwardly, therefore, the impact to be considered is the impact on the town centre, not just the PSA. It is trite law that the planning authority must proceed on a proper interpretation of the relevant policies of the NPPF.” (the author’s emphasis).

Our client’s supermarket falls within the “*Area defined on the local authority’s policies map*” i.e., the Adopted 2014 Local Plan Policies Map.

On behalf of our client, we would ask that the Council and those advising it review any implications arising from the above, in particular the importance of relying upon the extent of the town centre as currently defined on the local authority’s adopted policies map in making judgements and decisions with regard to retail impact matters.

Further representation dated 5th May 2022

As you are aware we have made representations of objection to the above planning application on behalf of our client, Tesco Stores Ltd. We have now seen the Retail Planning Policy Advice issued by the Council’s consultants, Alder King, that appears to be dated 26th April 2022.

We make the following representations with regard to reliance on this advice.

At paragraphs 18 and 24 of the advice, Alder King explain that it, “... Is not helpful”, that both Aldi’s and Lidl’s agents fail to explain what ‘...available within a reasonable time period... might entail, for their respective developments’. This is a critical issue in the operation of the sequential test. It requires of locationally preferable, suitable sites, an examination of whether they are “..expected to become available within a reasonable period...” (paragraph 87 of the NPPF).

In the absence of this important information, Alder King have, in respect of both applications, sought to identify a proxy that might be helpful. They have suggested that in the consideration of impact on the town centre that a design year was adopted in 2021, of 2022. Thus they identify “... a reasonable time period might be deduced as up to 12 months...” (see at paragraphs 19 and 25).

Adopting such a proxy is wholly inappropriate. Borrowing a standard convention for the assessment of retail impact fails to have regard to the particular circumstances of different sequentially preferable sites and the timescales over which they could be expected to become available having regard to the specific circumstances applying to each of them.

The sequentially preferable opportunities that have been identified all sit within the town centre and most have been allocated within the adopted Town Centre Action Area Plan. Many have

constraints that would cause delay to immediate or early delivery. This is not unusual in such circumstances. Indeed, the NPPG cautions that, “When considering what a reasonable period is for this purpose, the scale and complexity of the proposed scheme and of potentially suitable town or edge of centre sites should be taken into account”.

Relevant information can be obtained on appropriate time frames for discounter store development in town centre locations through the consideration of planning appeal decisions. An appeal concerning Lidl’s consideration of a town centre site in Altrincham reveals that for a regeneration scheme, a period of between three and four years was seen as appropriate. The Inspector found that, “In my view, this presents a reasonable timeframe, and the suggested timeline for development by Lidl in terms of the application, development and delivery process would also all appear to be reasonable. Whilst I fully acknowledge that the delivery of the Altair site has not been forthcoming, there is no evidence before me to suggest that the 3 to 4 year period envisaged by the appellant could not reasonably be achieved. As such, I am of the view that the Altair site would present a sequentially preferable site which is available within a reasonable timeframe” (paragraph 10 of planning appeal decision APP/Q4245/W/21/3267048, 1st March 2022).

The application of a more realistic timeline for the development of sequentially preferable opportunities within Rugeley town centre would address availability issues including in respect of site RTC7: Land at Wellington Drive. This opportunity has not been ruled out on grounds of “suitability”. It is only discounted on grounds of not being available within the deduced (see above) 12–14 months bearing in mind the possible, but not certain, requirement to engage a CPO process following a planning permission being in place. Such a route is supported by a favourable local plan allocation and should not be seen as unusual in respect of town centre redevelopment.

In addition, the consideration of sequential opportunities, including site RTC7, has been on the basis that “the site is not being marketed...” (e.g. at paragraph 44). A lack of marketing is not sufficient to judge “availability”. The applicant has dismissed the need to make enquiries with the relevant landowners. Effective testing of the market is an implicit part of the sequential test not least because retail development values can unlock opportunities.

In this regard, the Council’s attention is drawn to the recent general finding by an Inspector that, “The question of whether the site is being actively marketed seems to me to be a peripheral matter. Active marketing is not a prerequisite for a site being available through other channels. Lack of current marketing may indicate no hurry to dispose of the land, but not unwillingness” (Paragraph 14 of planning appeal decision APP/W3005/W/18/3204132 and 20/3265806, 13 April 2021).

For these reasons, the sequential test is failed and planning permission for the proposal should be refused (paragraph 91 of the NPPF).

Representation made by Morrisons

Representation made by dated 12 January 2021

We act on behalf of our client, Wm Morrison Supermarkets plc (Morrisons), to uphold the strong objections set out in our letter dated 17 December 2020.

As you are aware, we have also objected to the Aldi proposal and have said how important it is that both the Lidl and Aldi applications are considered at the same committee meeting but it is disappointing that the cumulative impact both proposals will have on the town centre is not understood at this time.

The cumulative impact of both proposals has been raised in our previous letters of objection and despite planning policy offers requiring a 'policy justification for the quantum of floorspace proposed'; such justification has not been forthcoming. We note that advice has been taken on this matter from Stantec but we disagree with their conclusion. The NPPF seeks to ensure the vitality of town centres and given the uncertain times and economic struggles retailers and town centres are currently facing, 4,160 sq.m of new out of centre floorspace could have a significantly adverse impact. If a retail assessment was provided; a more informed decision could be made.

It is worth remembering that the policy threshold set nationally by the NPPF is 2,500 sq.m if a local planning authority does not have their own locally set threshold.

The Rugeley Town Centre Area Action Plan encourages investment and regeneration within and on parts of the periphery of the town centre. Land at Wellington Drive (ref: RTC.7) is a town centre site that is seeking a medium sized food store. The applicants [sic] have dismissed this site as not being suitable or 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 [sic] 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.

Finally, if Members are minded to approve the application, we respectfully request that the planning conditions are reconsidered. There are no conditions restricting and controlling the quantum of floorspace, the hours of trading, or the hours and number of deliveries to the store.

We maintain that the justification put forward for the application is weak and that the applicants should seek to address the concerns highlighted, so that a more informed decision can be made – fully understanding the impacts of the proposal and the quantum of new retail floorspace that would come forward. In its present form the application fails to satisfy the sequential and impact tests, and accordingly planning permission should be refused in accordance with Para. 90 of the NPPF.

Response made by Morrisons dated 17 December 2020

"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 food store 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.”

[*Officer Note: This representation refers to the numbering of paragraphs in a previous and now superseded version of the NPPF. The correct numbering should read 87 and 88 respectively]

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 food store. 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 food stores. 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).’

[*Officer Note: This representation refers to the numbering of paragraphs in a previous and now superseded version of the NPPF. The correct numbering should read 90]

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.

6. 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.

7. SITE AND SURROUNDINGS

- 7.1 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.
- 7.2 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 planning permission for a mixed use development, including up to 2,300 homes and 5ha of employment land and an All Through School.
- 7.3 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.
- 7.4 Beyond the boundary to the south is a semi mature copse (small woodland), beyond which is the roundabout serving the Colliers Arms Public House, a fast food restaurant and the Amazon site.

7.5 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 as the Severn Trent Valley railway bridge. The site lies within a Mineral SafeGuarding Area, and within a Contaminated Land Boundary, and is within 1.2km from the Cannock Chase Area of Outstanding Natural Beauty, which itself is situated south of Rugeley.

8. PROPOSAL

8.1 The Applicant is seeking consent for the removal of existing hardstanding and erection of a retail food store with associated car parking, access, landscaping and associated engineering works.

8.2 The Planning and Retail Statement; prepared by Avison Young and dated September 2020 goes on to explain that the proposal entails:

- a food store of 2,279 sqm gross external area (GEA) with a net sales area of 1,410 sqm;
- 160 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

8.3 In addition to the above the Planning Statement goes on to state

- The food store 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.

8.4 It should be noted that the application is a 'departure' from the Cannock Chase Local Plan (Part1) in so far as conflicts with Policy CP11 are apparent. The application has been advertised as such in line with DMPO 2015 (as amended) requirements.

9. PLANNING POLICY

9.1 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.

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

9.3 Relevant policies within the Local Plan Include: -

Section 1: Core Strategy

- CP1: - Strategy
- CP2: - Developer Contributions for Infrastructure
- CP3: - Chase Shaping-Design
- CP5: - Social Inclusion and Healthy Living
- CP8: - Employment Land
- CP10: - Sustainable Transport
- CP11: - Centres Hierarchy
- CP12: - Biodiversity and Geodiversity
- CP13: - Cannock Chase Special Area of Conservation (SAC)
- CP14: - Landscape Character and Cannock Chase Area of Outstanding Natural Beauty
- CP16: - Climate Change and Sustainable Resource Use

Section 2: Rugeley Town Centre Area Action Plan

- RTC1: - Regeneration Strategy
- RTC2: - Town Centre Land Uses
- RTC4: - Aelfgar Centre/ Former Squash Courts, Taylors Lane
- RTC5: - Market Street Garages
- RTC6: - Rugeley Market Hall, Bus Station and Surrounding Area
- RTC7: - Land at Wellington Drive
- RTC8: - Leathermill Lane / Trent and Mersey Canal Corridor

National Planning Policy Framework

- 9.4 The NPPF (2021) 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.
- 9.5 The NPPF (2021) 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.
- 9.6 Relevant paragraphs within the NPPF include paragraphs: -
- | | |
|-------------------------------|----------------------------------------------------------------------|
| 8: | Three dimensions of Sustainable Development |
| 11-14: | The Presumption in favour of Sustainable Development |
| 38: | Decision-making |
| 47-50: | Determining Applications |
| 86, 87, 90, 91: | Ensuring the vitality of town centres |
| 110, 111, 112, 113: | Promoting Sustainable Transport |
| 126, 130-132, 134: | Achieving Well-Designed Places |
| 152, 154, 157, 159, 167, 169: | Meeting the Challenge of Climate Change, Flooding and Coastal Change |
| 174, 176, 177: | Conserving and enhancing the natural environment |
| 180: | Habitats and Biodiversity |
| 183, 184, 186: | Ground Conditions and Pollution |
| 212: | Minerals |
| 218, 219 | Implementation |
- 9.7 Other relevant documents include: -
- Cannock Chase District Council (April 2016) Design Supplementary Planning Document,.
- Cannock Chase District Council (July 2005), Cannock Chase Local Development Framework; Parking Standards, Travel Plans and Developer Contributions for Sustainable Transport.
- Cannock Chase District Local Plan Preferred Options (February 2021)

Emerging Polices

SO6.1 Hierarchy of Town and Local Centres

SO6.2 Provision of Main Town Centre Uses and Town Centre Services

SO6.6 Rugeley Town Centre Redevelopment Areas

In respect to the provision of paragraph 48(a) of the NPPF it is noted that the Emerging Local Plan is still at the preparation stage (Regulation 18 of the Town and Country Planning (Local Planning)(England) Regulations 2012 (as amended)). Furthermore, in respect to the provisions of paragraph 48(b) representations have been received to policies SO 6.1, SO 6.2 and SO6.6 and that whilst the representations received were mainly in support for the policies, there are unresolved objections to the emerging policies. As such very little weight be given to these policies at this time.

