

**ITEM NUMBER: 5a**

<b>21/01018/MFA</b>	<b>Construction of a Class E limited assortment discount foodstore with associated car parking, access, landscaping and engineering works.</b>	
<b>Site Address:</b>	<b>Land North of Jarman Centre, Jarman Way, Hemel Hempstead, Hertfordshire</b>	
<b>Applicant/Agent:</b>	<b>Lidl Great Britain Limited</b>	<b>Carney Sweeney</b>
<b>Case Officer:</b>	<b>Martin Stickley</b>	
<b>Parish/Ward:</b>	<b>Hemel Hempstead (No Parish)</b>	<b>Apsley And Corner Hall</b>
<b>Referral to Committee:</b>	<b>Major planning application with requirement for a legal agreement</b>	

**1. RECOMMENDATION**

1.1 That the application be DELEGATED with a view to APPROVAL subject to the completion of the Section 106 legal agreement and the proposed conditions.

**2. SUMMARY**

2.1 The site has been vacant for a significant period of time and although planning applications were approved in 2015 and 2018, a scheme is yet to be implemented. The Applicant has split the wider site in half (approximately) and aims to provide a new Lidl foodstore and its associated infrastructure on the northern plot.

2.2 Dacorum Borough Council's (DBC) 'Further Dacorum Retail Study' (June 2020) has highlighted that the Borough has capacity for a substantial increase in convenience floorspace in Dacorum, which would be expected to support the predicted levels of growth in Hemel Hempstead.

2.3 The retail impacts associated with the proposals have been fully assessed and independently verified, concluding that the foodstore would be unlikely to result in a significant adverse impact on the town centre or result in any store closures.

2.4 The proposed design is considered acceptable as well as the various other material planning considerations such as residential amenity, accessibility, highway safety, parking provision, noise, air quality, etc.

2.5 Taking all of this into account, the proposal is considered acceptable and therefore recommended for approval subject to the completion of the legal agreement and subject to the proposed conditions.

**3. SITE DESCRIPTION**

3.1 Jarman Park is a large shopping and leisure park, located to the south-east of Hemel Hempstead town centre, although still within the established urban area of the Town. The application site comprises approximately 1.2 hectares of unkempt land located in the north-eastern portion of the Park. No buildings currently exist on the site. The Applicants, Lidl, own a further 0.81 ha of land directly to the south of the application site. This land is expected to be brought forward for development in the future.

3.2 The site is situated on the corner of St Albans Road (A414) and Jarman Way and features a long frontage to both street frontages, particularly to the southern side of St Albans Road where it is prominent on the approach to the roundabout traveling in the direction of the town centre from the M1. Jarman Way circles the inside of the Park and is a one-way two-lane route that spurs onto and off the application site. Land levels fall gently in a south-eastern direction.

3.3 The principle of retail development on this site has previously established, however, the timeframe for the previous planning application has recently lapsed without the scheme being implemented. This scheme is discussed in more detail later.

3.4 Surrounding land uses include residential properties off White Hart Drive to the north (opposite the dual carriageway of St Albans Road). To the east lies the Thames Water owned and managed Bennetts End flood lagoon which separates the application site from residential properties off Bennetts End Road. Directly south and south-east of the site lies the open car parking area serving the restaurant and cinema complex. West of the site is the road Jarman Way, beyond which lies a detached drive-thru McDonalds and Tesco superstore with associated petrol filling station and open car park.

## **4. PROPOSAL**

4.1 This application proposes a Lidl foodstore (use class E) with a gross internal area (GIA) of approximately 2,488sq.m, gross external area (GEA) of 2,595sq.m and 1,662sq.m of net sales. The car parking would be sited to the west and north of the store and comprise 130 spaces with disabled, parent and child and electric vehicle (EV) provision. The proposals also involve the creation of a pedestrian access ramp and staircase from St Albans Road, hard and soft landscaping and the construction of some retaining walls. The new foodstore would create the equivalent of 40 full time jobs.

## **5. PLANNING HISTORY**

Planning Applications:

4/02935/18/DRC - Details as required by condition 12 (bat survey and mitigation measures) of planning permission 4/00595/18/MFA (construction of 5 retail (class a1) units totalling 10,730sq.m floorspace, and one unit totalling 186sq.m for use as financial services or café.