10. DETERMINING ISSUES

10.1 The determining issues for the proposed development -

- (i) Presumption in favour of sustainable development
- (ii) Principle of development
 - a. Sequential Test Considerations
 - b. Retail Impact Considerations
 - c. Regeneration of Rugeley Town Centre
 - d. Employment Land Policies
 - e. Other material considerations
- (iii) Design and character and appearance of the area
- (iv) Wider landscape considerations
- (v) Residential amenity
- (vi) Highway's considerations
- (vii) Impact on nature conservation
- (viii) Drainage and flood risk
- (ix) Mineral safeguarding
- (x) Crime and the fear of crime
- (xi) Waste and recycling facilities
- (xii) Ground conditions and contamination

11. PRESUMPTION IN FAVOUR OF SUSTAINABLE DEVELOPMENT

11.1 Both the NPPF, and the Cannock Chase Local Plan (Part 1), in Policy CP1, contain a presumption in favour of sustainable development, the latest version of which is contained within paragraph 11 of the NPPF (2021) 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 proposed⁷; 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.*

Footnote (7) The policies referred to are those in this Framework (rather than those in development plans) relating to: habitats sites (and those sites listed in paragraph 181) and/or designated as Sites of Special Scientific Interest; land designated as Green Belt, Local Green Space, an Area of Outstanding Natural Beauty, a National Park (or within the Broads Authority) or defined as Heritage Coast; irreplaceable habitats; designated heritage assets (and other heritage assets of archaeological interest referred to in footnote 68 in chapter 16); and areas at risk of flooding or coastal change

12. PRINCIPLE OF THE DEVELOPMENT

- 12.1 The first stage in the determination of the application is to determine whether it is in accordance with the development plan which includes both national and local planning policies. Relevant in this respect is that the proposal is for a retail unit which constitutes a Main Town Centre Use (in line with NPPF definition) that is proposed to be located outside of the Rugeley Town Centre boundary as shown on the Policies Map.
- 12.2 In addition to policy contained within the Cannock Chase Local Plan that is considered elsewhere in this report, relevant national policy is provided by paragraphs 86, 87, 90, 91 of the town centres which aim at '*ensuring the vitality of town centres*'. Paragraph 86 provides the main thrust of retail policy and states:
- (i) '*Planning policies and decisions should support the role that town centres play at the heart of local communities, by taking a positive approach to their growth, management and adaptation*'.
- 12.3 In order to support town centres, Paragraph 87 requires the application of a retail sequential test to proposals and Para 90 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 2,500m² 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).*

Finally, paragraph 91 makes it clear that

'Where an application fails to satisfy the sequential test or is likely to have significant adverse impact on one or more of the considerations in paragraph 90, it should be refused.'

- 12.4 The first stage in the determination of the application is to determine whether it is in accordance with the development plan which includes both national and local planning policies. Relevant in this respect is that the proposal is for a retail unit which constitutes a town centre use that is proposed to be located outside of the Rugeley Town Centre boundary as shown on the Policies Map.

13. SEQUENTIAL TEST CONSIDERATIONS

- 13.1 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...".

- 13.2 This approach is consistent with the NPPF which at paragraph 87 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';

adding at paragraph 88: -

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

- 13.3 In assessing the proposed Lidl site, Officers note the location would be considered as 'Out of Centre' because, despite being well connected to the main town centre area and being immediately adjacent the Local Plan Town Centre Boundary, the NPPF 'Edge of Centre' definition '*For retail purposes, [is] a location that is well connected to, and up to 300 metres from, the primary shopping area.*' The proposed site is approximately 400m from the edge of the Primary Shopping Area and as such would not fall within this definition.

- 13.4 Paragraph: 011 (Reference ID: 2b-011-20190722; Revision date: 22 07 2019) of the Planning Practice Guidance sets out how the sequential test should be used in decision-making and states: -

'It is for the applicant to demonstrate compliance with the sequential test (and failure to undertake a sequential assessment could in itself constitute a reason for refusing permission). Wherever possible, the local planning authority is expected to support the applicant in undertaking the sequential test, including sharing any relevant information. The application of the test will need to be proportionate and appropriate for the given proposal. Where appropriate, the potential suitability of alternative sites will need to be discussed between the developer and local planning authority at the earliest opportunity.

The checklist below sets out the considerations that should be taken into account in determining whether a proposal complies with the sequential test:

- *with due regard to the requirement to demonstrate flexibility, has the suitability of more central sites to accommodate the proposal been considered? Where the proposal would be located in an edge of centre or out of centre location, preference should be given to accessible sites that are well connected to the town centre. It is important to set out any associated reasoning clearly.*
- *is there scope for flexibility in the format and/or scale of the proposal? It is not necessary to demonstrate that a potential town centre or edge of centre site can accommodate precisely the scale and form of development being proposed, but rather to consider what contribution more central sites are able to make individually to accommodate the proposal.*
- *if there are no suitable sequentially preferable locations, the sequential test is passed.*

Applicant Submissions

- 13.5 In response to the above policy requirement the applicant has submitted a range of information to enable the local planning authority to undertake a retail sequential test.
- 13.6 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.

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

- Aelfgar 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).

13.8 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 reopen 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'.

13.9 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.

13.10 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?

13.11 Turning to the specific sites mentioned above the applicant has made the following comments in their original Retail Impact Assessment and as provided an update in the applicant's Retail Impact Assessment Addendum (August 2021). Both the original RIA and comments made in the Addendum are given below.

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

'Site RTC4 is located to the west of the Primary Shopping Area, in an edge of centre location.'

The AAP allocates the 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. A proposal for retail use on the site would conflict with Policy RTC4 and would impact on the delivery of housing and housing land supply in the District.

Furthermore, an outline planning application has now been submitted by Cannock Chase DC proposing a development of up to 58 dwellings (ref. CH/21/0022), and permission was granted in July 2021. This indicates a firm commitment by the Council to bring the site forward for housing development.

The site is therefore both unsuitable and unavailable for the proposed retail scheme.'

(ii) Market Street Garages (ref. RTC5)

'The Market Street Garages site is located on the western side of Market Street, to the north of the Primary Shopping Area, in an edge-of-centre location. It currently accommodates Kwik Fit and Don Ryder Motors, in addition to car parking. The site is not available to purchase, and development of the plot would require some land assembly.

The AAP allocates the site for residential development, and thus a retail proposal would conflict with Policy RTC5 and would also impact on the delivery of housing land supply within the District. The site is also only 0.2 ha in size, and is too small to accommodate the development proposed, even with a significant degree of flexibility.

There has been no change to the status of this site, which remains unavailable, unsuitable and unviable for the proposed retail scheme.'

(iii) 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 Primary Shopping Area, and it contains car parking, a market hall, taxi rank and bus station.

The AAP states that the Council will pursue a comprehensive redevelopment comprising:

- A new market facility;*
- A revised bus station, providing parking bays, covered waiting areas, bus shelters, service information and small scale food and drink operators;*
- 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.*

Whilst the site could accommodate a stand-alone Lidl food store, it would not be possible to accommodate the development that is proposed plus the other uses that are required in order to facilitate the site's comprehensive redevelopment. The policy does not anticipate the existing car parking, bus station, market or taxi rank being lost permanently, and thus any redevelopment would need to re-provide or re-locate these uses, which would not be viable in relation to the application scheme.

There has been no change to the status of this site, which remains unavailable, unsuitable and unviable for the proposed retail scheme.'

(iv) 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.'

Additional Comments in the Retail Impact Assessment Addendum (August 2021)

'Site RTC7 is located within the southern half of the Primary Shopping Area and is therefore 'in centre'. The site comprises parking and service access, and also includes a small number of retail units.

Given the site's location surrounded by built development, the redevelopment of this site would present substantial challenges in terms of maintaining the service access and car parking for existing surrounding uses. It would also appear that the redevelopment of the whole site would require the demolition of existing, trading commercial units. The AAP itself also acknowledges that the site is in multiple-ownership and will require land assembly, potentially via the use of Compulsory Purchase Powers, which is a lengthy process.

It is also noted that the AAP allocates the site for a 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 the policy aspiration that the site will deliver a mix of uses, which could not be achieved by the proposed development scheme.

There has been no change to the status of this site, which remains unavailable, unsuitable and unviable for the proposed retail scheme.'

(v) 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 [Primary Shopping Area]. 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 food store. None of these remaining areas are of a scale that could accommodate the development that is proposed, even adopting a flexible approach.'

Additional Comments in the Retail Impact Assessment Addendum (August 2021)

- (ii) *'Site RTC8 lies outside the Primary Shopping Area, in an edge-of-centre location. 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 town centre and the Tesco superstore. Whilst the Tesco development covers the majority of this allocated site, there are some remaining parcels of land.*

Permission exists for a small number of unit shops extending from the store entrance towards the canal. The haulage yard is also within the allocated site but remains in operational use (and is annotated in the AAP for residential / 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 food store. None of these remaining areas are of a scale that could accommodate the development that is proposed, even adopting a flexible approach.

There has been no change to the status of this site, which remains unavailable, unsuitable and unviable for the proposed retail development.'

- (iii) New Sites

'The Council issued its new Local Plan Preferred Options document in March 2021. Notwithstanding the fact that the document carries very limited weight in the planning process at present, we have reviewed its content and note that at this stage it is not proposing any additional draft allocations for development which may be more centrally located than the application site, or which have not already been considered in the adopted AAP.

Furthermore, our survey of the centre in July 2021 identified no new redevelopment opportunities or areas of under-used land.'

(iv) Vacant Units

'The submitted Planning Statement records that there were 12 vacant units in Rugeley Town Centre at August 2020, one of which was undergoing refurbishment and was due to open imminently. However, all of the vacant units were small in size and none were suitable to accommodate the proposed development, even adopting a flexible approach.

When we surveyed the town centre in July 2021, the largest vacant unit that we identified was at 4 – 10 Brook Square, which actually comprises two adjacent vacant units. The units are being marketed for lease either individually or as a group. The site is located within the pedestrianised zone of the town centre, in close proximity to Costa Coffee, Boots and Greggs.

Whilst these units are suitable and available for some form of retail reoccupation, they are substantially below the size of unit required for a food store. Indeed, when the floorspace of the units is combined it still only equates to 489.7 sq.m (gross), which is less than a quarter of the size of the application scheme. It would clearly be unreasonable to require the applicant to amend its business model to this significant degree to occupy these units.

It thus remains the case that there are no suitable, available units within the town centre to accommodate the proposed development.'

- 13.12 Given the above it is the applicant's assertion that 'there are no sites that would be available (within a reasonable period of time) and suitable and viable for the development proposed, even with flexibility regarding the proposed scale and layout of the unit' and 'the proposed development therefore satisfies the requirements of the sequential test, as set out in the NPPF and Local Plan Policy CP11'.

Objections Received from Tesco and Morrisons in Respect to the Sequential Test

- 13.13 Notwithstanding the above, objections have been received from both Tesco and Morrisons in respect to whether the applicant has passed the sequential test. The focus of the argument made by Tesco and Morrisons centres on the site at Wellington Drive which is subject to Area Action Plan Site Policy RTC 7. and on which Tesco states: -

'Lidl assert that the: 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, i.e., it is within 0.1 ha 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, i.e., 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.'

- 13.14 Tesco has also raised issues in respect to the flexibility that should be demonstrated by applicant's on the format and scale that can be applied to the Lidl business model in it potentially being accommodated on Land at Wellington Drive (RTC7). Again Tesco have submitted an appeal decision in which the Inspector found that Lidl's involvement in connection with a scheme (on a sequentially preferable site) on what is known as the Altair site where it

"...is committed to being the anchor tenant for the scheme delivering a metropolitan format store on a leasehold basis as part of the wider mixed-use residential led scheme being developed here."

The inspector also found that,

"...that this store would be reliant on higher pedestrian footfalls that the appeal site, reflective of the fact that the store would be stored directly off the pedestrianised high street. It would have a reduced range of goods as a result of the smaller format (a sales areas approximately 15% smaller than the appeal scheme) (1,855sqm gross) and would be likely to have access to a shared

underground car park. To my mind, this commitment to the Altair site demonstrates the commitment to flexibility on format and scale envisaged by the Framework.”

13.15 Tesco go on to state

‘This decision and its finding that Lidl’s smaller “metropolitan format store” demonstrates the flexibility envisaged by the Framework, must in our view be a fundamental consideration in the determination of this application before the Council’

and have submitted Lidl’s Metropolitan Store brochure which Tesco assert confirms that this model can be located on sites from as small as 3,000sqm i.e. 0.3 of a hectare which is good deal smaller than the available allocated land on the Land at Wellington Drive site.

13.16 In addition to the above, Morrisons has also stated: -

‘The Rugeley Town Centre Area Action Plan encourages investment and regeneration within and on parts of the periphery of the town centre. Land at Wellington Drive (ref: RTC.7) is a town centre site that is seeking a medium sized food store. The applicants [sic] have dismissed this site as not being suitable or 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 [sic] 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.’

Analysis of the Sequential Test in the light of the Representations Made

13.17 The information submitted by Lidl has been assessed by an independent retail consultants Alder King. Having had regard to the provisions of the NPPF and the NPPG, comments made by Morrison and Tesco, Alder King has advised as follows: -

- (i) The ‘broad type of development’ proposed in the current case is for a LAD operator which they emphasise is distinguishable from other types of convenience goods food store operators. They set out the following basic requirements which is said to include ‘reasonable flexibility’:

a site area of 0.8ha;

a net floorspace of 1,325sq m on a single level; and

120 adjacent surface level parking spaces.

13.18 In terms of flexibility, AY suggest it is robust that there is only limited scope for LAD retailers to be flexible in configuration of their floorspace, albeit they accept there must

be some flexibility. In comparison to the above basic requirements, the application site extends to 1.1ha (WP figure (AY figure is 1.5ha)), the proposed store is for 1,410sq m net and 172 car parking spaces. Thus, presumably, the basic requirements comprise:

a site area of between 0.8-1.5ha;

a net floorspace of between 1,325sq m-1,410sq m on a single level; and

120-172 adjacent surface level parking spaces.

13.19 In Alder King's view they consider that this 'insufficient flexibility and it is important that Lidl show appropriate level of flexibility when considering whether a site might be able to accommodate the broad type of development proposed, including consideration of multi-level/decked solutions reflecting the variety of formats Lidl now promote. This includes the ability to use their Metropolitan format raised by MRPP.

13.20 As regards availability, Avison Young (Working in behalf of Lidl) have stated that the requirement is to consider sites which are 'available within a reasonable time period' but they fail to set out what this might entail in the current context in terms of delivery on the application site. This is not helpful.

13.21 Looking at the approach adopted in the statistical tables for the impact test, 2024 was adopted by WP as a suitable design year. Thus, it is again assumed that a 'reasonable time period' in this case might be 12 months.

13.22 In respect to the Sequential Sites Alder King has advised

- (i) *Both applicants have considered five potential sequential sites. The sites are all those allocated in the Rugeley Town Centre Area Action Plan ('AAP') which was adopted by the Council in 2014. No other sites have been raised by the Council or applicant, including vacant units in the town centre. MRPP on behalf of Tesco has raised the two application sites in the context of the sequential approach; this is dealt with separately below drawing also on our conclusions in respect of the impact test previously provided to the Council.*
- (ii) *Having reviewed the evidence presented and discussed with officers, we draw our conclusions together about the potential of the five sequential sites to accommodate the broad type of development proposed, being a deep discount food store with dedicated car parking and of site sizes between 0.6ha and 1.5ha, for delivery over the next 12-14 months. Some additional flexibility in time period is allowed for more complex town centre sites to come forward.*

13.23 In response to 'reasonable time period' considerations, Alder King in their Sequential Advice May 2022 confirm that in line with the Dundee case, it is not the case that the broad type of development proposed should be substantially changed or altered to fit an alternative site, including in terms of timescales. Commenting on both the Lidl and Aldi applications, Alder King suggest the starting point for consideration of a reasonable time frame must be the time period associated with the proposed development. This is

confirmed to be 12-14 months for Aldi and 8 months for Lidl (from the date of planning permission). Therefore, adopting a timescale of 12-18 months in Alder King's view is reasonable and it would not be realistic to expect a developer to wait double this or longer for a site to become available. The implication of this in relation to specific sites is considered further below.

13.24 Alder King have reviewed the above sites in the light of the above and comment as follows: -

Site RTC4: Aelfgar Centre/Former Squash Courts, Taylors Lane

The site occupies an edge-of-centre location to the west of the primary shopping area defined in the local plan. It extends to 1.9ha and is cleared for development. In the AAP, the site is proposed for mixed housing for market/affordable and housing for the elderly. A food store on this site would be in direct conflict with this policy aspiration.

An application for planning permission was submitted on January 2021 for redevelopment of this site for up to 58 dwellings (LPA ref: CH/21/0022). This has been granted outline planning permission in July 2021.

Thus, it can reasonably be concluded that this site is not available for the broad type of development proposed as it is being actively brought forward for residential development in line with the aspirations of the AAP.

The site is neither available nor suitable and so can be discounted.

Site RTC5: Market Street Garages

The site occupies an edge-of-centre location to the north of the primary shopping area. It is currently occupied by Kwik-Fit and so is in active use and not being actively marketed or promoted for development.

Thus, it is questionable whether the site is available in the time period being considered.

The site extends to 0.2ha and so is too small even on a flexible basis and so can be discounted on this factor alone. It also is proposed for residential development in the AAP, which is consistent with the surrounding land uses to the north and west.

It is concluded that the site is not suitable for the broad type of development proposed.

Site RTC6: Rugeley Market Hall/Bus Station and Surrounding Area

The site extends to roughly 1ha and lies in the south-west corner of the primary shopping area and so comprises a town centre site. The site comprises a market hall with roof top car parking, taxi rank and bus station to the south and small area

of car parking to the north of the market hall. The site is currently in active use and it is not currently being marketed for development.

The AAP seeks redevelopment of the for the site for mixed uses to include re-provision of the existing uses (market hall, bus station including food and drink uses, car park and taxi rank) plus an anchor store to meet modern operators and residential at upper floors. The anchor store is understood to be proposed to be for non-food.

It is concluded by AY and Turley that the broad type of development proposed could not be provided together with the re-provision of the existing land uses. This conclusion appears to relate only to a surface level car park, ignoring the city centre formats being considered by deep discounters, which include decked solutions.

That said, given the size of the site it is highly unlikely that in this case the site could provide the broad type of development proposed, even with a decked solution, and re-provide all the existing uses. The space hungry nature of bus stations is particularly noted. Thus, on this basis, it is concluded that the site is not suitable.

In terms of availability, the site is noted to be in active uses and it is not currently being actively promoted for development despite its allocation since 2014. Thus, there is genuine doubt whether this site can be considered to be available within a reasonable time period.

Taken together, it is agreed on the balance of evidence presented that this site is not sequentially preferable and can be discounted.

Site RTC7: Land at Wellington Drive

The site lies in the primary shopping area and so lies in the 'town centre'. The site extends to 0.7ha. It lies to the rear of the properties fronting Horse Fair, Upper Brook Street and St Pauls Road/Lichfield Street and so does not benefit from good visibility from the main road network. The frontage properties on Upper Brook Street and St Pauls Road fall within two separately designated conservation areas; there are also a number of local listed heritage assets. The site is occupied mainly by parking and service access for the existing main town centre uses that wrap around the boundaries of the allocation, and a number of builds including the Fairway Motel, sports therapist and martial arts centre all of which are in active use.

The AAP allocates the site for mixed-use development, including a medium sized retail food or non-food store with office and/or residential development and replacement public car parking. The emphasis of the policy is to deliver a mix of uses. RTC7 site allocated in the AAP is smaller than that which was the subject of a design and development brief in 2003 (consultation draft). That 2003 brief also advocated mixed uses for the site to add to the day and night time economy of the centre and with new pedestrian routes to connect across the site in both north-south and east-west directions.

At 0.7ha the site is at the lower end of the site search parameters for the broad type of development proposed, thus it would be difficult to provide the broad type of development proposed plus additional/replacement public car parking and/or residential and office development too. A decked/multi-storey would need to be considered, we are not aware that either Lidl or Aldi has considered such a scheme for this site.

That said, Turley on behalf of Aldi outline that the configuration of the site means that a store and level car park scheme would not be viable, namely because it would require acquiring land outside the allocated site and demolition of existing buildings. Given the site extends to 0.7ha we are unclear why additional land might be required, unless Turley are seeking to overcome the lack of visibility of the site. In addition, they continue that the necessary location of the car park to the rear of the store does not work operationally, meaning the store is unlikely to trade well which in turn will impact on viability. In addition, the residual land beyond the store means that insufficient (surface level) car parking to adequately service the store; again, given the minimum site size for Aldi is presented as 0.6ha, we are unsure why a store meeting the broad type of development proposed on this 0.7ha site might leave insufficient space to deliver adequate car parking.

The site has previously been promoted for development back in 2003 to include a food store. That application secured a resolution to grant but the legal agreement was never signed to release the planning permission. It is understood from officers of the Council that the primary reason for this was that the site is in fragmented ownership (including the Council) and it was not possible to positively engage all landowners to sign the legal agreement for the site and so ultimately the proposal stalled and planning permission was not granted.

Discussions with officers reveal that the fragmented ownership of the site remains unchanged from the early 2000s. Most of the site remains in active use, including a motel, martial arts fitness centre and separate sports therapist and operationally for rear servicing and parking. The site is not being marketed and there has been no proposals brought forward since the early 2000s. Given the known history of this site, it is an agreed position of the Council that in order to bring forward this site it is likely that compulsory purchase order ('CPO') would be required. This CPO process in turn requires a planning permission to be in place. Together, these processes suggest strongly that this site is not available in the current context, where a reasonable time period is considered to be 12-14 months. Even allowing a greater period for complex town centre sites to come forward, it is concluded that this site is not available.

In their further advice dated May 2022, Alder King suggest:

The specifics of the Land at Wellington Drive case clearly demonstrate that even if a longer timescale beyond 12-18 months is considered, say 3-4 years, the evidence demonstrates Wellington Drive is not available (even if it was suitable)...

The applicants highlighted the site is not assembled, is in many ownerships and has active uses and there has been little to no movement on the site coming forward since the early 2000's when a legal agreement could not be signed as not all owners would participate.

If it is assumed that at least the Council owned car park is readily available for development, that parcel alone only extends to under 0.4ha and so would not be large enough to accommodate the broad type of development proposed even with a suitable level of flexibility (including decked car parking) and ignoring the need to provide replacement town centre car parking and retain servicing rights. Thus, land assembly is required.

The Council recently considered the availability of the RTC7 site in their SHLAA 2021. It was considered alongside a batch of sites that despite being suitable were noted to be not available 'Restricted and Excluded' sites. Specifically, this meant that in 2021 the Council considered the site not to be available within a 5-year period. In terms of definition, the SHLAA states:

'Available (NO): Minor and Major Sites

No recent interest expressed by landowners/developer (typically within last 5 years) e.g. call for sites, Local Plan representations, pre application discussions, Expired planning consents that have not been taken forward (typically within last 3 years).'

Under the terms of the SHLAA methodology, the site could theoretically fall within the 'available 'yes' category as a local plan allocation, however, as there has been no evidence of delivery for over 5 years the site was considered to no longer be available. This includes whether there has been any expressed interest e.g. land promotion or pre-application. A separate review was also undertaken in 2021 looking at the 'Restricted and Excluded' sites to see if these might come forward in the period to 2038. This primarily looked at identifying policy compliant sites. This review considered RTC7 site as a policy compliant site could potentially yield 30 houses by 2038 and, on this basis, the site was included in the preferred options stage of the local plan review. Thus, the recent local plan work on the availability of this site adds further evidence that this site is not available within a reasonable time period, being 12-18months or even the

longer period to 3-4years. This work also reinforces the contribution the Council see this site making to their housing land supply, along the lines of the original mixed-use allocation, and suggesting a solus food store development would not meet the policy aspirations.

Site RTC8: Leathermill Lane/Trent and Mersey Canal Corridor

The site lies in an edge-of-centre location in the north-eastern corner of the town centre boundary, but outside the primary shopping area. The allocated site has been partially redeveloped by Tesco for a 3,200sq m net store under a planning permission granted in 2011 (LPA ref: CH/10/0087). That planning permission also included unit shops extending from the new Tesco store towards the primary shopping area and Leathermill Lane; that element of the planning permission has not yet been delivered.

There are some smaller parcels of land on the wider RTC8 site, which have not been developed as part of the Tesco scheme. Those on the east of Leathermill Lane are small, notably that benefitting from planning permission for two small unit shops as part of the 2011 planning permission and an area extending to circa 0.2ha which now benefits from planning permission for a restaurant/drive thru (LPA ref: CH/21/0026). The land to the west of Leathermill Lane is small, narrow and remains in active use, including for a haulage company and so is unlikely to be available within a reasonable time period, even allowing some flexibility and would not be suitable.

Thus, this site is either not suitable in terms of size and/or is not available within a reasonable time period, even allowing a suitable level of flexibility.