*Granted - 16th January 2019.*

4/01746/18/TEL - Removal of existing 15m high tower. Installation of 20m high alpha monopole, two 0.6m dishes and one 2600 RFC cabinet measuring 600x480x900mm at ground level, with associated development.

*Prior Approval Not Required - 24th August 2018.*

4/00595/18/MFA - Construction of 5 retail (class a1) units totalling 10,730sq.m floorspace, and one unit totalling 186sq.m for use as financial services or cafe/restaurant (class a2 or class a3) and associated access, car parking, service yard and landscaping.

*Granted - 16th October 2018.*

4/00469/16/TEL - Replacement of 12m lamppost monopole with 15m phase 4 lamppost monopole with 1 no additional equipment cabinet.

*Prior Approval Not Required - 19th April 2016.*

4/00424/15/MOA - Construction of class A1 retail development (to include convenience and comparison retail floorplace and ancillary cafe) and class A3 drive-thru cafe/restaurant unit (with ancillary takeaway) together with access, car parking, service yard and associated.

*Refused - 16th June 2015.*

4/00377/10/VOT - Variation of condition 1 (time) of planning permission 4/02362/07 (variation of condition 18 of planning permission 2/00455/07 (retail warehousing and associated car parking, access, service yard and landscaping).

*Granted - 19th August 2010.*

4/02362/07/ROC - Variation of condition 18 (to modify the time period for submission of details and installation of CCTV system) of planning permission 4/00455/07 (retail warehousing and associated car parking, access, service yard and landscaping).

*Granted - 24th December 2007.*

4/00455/07/MFA - Retail warehousing and associated car parking, access, service yard and landscaping.

*Granted - 24th May 2007.*

4/02475/02/TEL - Erection of 13.7m lamp post telecommunications installation with associated equipment cabinets.

*Prior Approval Not Required - 29th January 2003.*

4/01817/02/TEL - Replace existing 12m lamp post with 13.7m lamp post housing 3 sector antennae.

*Prior Approval Not Required - 31st October 2002.*

Appeals:

4/00424/15/MOA - Development Appeal - *4th March 2016*

## **6. CONSTRAINTS**

Former Land Use (Risk Zone)

RAF Halton and Chenies Zone: Green (15.2m)

Parking Standards: Zone 3

Town: Hemel Hempstead

## **7. REPRESENTATIONS**

### Consultation responses

7.1 The Local Planning Authority (LPA) has consulted the following statutory and non-statutory consultees on this planning application. The initial consultation letters were sent on the 16<sup>th</sup> March 2021. Subsequent consultations were sent to consultees throughout the determination period.

Affinity Water

Conservation and Design (DBC)

Crime Prevention Design Advisor

EDF Energy

Environment Agency

Environmental and Community Protection

Hertfordshire Building Control

Hertfordshire Ecology

Hertfordshire Highways

Hertfordshire Property Services

Herts & Middlesex Wildlife Trust

Herts Valley Clinical Commissioning Group

Lead Local Flood Authority

Parks and Open Spaces

Strategic Planning (DBC)

Thames Water

Trees and Woodlands (DBC)

Waste Services (DBC)

7.2 Consultee responses have helped to shape the proposal and inform the recommendation. Various changes have been made, such as enhanced landscaping, additional trees and the inclusion of additional electric vehicle charging points.

7.3 The consultation responses are reproduced in full at Appendix A.

#### Neighbour notification/site notice responses

7.4 The Local Planning Authority has undertaken a formal public consultation as prescribed in Article 15 of the Development Management Procedure Order (as amended) and the council's Statement of Community Involvement (2019). Letters were sent to 93 residences and site notices were erected around the site on 18<sup>th</sup> March 2021.