13.25 In respect to the comments raised by Martin Robeson Planning Practice (on behalf of Tesco) on the Sequential Approach, Alder King has advised: -

‘MRPP make the point that not all out-of-centre sites are equal and preference needs to be given to sites that are accessible and well connected to the town centre. This is agreed. In this context, in objecting the Aldi Application, MRPP raise that the applicant has not considered the Lidl site as a potential opportunity and vice versa in objecting to the Lidl Application the Aldi Application has not be considered. Moreover, given the temporal sequence of the sequential approach, MRPP state that if the Lidl site is found to be superior then it is a requirement for it to come forward first (and vice versa). We agree with MRPP that the fact that the scheme coming forward by a different retailer on a site is not necessarily relevant, in that the sequential approach needs to be applied facia blind to the broad type of development proposed i.e. in this case a LAD with associated car parking and servicing.

However, what is relevant is that we (Alder King) have found the cumulative effects of both the Lidl and replacement Aldi stores coming forward will not give rise to

significant adverse effects on the town centre on the basis of the evidence available. This conclusion assumes further that any grant of planning permission is conditioned to ensure the stores trade as they have been assessed i.e. as LADs and, in respect of the Aldi Application, the retail use of the existing Aldi store ceases. In such circumstances, it would be reasonable, even if there was a material superiority of one particular out-of-centre application site over the other (which in this case we doubt given their relative connectivity to the town centre and accessibility) that both sites can come forward together. This conclusion relies on there being no town centre or edge-of-centre sites found to be suitable or available for the broad type of development proposed, and the conclusion on the basis of the evidence available is that there is not.'

- 13.26 In conclusion Alder King has stated 'On the basis of the evidence presented, we conclude that there is no suitable sequential sites available for the broad type of development proposed in the Aldi and Lidl Applications, even on a flexible basis,' and thus, 'the sequential approach to site selection has been met for each application'.

Officer Conclusions on the Sequential Test

- 13.27 Alder King the Council's appointed retail consultants has studied in detail the evidence presented by Lidl's representatives and has worked with Council Officers to examine potentially available sites within the town centre and edge of centre. Officers are satisfied with the above conclusions presented by Alder King with regard to there being no sequentially preferable sites available for this application. The reporting provided was detailed and responded to additional criticisms from outside parties.
- 13.28 Whilst noting the objector's ambition to see Land at Wellington Drive come forward and whilst this is clearly in line with the Council's ambition under 2014 Local Plan, it remains the case that there has been limited progress in assembling the site since the early 2000's. More latterly the Council's recent conclusions under the 2021 SHLAA process suggest the site could potentially yield development for housing by 2032. In line with case law (Dundee) it would not be reasonable, given the delivery could come forward within 12-18 months, to suggest the applicant should wait approx. 10 years (if the council's time assumptions are considered representative) before bringing forward their proposals. Thus in line with the Alder King Advice May 2022, 'availability within a reasonable time period' means 12-18 months in the current case and on the evidence available Land at Wellington Drive (RTC7) is not available or suitable for the broad type of development proposed. Even if a period of 3-4 years is utilised, it still remains that RTC7 is not available for the broad type of development proposed.
- 13.29 Accordingly, having applied the sequential test, Officers conclude the main town centre retail use proposed in both the respective Lidl and Aldi applications could not be accommodated within the existing town centre or a site falling within an edge of centre location. Noting the proximity of the site in question is only a small amount beyond what would fall within the definition of Edge of Centre and the range of routes/linkages

apparent, Officers assess the location is well connected to the town centre and represents an accessible site by various means of transport. Therefore having taken into account all relevant national and local policy together with all relevant points made by the objectors, Officers assess the sequential test, as stated in Policy CP11 of the Local Plan and in paragraphs 87 and 88 of the NPPF has been passed.

14. RETAIL IMPACT CONSIDERATIONS

- 14.1 The applicant submitted a Planning and Retail Statement Addendum in August 2021 and in the light of comments made by Alder King, a further letter dated 21/10/2021 which set out a 'retail impact sensitivity test'.
- 14.2 The methodology adopted is consistent with that widely applied in retail assessment work and is based on the approach advocated in the Planning Practice Guidance (PPG, paragraph 18 – ID: 2b018-20190722).
- 14.3 Discussions with the Council's appointed consultants throughout the course of the application process lead to refinements to the figures and approach used in establishing retail impact. In tandem with the separately produced assessment of retail impact from the Lidl proposals, recommendations from the Council's consultants Alder King sought to assist in providing a robust analysis of the cumulative impacts of the proposals.

Solus Impacts

- 14.4 In their advice dated December 2021, Alder King set out the revised economic tables present the following solus impact on Rugeley Town Centre:
- Convenience Goods: -5.8%
 - Comparison Goods: -2.5%
 - Total: -3.3% (Tables 3, 5 , 7 in WP letter)
- 14.5 In respect of the Lidl store, when considered alone, Alder King Suggest 'The greatest impact will be felt on the town centre Morrison's store (-6.4%) and edge-of-centre Tesco (-7.1%) and Aldi (-17.1%) on potential 2024 convenience goods turnovers. None of these levels of impacts are likely to give rise to concerns on viability of the stores and so in turn consumer choice, given the trading performance of these stores established in the Council's Retail Study (including the Aldi store overtrading considerable above benchmark position). The indirect impacts arising from a reduction of customers to these stores, including the edge-of-centre ones, and thus, the reduced level of linked trips and spin off to other parts of the town centre is also relevant. The assessed impacts on these stores suggest that these indirect effects are unlikely to be of a scale sufficient to generate concerns of significant adverse levels of impact given the health of the centre.
- 14.6 In addition, Alder King accept there would be some minor benefits to the centre in terms of new links and signage proposed as part of the Lidl scheme (#4.18, RIA), this could

indicate potential for linked trips from the new store to the town centre, off-setting some of those lost from Morrison's and Tesco in particular.

- 14.7 Turning to the assessed impact on Hednesford and Cannock Town Centres, these are calculated to be -0.6% and -0.2% on potential 2024 total turnover levels. These impacts are small and are unlikely to give rise to concerns in respect of significance adverse impact.

Cumulative Impacts

- 14.8 There has been extensive discussion between Aldi's representatives Turley, Lidl's representatives WP and objectors to the development about the appropriate methodology to utilise in establishing cumulative impacts. For example: At the outset it is to be noted that the turnover calculated for the new Lidl store is higher than that calculated by WP using the most up-to-date data available (£13.82m as compared to £10.03m at 2024). On this basis, the WP turnover figure is preferred, meaning that cumulative impacts calculated by Turley may be slightly overstated owing to the higher turnover figures used. Officers do not wish to replicate the detailed technical dialogue that has been undertaken during the course of the application within this report.
- 14.9 In summary, having considered the various matters over a prolonged period, Alder King the Council's consultants advise in their comments:

Considering first Rugeley Town Centre, the assessed level of cumulative impact varies between -11.8% and -6.7% on convenience goods 2024 levels and between -7.0% and -4.8% on total town centre turnovers.

We have noted that Turley has used an out-of-date sales density for Lidl which has inflated the estimated turnover of the new Lidl store. As such, we would anticipate that the upper end of this range is likely to overstate likely impact; as a consequence, we would estimate that impacts are more likely to be in the mid-to-lower end of the ranges identified.

If the mid-point is taken then impact on Rugeley Town Centre as whole is estimated to be circa -5.9%, of which impact on convenience goods impact will be -9.25% at 2024 turnover levels. Given the health of the town centre, our view is that this level of impact is unlikely to give rise to a significant adverse impact. This has regard to the fact that impact will fall most on the Morrisons store, including resulting in a reduction in linked trips from customers of that store. Further, it has regard to indirect impacts arising from reduced customers from the existing edge-of-centre Tesco store, which is assessed to have a convenience goods impact of between -7.1% and -15.2%. This store is understood to be overtrading on the basis of the Council's Retail Study.

Given the locational characteristics of both the new Aldi and Lidl stores and the details of those proposals, both will benefit from links to the town centre, albeit that these routes are via the existing Tesco store. Thus, there is potential for some links from the new stores will off-set some lost from the Tesco and town

centre stores. Thus, on balance and acknowledging the difficulty in quantifying these in direct effects, the additional indirect impacts arising through lost spin off trade through reduced customers at Tesco and the existing town centre stores, is considered to not be at a scale which would change the overall conclusion above.

Therefore, it is concluded that the cumulative effects of both the replacement Aldi store and new Lidl store will give rise to impact on Rugeley Town Centre, which is higher than that it would experience if only one of the proposals proceeded, but this cumulative impact is unlikely to give rise to concerns in terms of significant adverse impact.

...Moreover, the above conclusion reflects the evidence provided by Turley and WP (and Avison Young beforehand) about the trading characteristics of both Aldi and Lidl as deep discounters/Limited Assortment Discounters ('LADs'). Whilst we are of the view that the descriptions offered by the two applicants is largely outdated, the trading performance of the store(s) remains relevant in terms of how it has been assessed by the applicant's agent and likely impact arising. Thus, it is important that a suite of conditions is attached to any grant of planning permission to ensure the new store(s) trade as assessed and found to be acceptable.

- 14.10 In further comments dated 26 April 2022 Alder King examine MRRP's concerns about how the Tesco store has been treated in applying the impact tests. The Tesco store lies within the town centre boundary, but outside of the primary shopping area. As noted in previous advice to the Council, including the October advice, in Alder King's view applying the retail policy tests for retail development the 'town centre' comprises the defined 'primary shopping area' - rather than the town centre boundary.
- 14.11 Thus, the Tesco store in this case should properly be considered as an edge-of-centre store, not forming part of the 'town centre'. It remains the case the wider town centre is still relevant to the consideration of impact, particularly in relation to the effect on consumer choice and loss of linked trips bringing about indirect effects. This is consistent with the approach previously adopted by the Secretary of State and separate private advice from Queen's Counsel. The analysis undertaken on behalf of Lidl and Aldi has adopted this approach and the impact figures quoted above reflect this methodology. As noted by WP in their April 2022 letter, this methodology is 'robust, defensible and based upon widely-accepted best practice'.
- 14.12 Nevertheless, for robustness it was agreed that a sensitivity test with the Tesco store included as part of the 'town centre' was undertaken to understand the potential significance in terms of the conclusions drawn on the impact test. Accordingly, Turley and WP have provided updated tables to reflect this alternative approach being promoted by MRRP.

14.13 This alternative approach has provided the following impact calculations on potential 2024 turnover levels of Rugeley Town Centre arising from the Lidl Application and the Aldi Application proposals alone and in combination:

Rugeley Town Centre				
	Convenience Goods Impact		Total Impact	
	Solus	Cumulative	Solus	Cumulative
Turley (ALDI)	12.0%	13.6%	-	-7.2%
WP (LIDL)	-5.8%	-6.7%	-3.3%	-4.8%

14.14 In relation to this additional sensitivity test, Alder King suggest in their advice of April 2022:

As noted previously, Turley estimate the turnover of the proposed Lidl store to be £13.82m (£11.84m convenience goods) which is higher than that calculated by WP on behalf of Lidl at £10.03m (£8.54m). WP use more up-to-date data on sales density, which reflects information provided by Lidl to Mintel, thus this lower turnover is preferred. Therefore, as before, our view is that Turley overstate likely cumulative impact owing to this higher turnover figure and so a mid-point is preferred. If the mid-point is taken then impact on Rugeley Town Centre as a whole is estimated to be circa -6% of which impact on convenience goods impact is calculated to be -10.25% at 2024 turnover levels. This compares with the original, preferred, approach of -5.9% the town centre as a whole at 2024 (-9.25% on convenience goods turnover).

Thus, even in this alternative scenario being promoted by MRRP, given the health of the centre, including the trading characteristics of existing stores, we remain of the view that this level of impact is unlikely to give rise to significant adverse impact in the current case.

...

Overall, we consider the MRPP representations of February 2022 do not change the conclusions previously provided to the Council on satisfaction of the impact tests. That conclusion is that no significant adverse impact will arise because of the Aldi Application and the Lidl Application on existing, committed or planned in-centre investment, either alone or in combination. And that the cumulative effects of both the replacement Aldi store and new Lidl store will give rise to impact on Rugeley Town Centre (or other centre), which is higher than that it would

experience if only one of the proposals proceeded, but this cumulative impact is unlikely to give rise to concerns in terms of significant adverse impact. This conclusion reflects the balance of evidence available, the fact that the existing Aldi store will cease to trade as a food store or any other retail purpose and the trading characteristics of both Aldi and Lidl will be as deep discounters/limited assortment discounters.

Accordingly, as previously noted, it will be important that conditions are attached to any grant of planning permission to ensure the new and replacement stores trade in line with that assessed and found to be acceptable (and a legal agreement dealing with the existing Aldi store is secured). Since the advice previously provided to the Council, there has been further discussion with agents of both Aldi and Lidl relating to conditions.

- 14.15 Therefore in line with the detailed dialogue and advice from the Council's consultants Alder King, Officers conclude there would be no significant adverse impacts on the turnover levels of existing businesses within the town centre or nearby areas. Officers have been presented with no substantive evidence to suggest there would be significant adverse impacts on existing investments within the catchment area. A substantial future investment of note nearby is the remediation and redevelopment of the former power station site. The proposals would appear to complement the investment in the power station site by maintaining investor confidence in the area and providing an additional service to future residents that is convenient and easily accessible from future housing.
- 14.16 Accordingly in providing additional economic and built environment benefits, such effects are consistent with the wider emphasis of CP11 which seeks to strengthen Rugeley's role as a market town serving the shopping needs of Rugeley and nearby settlements and the objectives stated at Pg 183 of 2014 Local Plan (preceding the Area Action Plan) which seek improvement of the built environment and additional provision for the daily shopping needs of the community. The assessment is also consistent with the requirements of Para 90 and 91 of the NPPF and overall leads Officers to conclude there would be no significant adverse impact on the vitality or viability of Rugeley or nearby centres.

15. REGENERATION OF RUGELEY TOWN CENTRE

- 15.1 The Cannock Chase Local Plan (Part 1) is written in two sections. Section 1 sets out the 'Core Strategy' for the District whilst Section 2 sets out the Rugeley Town Centre Area Action Plan. Of particular relevance in respect to town centre proposals is Policy CP11 'Centres Hierarchy' of the Core Strategy, which states: -

'Rugeley's role as a Market Town serving the shopping needs of its hinterland will be continued and strengthened. Main town centre uses including retail, offices, commercial, leisure and cultural facilities should take a sequential approach that gives priority to the regeneration of the town centre within this boundary, followed

by edge of centre locations. Previous retail studies have shown that a third of the local population shop in other adjacent towns due to a lack of choice in convenience shopping. These factors, together with a lack of retail investment over many years, has led to a deterioration in the attractiveness of the town centre. In order to address these issues, a Town Centre Area Action (AAP) has been prepared and is now incorporated into the Local Plan. This will seek to:

- *promote the development of Rugeley town centre for retail, commercial, leisure, tourism and transport purposes, focused on the redevelopment of a number of key sites;*
- *assist in the determination of planning applications for new development proposals;*
- *ensure that the Council's decisions best reflect the needs and aspirations of residents, shoppers, visitors, businesses and commercial interests in the town centres;*
- *provide baseline information for the purposes of future monitoring.*

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.'

- 15.2 Section 2 of the Local Plan sets out the Rugeley Town Centre Area Action Plan (AAP) and contains has three 'strategic policies RTC 1 (Regeneration Strategy), RTC2 (Town Centre Land Uses) and RTC3 'Urban Design Principles). In addition to the above the AAP contains 5 'sites policies' (RTC4, RTC5, RTC6, RTC7 and RTC8).



Figure 1: Extract from Fig 5. Pg 186 Cannock Chase Local Plan showing 'Strategic Town Centre Development' envisioned for the area. Red shading denotes 'Food Retail and Associated Regeneration Area based around new leisure destination.'

15.3 Policy RTC1 provides the overarching 'Regeneration Strategy' of the town centre and states: -

'Rugeley town centre, as identified on the Policies Map, will be improved by a series of complementary regeneration measures. The strategy for the plan period, and beyond, envisages consolidation and improvement of the historic core of the town focused on the Rugeley Town Centre Conservation Area, balanced by new growth around the Trent and Mersey Canal (also a Conservation Area) to the east, raising the canal's profile within the town by improving physical links and enhancing its focus as a leisure destination. The strategy is illustrated in [figure 5](#).

Regeneration will include the development of key sites within the core town centre and improvements to its urban fabric, aided by the current Tesco store development to the east of the canal. This will be accompanied by measures aimed at creating an improved public realm between the historic centre and the canal via a combination of landscape improvements and/or new development. The town

centre regeneration will be phased over the plan period and will enhance Rugeley's local distinctiveness.'

15.4 Policy RTC2 of the Area Action Plan relates to 'Town Centre Land Uses' and states: -

Retail provision

The Rugeley Primary Shopping Area is defined on the Policies Map. There will be a presumption in favour of retaining a high proportion of A1 uses at ground floor level within the primary shopping area. Other A class uses will be supported only where they would not result in an adverse impact on the primary retail functioning and overall vitality of individual blocks of units and the centre as a whole. Other uses will only be supported at first floor level or above. Priority will be given to developing and maintaining a mixed community of businesses and residential uses above shops and other class A uses, by permitting changes of use of vacant or underused floorspace.

Extensions to existing buildings for the uses described above will be supported provided that the design requirements of Policy RTC3 are met. Provision for cycle storage and waste re-cycling shall be made in connection with extensions or changes of use. Provision of on-site car parking will not be required.

Retail premises in Rugeley Town Centre outside the Primary Shopping Area may be appropriate for conversion to residential uses that contribute to meeting local housing need. Small infill sites in Rugeley Town Centre outside the Primary Shopping Area are generally appropriate for residential development unless identified for other uses. These should be high density development and contribute to meeting local and affordable housing need.

Re-development of any larger sites outside the Primary Shopping Area which have not been identified individually in policies RTC4 to RTC8, will be supported for either residential or mixed residential/ leisure/business uses that do not undermine the vitality and viability of the Primary Shopping Area and contribute to improving the quality of the urban fabric by meeting the requirements of design policy RTC3.

Leisure, Community, Cultural and recreational facilities

Development proposals will be supported for the creation of new or enhancement of existing facilities that will add diversity to the cultural scene, such as a cinema, bowling alley, youth drop in centre or other leisure and cultural attractions. Developer contributions for the provision of such facilities would be required from the redevelopment of the Aelfgar; Market Hall/Bus Station; Wellington Drive and Leathermill Lane/Trent and Mersey Canal Corridor sites, as set out in policies

RTC4, and RTC6 to RTC8, unless they are provided as part of any development.'

- 15.5 Officers note that Policy CP11 and the AAP set out a strategy for regenerating and growing the town centre via the development of key sites - namely those explored as part of the sequential test approach referenced elsewhere in this report. This, amongst other ambitions is in order 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.
- 15.6 It is also noted that the current Tesco store has provided approximately 4,000sqm net convenience retail floor space. The Lidl proposal would provide a food store of 2,279 sqm gross external area (GEA) with a net sales area of 1,410 sqm; and this would exceed the threshold in Policy CP11. Additionally, in tandem with the Aldi proposals the development would further exceed the 4,900sqm set out in the Local Plan and in this respect would be contrary to Policy CP11 and the AAP of the Local Plan. For this reason, it is technically considered that the proposal constitutes a departure from the Cannock Chase Local Plan and has been advertised as such.
- 15.7 At the same time the proposals would complement the ambition within CP11 to promote the development of Rugeley town centre for retail, align with the ambition to improve the attractiveness of the town centre and would complement or build upon the positive environmental enhancements and linkages to the Canal Corridor carried out as part of the Tesco development, and more latterly County Council on behalf of the Canal and Rivers Trust.
- 15.8 Similarly Officers note there is synergy between the proposals in this case and the wider strategic ambitions noted in Policy RTC1 as set out in Figure 1 above. I.e. *'new growth around the Trent and Mersey Canal to the east (also a conservation area), raising the canal's profile within the town by improving the physical links ... aided by the current Tesco store development to the east of the canal. This will be accompanied by measures aimed at creating an improved public realm between the historic centre and the canal via a combination of landscape improvements and/or new development.*
- 15.9 Officers recognise the environmental improvements to the vicinity of the Canal the proposals would bring. Particularly in the case of the Lidl proposals, the site in question is also highly prominent from the wider public realm for users of the A51 and the nearby public house, fast food outlet and similar – and would be closely observed in the context of one of the key main entrances to the new power station re-development. This places heightened emphasis on bringing forward development of the site in question because an absence of development (and a bare unmaintained site) erodes the image and milieu of the wider surroundings. Officers highlight the above excerpt and in particular the wording 'or new development' because Policy RTC1 and the accompanying diagram convey that additional retail development around the main allocated sites could potentially come forward to complement the main allocations – albeit in line with the sequential focus on the town centre and edge of centre first in accordance with other

policies, and only then would less central sites be considered. Accordingly Officers assess there is consistency between the development proposals within this application and the wider strategic Regeneration Policy RTC1 – albeit the site in this case is beyond the red zoning identified in Fig 1 of this report.

- 15.10 In terms of Policy RTC2, the majority of the policy is not considered relevant in that it relates to uses acceptable within the Primary Shopping Area which this site is not. However the 4th paragraph suggests that redevelopment of any larger sites outside the Primary Shopping Area which are not effectively identified sites, will be supported for either residential or mixed residential/leisure/business uses that do not undermine the vitality and viability of the primary shopping area and contribute to improving the quality of the urban fabric. The proposals in this case display conflict with Policy RTC2 insofar as they are not ‘mixed use’ in the manner envisaged in the policy. However the proposals are proven (as discussed at the retail impact assessment aspect of this report) to avoid undermining the vitality and viability of the centre in retail impact terms and would lead to improvement to the physical environment and availability of services in a highly prominent location. Thus Officers observe partial conflict with this policy, but also some degree of consistency.

16. EMPLOYMENT LAND POLICIES

- 16.1 Objections have been received by both Morrisons and Tesco on the grounds that the proposal would result in the loss of employment land and therefore be contrary to Policy CP8 which states ‘Proposals which involve the redevelopment or conversion of employment uses to alternative uses will be considered on their merit, based upon other Core strategy policies and having primary regard to the following key criteria’.
- 16.2 The Policy Officer has commented that ‘the area is historically industrial with Rugeley Power Station and the former Lea Hall colliery being present within the vicinity. As reported by the Minerals and Waste consultee, the land did in 2008 form part of a proposed household waste recycling site, but this permission was never implemented.
- 16.3 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.
- 16.4 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 or their new class in the amended order. The site is currently vacant. Therefore, as a matter of fact, the site is not considered to be an established employment area and as such the

proposal would not result in the loss of employment land. Therefore it is officer opinion that the proposal does not engage Policy CP8 of the Local Plan.

17. OTHER MATERIAL CONSIDERATIONS

- 17.1 Separately it is a clear material factor that the nearby Rugeley Power Station site has now been granted planning permission for 2300 dwelling, up to 5 Ha employment land and a new All Through School and publicly accessible Riverside Park amongst other development. This power station development was not envisioned as part of the plan formation processes which lead to the 2014 Local Plan and was in effect an 'off plan' development granted permission following the closure of the power station in 2018 and its subsequent demolition.
- 17.2 Considerable additional population and a broadening of Rugeley town as a whole in the direction of the power station site (east) will occur as the development comes forward over the next 20 years. Approximate delivery rates of around 200 dwellings per year are envisioned and the development of the school phase has commenced with the expectation of use by 2024. Reserved Matters submissions for first phases at the eastern end of the site are expected imminently and the works to form the publicly accessible Riverside Park, for the benefit and enjoyment of the wider town are also underway. The development proposed within this application would not seem to have any obvious negative effect on the planned investment in the power station proposals or the public investment on the power station site in the form of the All Through School under construction there and no objections from the site owners Equans are apparent in this regard.
- 17.3 Aside from the wider economic and social benefits the power station development would bring, a key asset associated is the repurposing of the existing rail connection into the power station site. This is intended to provide a good quality pedestrian and cycle link to Love Lane canal corridor, intended to increase substantially the connectivity by various means of transport of the 2300 dwelling site with the town centre and both railway stations. It is relevant the pedestrian and cycle way will serve the Riverside Park providing walking and cycling access to this facility from the town centre.



Figure 2: Extract from Rugeley Power Station Landscape Design Statement (Pg 30) Copyright BMD 2018. Blue arrow denotes approximate location of application site

- 17.4 It is the Officer's assessment the development of the Lidl store in the location proposed would contribute significantly to the range of shopping facilities within walking distance of a large portion of the power station development. Joint trips from future commuters to Rugeley Trent Valley railway station (to the north west) could reasonably stop off at the store and the physical enhancements resulting would reinforce use of the area and complement use of future facilities such as the Riverside Park within the neighbouring power station site.
- 17.5 As part of the development, discussions have been undertaken with Equans (the owners of the power station site) about providing additional land to support the provision of footpath/cycleway link in a wider and more substantial form. To increase the land available for the link will heighten its visibility and status to future users which in turn will help promote use of the link as a sustainable transport route. These benefits and the wider proximity of the site to the new residential development within the power station site could not have been envisioned when the AAP policies were originally written. Accordingly there is some argument that the AAP policies are out of step with committed development in Rugeley in they fail to consider the effects of 2300 dwellings being provided in the immediate area or the importance of the pedestrian/cycle link as part of the movement framework underpinning the masterplan of the power station site. In the

officers opinion, this reduces the weight that could be attributed to the conflicts apparent in RTC1 and RTC2 in the 'Planning Balance'.

18. POLICY PRINCIPLE CONCLUSIONS

- 18.1 Officers are satisfied with the conclusions presented by Alder King that there are no sequentially preferable town centre or edge of centre sites available for the development proposed in this application. Officers assess the location is well connected to the town centre and represents an accessible site by various means of transport and for the reasons set out in this report would comply with the sequential requirements of Policy CP11 of the Local Plan 2014 and paragraphs 87 and 88 of the NPPF (2021).
- 18.2 In line with the detailed dialogue and advice from the Council's consultants Alder King, Officers conclude there would be no significant adverse impacts on the turnover levels of existing businesses within the town centre or nearby centres. Officers have been presented with no substantive evidence to suggest there would be significant adverse impacts on existing investments within the catchment area. A substantial future investment of note nearby is the remediation and redevelopment of the former power station site. The proposals would appear to complement the investment in the power station site by maintaining investor confidence in the area and providing an additional service to future residents that is convenient and easily accessible from future housing. In providing additional economic and built environment benefits, such effects are consistent with the wider emphasis of CP11 which seeks to strengthen Rugeley's role as a market town serving the shopping needs of Rugeley and nearby settlements. The assessment is also consistent with Para 90 and 91 of the NPPF.
- 18.3 The development would exceed the 4,900sqm retail floor area set out in Policy CP11 and the AAP of the Local Plan. For this reason, it is technically considered that the proposal constitutes a departure from the Cannock Chase Local Plan. At the same time the proposals would complement the ambition within CP11 to promote the development of Rugeley town centre for retail, align with the ambition to improve the attractiveness of the town centre and would complement or build upon the positive environmental enhancements and linkages to the Canal Corridor carried out as part of the Tesco development nearby. Hence partial conflict with the ambitions of policy CP11 is observed, albeit there is also some consistency.
- 18.4 In the context of consideration against Policy RTC1 and the accompanying diagram, Officers recognise the environmental improvements to the vicinity of the Canal the proposals would bring. The site in question is highly prominent from the wider public realm for users of the A51 and the nearby commercial development - and would be closely observed in the context of one of the key main entrances to the new power station re-development. This places heightened emphasis on bringing forward development of the site in question to support the regeneration of the area as envisioned by the Regeneration Policies at large. This is because an absence of development (and a bare unmaintained site) erodes the image and milieu of the wider surroundings.

Officers recognise the environmental improvements that would result from utilisation of the vacant land in an otherwise commercial setting. The use of the land would also benefit the use of the nearby canal. Such benefits accord well with Policy RTC1 which advocates improvements to the public realm and improved access to the canal – which the development positively would reinforce through better natural surveillance and land available for use in creating the link into the power station site. Accordingly, Officers assess there is consistency between the development proposals and wider strategic Regeneration Policy RTC1.

- 18.5 In terms of Policy RTC2, the 4th paragraph suggests that redevelopment of any larger sites outside the Primary Shopping Area which are not effectively identified sites, will be supported for either residential or mixed residential/leisure/business uses that do not undermine the vitality and viability of the primary shopping area and contribute to improving the quality of the urban fabric. The proposals in this case display conflict with Policy RTC2 insofar as they are not 'mixed use' in the manner envisaged in the policy. However the proposals are proven (as discussed at the retail impact assessment aspect of this report) to avoid undermining the vitality and viability of the centre in retail impact terms and would lead to improvement to the physical environment. Thus Officers observe partial conflict with this policy, but also some degree of consistency.
- 18.6 Officers assess a range of other material considerations such as aiding the delivery of the adjacent pedestrian/cycle link as part of the redevelopment of the Rugeley Power Station and the fact policies in the current Local Plan 2014 do not take account of the permitted 2300 dwelling redevelopment of the power station in very close proximity to the application site. These considerations are of to the decision taking on this application.
- 18.7 In weighing the respective policy principle compliance and partial conflicts highlighted, Officers assess the proposals would on balance weigh in favour of the proposals in principle on the basis of the policies alone and the application would comply with the overall emphasis of the Development Plan more than not. Add to this the complementary benefits the proposals would bring to serving the Rugeley Power Station development and officers assess the planning balance weighs moderately in favour of the application in principle.

19. DESIGN AND CHARACTER AND APPEARANCE OF THE AREA

- 19.1 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.
- 19.2 Relevant policies within the NPPF in respect to design and achieving well-designed places include paragraphs 126, 130, 131, 132, 134. Paragraph 126 makes it clear that the 'creation of high quality, beautiful and sustainable buildings and places is fundamental to what the planning and development process should achieve' adding 'Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities.
- 19.3 The development of the site would remove an unkempt area of ground that previously had been used for the storage of coal. It inevitably has an unmaintained character and is a noticeably vacant plot of land in the context of the wider commercial area that has a detrimental impact on views from Power Station Road and the A51 adjacent.
- 19.4 The proposed food store 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, containing the visibility of the functional yard against the railway embankment. The loading area is relatively modest in scale only forming a parking bay for a HGV and overall is considered appropriate for a use of this type.
- 19.5 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. In combination the design and materials proposed provide a contemporary appearance, which would reflect the modern buildings in the context and as a whole the development is considered appropriate in scale, design, massing and materials within the wider commercial area. As such the building is considered well-related to its immediate commercial/ industrial context and the future ambitions for elements of contemporary design within the redeveloped power station site.
- 19.6 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 and that the submitted Tree Protection Plan should be conditioned. Officers can confirm that the latter can be secured through the use of a suitably worded condition. The outstanding issues are therefore ones of detail which would have no bearing on other issues and which can be readily addressed through the use of a conditions for the submission of a revised landscaping scheme and to secure its implementation.

20. WIDER LANDSCAPE CONSIDERATIONS

- 20.1 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. In this respect it is noted that paragraph 176 of the National Planning Policy Framework requires great weight should be given to conserving such environments.
- 20.2 Whilst the proposal is clearly not in the limits of the AONB it is with 2km of the designated area and therefore potentially could have an impact on the setting of the AONB. In this context it is noted that Policy CP14 of the Local Plan, which deals with landscape character and the Cannock Chase AONB states the districts landscape character will be protected and conserved.
- 20.3 In addition to the above it is noted that the following publications from the Cannock Chase AONB Partnership provide detailed guidance on assessing impacts.
- 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).
- Of particular importance is the latter document.
- 20.4 Having had regard to the above it is noted that the application site is located within an urban area as shown in Figure 2.2: Cannock Chase Area of Outstanding Natural Beauty (AONB) Landscape Character Framework. The Guide goes on to give a range of viewpoints in and around the AONB. Of particular relevance are View Points 5, 7 and 8 and 9. The descriptions of these are given in Appendix 1 of this report.
- 20.5 On examining the views referenced above it is clear that the application site cannot be seen in them. This is not surprising given that the site lies with an urban area on the far side of Rugeley from the AONB and is seen in the context of surrounding urban form and that to the south of the site the wooded former railway embankment acts as a visual screen. It is also noted that the Cannock Chase AONB Unit has no objections to the proposal.
- 20.6 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 paragraphs 126, 130, 131, 132, 134 of the NPPF.

21. RESIDENTIAL AMENITY

- 21.1 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".
- 21.2 Paragraph 130(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'.
- 21.3 In this respect the site is located on the edge of a commercial/ industrial area centred on Power Station Road and is currently not in close proximity to residential properties. However, it should also be noted that the former Rugeley Power Station site does benefit from planning permission for a predominantly residential development, which will introduce residential areas across the A51 and hence the potential for conflicts in respect to noise.
- 21.4 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.
- 21.5 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 NO₂, PM₁₀ & PM_{2.5}). 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.
- 21.6 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 would occur and

recommends that a condition is attached to any permission granted to ensure the development is constructed to the submitted scheme. However, due to subsequent changes to the proposal to accommodate the safeguarded land a new lighting scheme will need to come forward. As such it is recommended that the condition should be worded to request an amended lighting scheme rather than approval of the one already submitted with the application.

- 21.7 Tesco has suggested that conditions in relation to the hours of trading, hours of delivery and the number of deliveries. However, the EHO has not requested that such conditions be placed upon any permission granted and there is no evidence that such conditions are required on amenity grounds. As such it is recommended that these conditions should not be attached to any permission granted.
- 21.8 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 Paragraphs 130(f) and 185 of the NPPF.

22. HIGHWAYS CONSIDERATIONS

- 22.1 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.
- 22.2 Footways would 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.
- 22.3 The proposed Lidl site currently has good pedestrian and cycle accessibility from Rugeley town centre and the surrounding residential areas. 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. Taken together with the enhanced pedestrian links to and from the proposed footpath along the adjacent railway embankment (which would give enhanced provision for cyclists and pedestrians) it is considered that the layout adequately addresses the issues raised in paragraph 112 of the NPPF.

- 22.4 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.
- 22.5 The Highway Authority has stated that it has no objections to the proposal subject to the attached conditions. In addition to the above a triangular area of land, along the northern edge of the site (see attached site plan in the agenda pack) and abutting the railway line 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 secured from Lidl would enable a much enhanced overall solution to the new proposed footpath / cycleway. 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 Lidl.
- 22.6 The Highway Authority has also recommended that any planning permission granted should be subject to a condition requiring implementation of a Travel Plan and the completion of a suitable legal agreement to secure an acceptable Full Travel Plan and the Travel Plan Monitoring Fee (£7,000). The Travel Plan monitoring fee would be required to support the developer's Travel Plan Coordinator and audit annual monitoring reports to ensure the Travel Plan outcomes are being achieved. Officers consider that this recommendation be accepted as it would further reduce the reliance on the private car and promote the use of sustainable transport means.
- 22.7 In respect to the representation by Centrebus as to whether the district council will be placing a S106 agreement onto the planning consent requiring the introduction of a new/ revised bus service to serve the site it is noted that as this site is edge of centre such a requirement would not be necessary. Furthermore, the Highway Authority has not requested such an obligation to be placed on any permission granted. As such it is recommended that such an obligation is not attached to any permission granted..
- 22.8 It is therefore concluded that the proposals, subject to the attached conditions and section 106 obligations, meet the overall objective of the Local Plan to reduce the dependence on the car by promoting sustainable attractive and realistic alternatives, including public transport, walking and cycling and that it would not give rise to unacceptable impacts on highway safety, and that the residual cumulative impacts on the road network would not be severe. For these reasons it is considered that the proposal is in accordance with Policy CP10 of the Cannock Chase Local Plan and paragraphs 110, 111, 112 and 113 of the National Planning Policy Framework.

23. IMPACT ON NATURE CONSERVATION INTERESTS

- 23.1 Policy and guidance in respect to development and nature conservation is provided by Policy CP12 of the Local Plan and paragraphs 174 and 180 of the NPPF.
- 23.2 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.
- 23.3 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.”

- 23.4 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. In addition it is considered that the soft landscape planting proposed would serve to provide new habitat and biodiversity improvements commensurate with the scale and nature of the proposal.

24. IMPACTS OF CANNOCK CHASE SPECIAL AREA OF CONSERVATION

24.1 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.

24.2 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. “

24.3 In addition to the above the applicant has submitted a Shadow Habitats Regulations Assessment Report, prepared by Tyler Grange (TG Report No. 13229_R02_MB_CW) and dated 10th December 2021 to provide sufficient information to the local planning authority for it to exercise its duties under the Habitats Regulations 2017 (as amended).

24.4 The European Council Directive on the Conservation of Natural Habitats and of Wild Flora and Fauna, 1992, often referred to as the 'Habitats Directive', provides for the protection of key habitats and species considered of European importance (listed under Annex I, II and IV of the Directive). The Birds Directive (formally known as Council Directive 2009/147/EC on the conservation of wild birds) was also adopted in 2009. These directives have been transposed into UK law through The Conservation of Habitats and Species Regulations, hereafter referred to as 'the Habitats Regulations 2017 (as amended)', and incorporated protections for European sites. It should be noted that the UK's departure from the European Union (EU) does not alter the implementation of this legislation in the UK at the time of writing. Section 6 of the EU (Withdrawal) Act 2018 (as amended) requires retained EU law such as the Conservation of Habitat and Species Regulations 2017 (as amended) to be interpreted in line with "retained case law" which includes retained EU case law.

24.5 For the purposes of the regulations the term European sites comprise Special Areas of Conservation (SACs) and candidate SACs designated under the Habitats Directive; Special Protection Areas (SPAs) and potential SPAs, classified under the Birds Directive; Ramsar sites, designated under the Convention on Wetlands of International Importance; and • European Marine Sites (EMS).

24.6 Under the Habitats Regulations, competent authorities have a duty to consider impacts of any plans or projects which may result in likely significant effect on European sites, either alone or in-combination with other plans and projects. The assessment of the

potential effects is termed an Habitats Regulations Assessment (HRA). Such an assessment is split into four stages.

Stage 1 is a screening stage to determine if the proposed development is expected to have an LSE on a European site. If an LSE is determined, appropriate assessment (Stage 2) is required;

If required, Stage 2 refers to an appropriate assessment which is used to determine whether the project will adversely affect the integrity of any given European site(s) (through also considering proposed avoidance and mitigation measures), in view of their conservation objectives. Conservation objectives specify the overall target for a site's qualifying features (habitats and species / populations listed in Annex I and II) in order for that feature to be maintained or restored, to reach favourable conservation status;

Stage 3 is triggered if significant adverse effects are identified in Stage 2 that cannot be avoided or mitigated. This stage requires alternative options to be examined to avoid significant impacts on European sites; and If it is deemed that the project should proceed for Imperative Reasons of Overriding Public Interest (IROPI), Stage 4 comprises an assessment of compensatory measures which would be required.

- 24.7 The Shadow HRA report identifies four European sites that potentially could be affected by the proposal, namely Cannock Chase Special Area of Conservation (SAC) which lies approximately 3.5km west of the site; Pasturefields Salt Marsh Special Area of Conservation (SAC) which lies approximately 8.8km north-west of the site; Midland Meres & Mosses (Phase 1) Ramsar site, which lies approximately 10km north-west of the site; and the West Midlands Mosses Special Area of Conservation (SAC), which lies approximately 19km north-west of the site.
- 24.8 The Shadow HRA report then goes on to look at the potential impacts through recreational pressure, construction activities and air pollution. In respect to the former the report concludes that 'owing to the commercial purposes of the proposed development, the application will not result in a net increase in residential dwellings and hence local population at the site' and as such 'any increase in recreational disturbance to any of the identified designated sites' has therefore been scoped out from the Appropriate Assessment. Similarly effects from construction activities (e.g., noise, vibration, and light) are likely to occur during the construction phase of the development. Have also been screened out due to the intervening distance between the application site and any of the European sites.
- 24.9 However, the report goes on to identify that European dry heath habitat is adapted to low nutrient conditions and is vulnerable to acidification of soil. The principal qualifying habitat of the Cannock Chase SAC is therefore particularly sensitive to airborne nitrogen dioxide (NO₂), nitrogen oxides (NO_x), and sulphur dioxide (SO₂), which are derived

from combustion sources in vehicles. Ammonia (NH₃) is also an airborne pollutant of concern for this habitat, however the Air Quality Pollutant Inventories for England (2005 – 2019) identify that ammonia deposition is primarily derived from agricultural sources.

- 24.10 The Shadow HRA report notes that the Cannock Chase SAC Site Improvement Plan¹⁰ (SIP) demonstrates that a change in atmospheric concentration or deposition of nutrient nitrogen pollutants on heathland habitat could result in the following effects:
- Modification of the chemical status of the substrate;
 - Accelerating or damaging plant growth;
 - Altering the vegetation structure and composition, causing loss of sensitive species associated with the habitat;
 - Transition from heather *Calluna vulgaris* to grass Graminoid spp. dominance;
 - Heather species becoming more susceptible to frost and drought;
 - Decline in lichens and mosses Bryophyte spp.;
 - Decline in bryophyte species richness; and
 - Changes in plant biochemistry.
- 24.11 The Shadow HRA report therefore concludes that increased levels of air pollution which could arise as a result of additional vehicular traffic generated by the proposed development therefore need to be considered as a likely significant effect to the Cannock Chase SAC. In this respect it is noted that traffic would be generated by customers and staff visiting the site and from HGVs during deliveries. The HRA report screens out air pollution domestic users as these trips would be local and not pass within 200m of the Cannock Chase SAC designation.
- 24.12 In respect to HGVS the reports notes that HGV deliveries would be from the Wednesbury Regional Distribution Centre and to the proposed new food store and in the absence of appropriate mitigation, HGV drivers could disperse throughout the highways network, which may include delivery routes that pass in close vicinity to the Cannock Chase SAC such as the A460 road. The report concludes that the likely significant impact could be avoided by a Delivery Servicing and Waste Management Plan (DSWMP) which would detail the route to be taken by HGVs undertaking deliveries between the Wednesbury Regional Distribution Centre and the proposed new food store including the return journey so that it would avoid the A460 and any other road which passes within 200m of the Cannock Chase SAC designation. The report goes on to state that the DSWMP should provide LIDL Great Britain LTD with the legal capacity to fine and / or suspend the contract of any haulier that does not comply with its conditioned DSWMP.
- 24.13 Officers would advise that a condition for a DSWMP would be reasonable, necessary and enforceable. The findings of the Shadow HRA report are considered reasonable and proportionate have been accepted and used by officers as the basis for compiling a Habitats Regulations Appropriate Assessment which has been submitted to and accepted by Natural England. As such officers can confirm that the Local Planning Authority has discharged its duties under the Habitats Regulations and have concluded that subject to the attached conditions the proposal would not harm any SAC.

25. ENVIRONMENT ACT 2021

- 25.1 In November 2021 Environment Bill was given Royal Assent and has now become the Environment Act 2021. This Act requires, by late 2022, the Secretary of State for DEFRA to set long-term legally binding targets on air quality, biodiversity, water, resource efficiency and waste reduction within the UK which will be overseen by a largely independent body.
- 25.2 In respect to Biodiversity Net Gain all new development will be obliged to demonstrate a 10% biodiversity net gain (BNG). On sites where BNG is secured, it would have to be managed for at least 30 years and will most likely need to be secured by a legal agreement. A two-year transition period was set out in the consultation documents so it is anticipated the 10% BNG requirement will be a legally mandatory requirement by 2023. Although, some LPAs already require net gain Cannock Chase District Council has no such policy requirement.
- 25.3 Therefore, although the provisions of the Environment Act 2021 constitute a material consideration there is currently no legislative or policy to require a 10% Biodiversity Net Gain. Notwithstanding this there is still a requirement under paragraph 174 of the NPPF for decisions to contribute to and enhance the natural and local environment. However, it is considered that given the site is currently disturbed with much hard standing, this enhancement would be achieved through an appropriate landscape plan which could be readily achieved through the use of an appropriately worded condition.
- 25.4 Therefore it is considered that subject to the attached conditions the proposal would be not be contrary to policies CP12 and CP13 of the Local Plan and paragraphs 174 and 180 of the NPPF.

26. DRAINAGE AND FLOOD RISK

- 26.1 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. In this respect it is noted that paragraph 159 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'. As such although the site may be located in Flood Zone 1 it is still pertinent to ensure.

- 26.2 In addition to the above paragraph 169 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;
 - d) where possible, provide multifunctional benefits

26.3 The applicant has submitted a Flood Risk Assessment and Outline Drainage Strategy, Drainage Strategy, a SuDS Maintenance Strategy Report and a Flood Routing Plan and a Flood Risk and Sequential Test Review Report (FR&STR) Ref: R103, Revision 1.1, dated December 2021. These have been used as the basis for the Local Planning Authority undertaking its own assessment of Flood Risk.

Determining Flood Risk Vulnerability and Compatibility

- 26.4 The first stage in the application of flood risk policy is to determine how 'vulnerable' a particular development would be to flood risk. To this end the Planning Practice Guidance sets out a 'Flood Risk Vulnerability Classification' which classifies developments on the basis as to whether they are Essential Infrastructure, Highly Vulnerable, More Vulnerable, or Less Vulnerable. The Less Vulnerable Category includes 'Buildings used for shops, financial, professional and other services, restaurants' etc. As such the proposed development as a food store would be categorised as 'Less Vulnerable'
- 26.5 The next stage within the assessment is to determine what the risk of flooding is in the area of covered by the application site. This can, in part be determined by looking at the EA's or the Strategic Flood Authority's Flood Zone Maps, which in this case show that the site is located within Flood Zone 1 (lowest Risk). However, as 'all sources of flood risk' should be taken into account it is necessary to look at risks from Surface Water Flooding, artificial sources and run-off from third party land as well as fluvial/tidal sources. When taking such sources into account it is noted that the DEFRA Surface Water Flood Data demonstrates that the site is subject to surface water flooding due the existing site's topography.
- 26.6 The next stage within the assessment is to look at the compatibility of a particular category of development within particular flood risk zones. Traditionally this would be based solely on the flood Zones on the Environment Agency's Flood Risk Maps (Zones, 1, 2, 3a and 3b), with Zone 1 being low risk and Zone 3b being functional flood plain. Using the flood risk compatibility matrix in the Planning Practice Guidance it can be determined whether a proposal is 'acceptable', 'should not be permitted' or 'acceptable subject to the application of the 'exceptions test''. When this process is carried out on the application proposal using the EA's Flood Zones the development is found to be a

'Less Vulnerable' development within Flood Zone 1 and therefore acceptable within that Flood Zone.

- 26.7 However, currently there is an absence of specific guidance on sequential testing for other types of flooding. As such the applicant's Flood Risk Consultant has applied the same format of the PPG's Flood Risk Vulnerability and Flood Zone Compatibility to the other sources of Flood Risk. Your officers agree that this approach, in the absence of any specific guidance, is reasonable and proportionate. This approach has likewise demonstrated that the proposed development is acceptable when assessed against the risks from fluvial/ tidal, surface water, artificial sources and ground water.
- 26.8 Having established that the development would be acceptable in terms of its flood risk, the assessment should now go on to look at whether there are any other sequentially suitable sites.

Application of the Flood Risk Sequential Test

- 26.9 Officers note that the National Planning Policy Framework has been updated and now it requires that all plans should apply a sequential, risk-based approach to the location of the development – taking into account all sources of flood risk and the current and future impacts of climate change and not just assessing proposals depending on the flood zone that they fall into.
- 26.10 In this respect the officers note that the FR&STR states that the site is shown to be in Flood Zone 1 on the Environment Agency (EA) flood map data and in the Southern Staffordshire Council's (SCC) Level 1 Strategic Flood Risk Assessment. Furthermore, the EA identifies the land having a less than 1 in 1,000 annual probability of river or sea flooding. Nevertheless, it is important that to be fully compliant with the NPPF the applicant needs to also consider any other potential source of flooding from tidal/ fluvial, surface water, artificial sources and from run-off from third party land when looking at other potentially suitable sites.
- 26.11 To this effect the applicant's FR&STR has identified potentially suitable sites from a retail planning perspective as identified in the Rugeley Town Centre Area Action Plan which could potentially be included within the sequential test. These include: -
- RTC 4: Aelfgar Centre/Former Squash Courts, Taylors Lane
 - RTC 5: Market Street Garages
 - RTC 6: Rugeley Market Hall / Bus Station and Surrounding Area
 - RTC 7: Land at Wellington Drive
 - RTC 8: Leathermill Lane/ Trent and Mersey Canal Corridor
- 26.12 Officers are not aware of any other potentially suitable sites within the town centre and can confirm that no other sites have been put forward by any other party.

26.13 A comparison of the flood risk to the above sites is given the table below.

	RTC4	RTC5	RTC6	RTC7	RTC8
Tidal/Fluvial Risk	Very Low	Medium to Very Low	Medium	Medium	Medium to Low
Surface water Risk	Low	Medium to Low	Medium to High	Low to Very Low	Medium to Low
Artificial Sources Risk	N/A	N/A	N/A	N/A	*Extent falls within an area that floods when there is also flooding from river
Runoff from Third Party Land	Low	Low	Low	Low	Low

26.14 However, for the reasons given above it is considered that none of these sites are suitable, or available or viable to accommodate the proposed Lidl store and should therefore be discounted from inclusion of potential suitable sites in the .Flood Risk Sequential test. The FR&STR concludes

‘As the development’s extents of the site are within Flood Zone 1, not prone to any critical risk from other sources of flooding and the development proposal is in a Less Vulnerable category, the site can be considered appropriate for the proposed use, and therefore passes the Sequential Test taking into account all sources of flooding.

26.15 For the reasons given above officers consider agree with the conclusions of the FR&STR and consider that the flood risk sequential test has been met.

Drainage and Ensuring that the Development Does not Exacerbate Flooding Elsewhere

26.16 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.”

26.17 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 conditions. Those conditions are set out in full in the consultation section of this report and again in the recommended schedule of conditions above.

26.18 It is therefore concluded that having had regard to Policy RTC11 of the Rugeley Town Centre Area Action Plan, paragraphs 159, 161, 162 and 169 of the NPPF and the appropriate parts of the PPG, and subject to the attached conditions, the proposal meets the sequential test and would not exacerbate flooding elsewhere and therefore meets the requirements of paragraphs 159 and 169 of the NPPF.

27. MINERALS SAFEGUARDING

27.1 The site falls within a Mineral Safeguarding Area (MSAs) for superficial sand and gravel deposits. Paragraph 2010(c), 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.

27.2 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.

27.3 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);’

27.4 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. It is therefore accepted by officers that the proposal would not conflict with the aims of safe guarding minerals

27.5 It is therefore concluded that the proposal is therefore acceptable in respect to mineral safeguarding and the requirements of paragraph 210(c) of the NPPF and Policy 3.2 of the Minerals Local Plan.

28. CRIME AND THE FEAR OF CRIME

- 28.1 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'.
- 28.2 In addition to the above paragraph 130(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.
- 28.3 A range of comments are provided by the Police Crime Prevention Officer (CPO). These note the building has been designed to provide a high degree of natural surveillance to the car park and the highway beyond and in general there is no objection to the development. However the CPO has raised points with respect to speed bumps, barriers, height restriction barriers to HGVs, use of defensive planting, bollards and similar in order to assist with crime prevention amongst other points.
- 28.4 Having considered the above recommendations it is noted that the issues in respect to the provision of speed bumps, installation of a height barrier, bollards, the specification and location of cycle parking (the cycle parking is proposed to be located at the south elevation and therefore would be overlooked), fencing and CCTV are matters of detail which are necessary to ensure that the development would create a place that is safe and policy compliant. Furthermore, the issues could be readily addressed through the imposition of a suitably worded condition on any approval granted.
- 28.5 The comments raised by the Police in respect to the specification of windows, doors, locks etc are more appropriately dealt with by way of an informative rather than by condition as they are advisory in nature and relate to specifications set out in 'Secure by Design', which the applicant can sign up should they wish to.
- 28.6 Given the above it is concluded that the proposal, subject to the attached conditions and informatives 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 paragraphs 92(b) and 130(f) of the NPPF.

29. WASTE AND RECYCLING FACILITIES

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

- 29.2 Given that the proposal involves the removal of existing hardstanding it has the potential to generate significant amounts of waste and engage Policy 1.2 of the Staffordshire and Stoke-on-Trent Joint Waste Local Plan. As such it is considered that it is necessary for the developer to submit a 'Waste Audit' to demonstrate compliance with this policy requirement. This can be adequately achieved through the use of an appropriately worded condition.
- 29.3 Subject to a condition requiring the submission of a waste audit it is considered that the proposal would be in compliance with Policy 1.2 of the Staffordshire and Stoke-on-Trent Joint Waste Local Plan and paragraph 8 of the National Planning Policy for Waste.

30. GROUND CONDITIONS AND CONTAMINATION

- 30.1 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.
- 30.2 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 indicates the need for protective measures to be installed in the construction of the proposed development.
- 30.3 The EHO has stated that he is in agreement with the findings of the report and has recommended the attached conditions. 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 174, 183 and 184 of the NPPF.
- 30.4 Network Rail have outlined a number of issues that they wish to see controlled in respect of any works in close association with their assets. These include : -
 Risk Assessment and Method Statement (RAMS)
 Information on encroachment
 Scaffolding
 Control of Drainage
 Excavation and Earthworks and Network Rail land
 BAPA (Basic Asset Protection Agreement)
- 30.5 However, Officers advise that not only should conditions be 'fairly and reasonably related to the development and not be manifestly unreasonable' they also need to be 'necessary'. Therefore, if an activity comprising part of the development is regulated

or controlled through other legislation it would not normally be considered necessary to attach a condition to a planning permission to regulate/ control that activity.

- 30.6 Turning of the issues of RAMS the response form Network Rail reads 'The developer is to submit directly to Network Rail, a Risk Assessment and Method Statement (RAMS) for all works to be undertaken within 10m of the operational railway under Construction (Design and Management) Regulations, and this is in addition to any planning consent'. It is therefore clear that the duty to submit RAMS falls under other legislation and that Network Rail are expecting the developer to submit the RAMS directly to Network Rail and not through the Local Planning Authority. As such, it is considered unnecessary to attach any condition requiring the submission of RAMS to the Local Planning Authority for approval. This issue is therefore more appropriately dealt with by way of an informative attached to any permission granted.
- 30.7 In respect to the issue of encroachment, Members are advised that the grant of planning permission does not confer any right to the developer to enter land in the ownership of a third party or encroach onto land in the ownership of a third party, in anyway. Furthermore, although it is clear that no part of the proposed building would encroach onto or over-sail Network Rail air-space there is the potential that any crane used during the construction process could potentially oversail Network Rail air-space.
- 30.8 Whilst development within 10m of the line would be covered by the RAMS it is feasible that a crane situated over 10m from the track could oversail Network Rail air-space. This could be controlled through the inclusion of the operation and siting of any crane within the wider Construction and environmental Method Statement (CEMP) required under Condition 5 included in the Schedule of recommended conditions. The issue of rainwater goods would be dealt with as part of the overall drainage plans (see condition 4). The remaining issues (maintenance, access and trespass) listed under the heading 'Encroachment' are advisory in nature and can be adequately dealt with by way of an informative. Remaining items such as scaffolding or earthworks are inherently part of the RAMS process, can be dealt with effectively in terms of informative note and drainage is effectively dealt with by separate planning condition.
- 30.9 Therefore subject to the attached conditions and informatives it is considered that the proposal would not be contrary to paragraph 183 of the NPPF.

31. HUMAN RIGHTS ACT 1998 AND EQUALITIES ACT 2010

Human Rights Act 1998

- 31.1 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.

Equality Act 2010

- 31.2 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

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

APPENDIX 1:

Extracts from the Cannock Chase AONB Views and Setting Guide (2020)

Viewpoint 5: View looking south west from the Staffordshire Way, Bellamour Way, Colton

Receptor type

The view lies on the route of the Staffordshire Way, south of Bellamour Way within the village of Colton. Key receptors include users of the Staffordshire Way as well as residential occupants within Colton itself. The viewpoint is characterised by views across the Trent-Sow floodplain and is representative of a westerly outlook towards the AONB and settlement edge of Rugeley.

Description of the view

Low-lying, large scale arable farmland dominates the foreground of this view, providing an open outlook towards the settlement of Rugeley. The route of the Staffordshire Way also dissects the immediate foreground. The left hand frame of the view is characterised by vegetation parallel to Moreton Brook as well as the built form of Rugeley Power Station, which is prominent on the skyline from this location. A network of electricity pylons provide further visual detractors in the view, protruding above the wooded horizon where the settlement edge of Rugeley is just apparent. A hedgerow bordering the B5013 and woodland block at Boathouse Spinney characterise the right hand frame of the view, although glimpsed views of traffic along this route detract from localised tranquillity. Bellamour Lodge Farm is also just perceptible at this location, albeit partially screened by vegetation. The wooded extent of the distinctive upland plateau forming the AONB is evident in the background view.

Viewpoint 7: View looking east from Slitting Mill Road, Slitting Mill

Receptor type

This view is located on Slitting Mill Road, at the eastern boundary of the AONB. Residential properties within Slitting Mill from the primary receptor from this location. Although framed views are also available along the carriageway, these are largely

obscured by hedgerows and appear generally perpendicular to the direction of travel. This view has been included within the

study as it is representative of views from the fringes of the AONB towards Rugeley.

Description of the view

The immediate foreground of the view is dominated by the road frontage of Slitting Mill Road; including residential properties, a bus stop and hedgerow. The view looks east across a narrow panorama, framed by intervening built form parallel to the carriageway. Gently rolling agricultural fields divided by hedgerow field boundary treatments characterise the fore and middle ground of

the view, separating the settlements of Slitting Mill and Rugeley. Rugeley Power Station dominates the view, visible above intervening tree coverage associated with Rising Brook in the middle ground. However, the rising slopes evident in the background view afford open views towards the settlement edge of Rugeley where the church spire of St Etheldreda Church protrudes against the skyline. The wind turbine at Manor Farm in Newton is also just perceptible above the horizon.

Viewpoint 8: View looking north west at Stile Cop Field, Stile Cop Road, Flaxley Green

Receptor type

The view affords north westerly views across the valley landscape at the south western fringes of Rugeley. Located at a gated field access on Stile Cop Road, the view is representative of transport receptors and equestrian users of Stile Cop Field.

However, the extent of vegetation parallel to the carriageway restricts open views from this route. This view is included in the study as it is representative of a glimpsed outlook available towards the south western fringes of Rugeley from the AONB.

Description of the view

Land use associated with the equestrian facility at Stile Cop Field dominates the immediate foreground of the view, although the rising topography of the left hand frame foreshortens the view. The landform of the middle ground gently falls towards the valley of Rising Brook where the linear transport corridors of the A460 and the Chase rail line cross the valley floor, detracting from the rural quality of the foreground. The settlement edge of Rugeley is apparent in the middle ground, beyond a copse of trees occupying the foreground. The landform of the middle ground rises to form a wooded backdrop associated with the wider upland plateau of the AONB. Glimpsed views of Slitting Mill and dwellings at Flaxley Green are visible on these wooded slopes, albeit partially screened by vegetation.

Viewpoint 9: View looking north east from Byway Longdon 0.411 at Castle Ring (scheduled monument)

Receptor type

The view is publicly accessible and representative of recreational users of Byway Longdon 0.411, forming a section of a broadly circuitous route at Castle Ring (scheduled monument). Accessed via Holly Hill Road, the site lies to the north of Cannock Wood and offers panoramic views across the landscape of the AONB and beyond. The view has been selected for inclusion within this study as it forms the highest point within the AONB and is recognised as an important historic and recreational asset.

Description of the view

The foreground of the view is characterised by the route of Byway Longdon 0.411, accommodated on perimeter earthworks within Castle Ring Iron Age hill fort. Vegetation within Stonepit Green, forming a wider component of Beaudesert Old Park, preclude open views to the

north where the view is foreshortened. The extent of this vegetation, when combined with tree cover in the immediate foreground, restricts the availability of direct views towards Rugeley Power Station and the Amazon Fulfilment Centre from this location. However, glimpsed views are afforded towards these features from wider sections of the locally elevated route at Castle Ring due to gaps in the continuity of tree cover. Direct views towards the settlement edge of Rugeley are also concealed due to the proliferation of vegetation in the central frame. The view exhibits a rural quality with the right hand frame of the view framed by tracts of tree cover at Beadesert New Park. Long distance views are afforded to Upper Longdon, located within a patchwork of gently rolling agricultural land where the ridge line associated with Needwood Forest forms the horizon.