7.5 The neighbour responses are reproduced in full at Appendix B.

## **8. KEY PLANNING POLICIES AND GUIDANCE**

### Main Documents and Policies

National Planning Policy Framework (July 2021)

Dacorum Borough Core Strategy 2006-2031 (adopted September 2013)

Policies NP1, CS1, CS2, CS4, CS8, CS9, CS10, CS11, CS12, CS13, CS14, CS16, CS25, CS29, CS31, CS32, CS33, CS35

Dacorum Borough Local Plan 1999-2011 (adopted April 2004)

Policies 10, 13, 31, 33, 37, 44, 51, 54, 55, 57, 58, 99, 100, 106, 113 and 129  
Appendices 1 and 4

### Other Documents:

Dacorum Strategic Design Guide (February 2021)

Car Parking Standards (November 2020)

Retail and Town Centres Topic Paper (November 2020)

Further Dacorum Retail Study (April 2020)

South West Hertfordshire Retail and Leisure Study (September 2018)

Site Allocations (July 2017)

Site Allocations Map Book (July 2017)

Sustainable Development Advice Note (December 2016)

Refuse Storage Guidance Note (February 2015)

Planning Obligations (April 2011)

Roads in Hertfordshire, Highway Design Guide 3rd Edition (January 2011)

Environmental Guidelines (May 2004)

## **9. CONSIDERATIONS**

### Main Issues

9.1 There are a number of key considerations that relate to this application. These are as follows:

- Principle of development;
- Retail impacts;

- Design, materials and visual impact;
- Impact on residential amenity;
- Accessibility, traffic generation and highway safety;
- Parking provision; and
- Any other material planning considerations (including energy, lighting, sustainability, trees, landscaping, ecology, waste management, recycling, flood risk, drainage, contamination, ground conditions, noise, air quality, environmental impact assessment and planning obligations).

Section 38(6) Planning and Compulsory Purchase Act 2004 provides that application should be determined in accordance with the development plan unless material considerations indicate otherwise.

### Principle of Development

9.2 Town centres, as defined in the National Planning Policy Framework (2021) (henceforth referred to as the 'Framework'), comprise a range of locations where main town centre uses are concentrated, such as Hemel Hempstead town centre. National policy guides main town centre uses towards town centre locations first, then, if no town centre locations are available, to edge of centre locations. If neither town centre locations nor edge of centre locations are available, to out-of-centre locations (with preference for accessible sites that are well connected to the town centre). The reason behind this approach is to support the viability and vitality of town centres by placing existing town centres foremost in both plan-making and decision-taking.

9.3 The principle of an out-of-centre retail development has previously been established on the site (see 4/00424/15/MOA and 4/00595/18/MFA). When this application was submitted, the site benefitted from an extant permission for the construction of 1,184sq.m net sales of convenience food floorspace and 7,400sq.m of net sales area comparison non-food floorspace (4/00595/18/MFA). This application was approved on the 16<sup>th</sup> October 2018 and but expired on the 16<sup>th</sup> October 2021. Prior to this, an appeal decision established the principle of retail development on the site. The appeal (reference: APP/A1910/W/15/3132774) granted outline consent on the 4<sup>th</sup> March 2016 for a total amount of floorspace slightly below the 2018 application.

### *National Planning Policy Context*

9.4 Paragraphs 86-91 of the Framework provide guidance on how local authorities should ensure the vitality of their town centres. Regarding out-of-centre retail development, the Framework identifies 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...'* (Para. 87).
- *'...local planning authorities should require an impact assessment if the development is over a proportionate, locally set floorspace threshold (if there is no locally set threshold, the default threshold is 2,500m<sup>2</sup> of gross floorspace).'* (Para. 90).

9.5 Further policy guidance is contained within the Government's Planning Policy Guidance (PPG), 'Town centres and retail'. Paragraphs 009-013 explain what the sequential test is, locational requirements and how it should be applied. Paragraphs 014-018 explain the impact test in more detail.

### *Local Policy Context*

9.6 Policy CS16 (shops and commerce) of the Core Strategy (2013) is relevant and permits new retail floor space outside of defined centres if the proposal complies with the sequential approach and demonstrates a positive overall outcome in terms of the impact assessment.

9.7 The Site Allocations Development Plan Document (DPD) (2017) identifies the site as an out-of-centre retail location where retail and leisure uses are generally acceptable (see Proposal S/1, Section 5.18). The DPD highlights that the nature and scale of development should aim to maximise the use of the site and ensure that there are no significant adverse impacts on the vitality of Hemel Hempstead Town Centre. Food retailing and non-food goods (excluding clothing and footwear unless ancillary to the main use of a unit) are found to be acceptable uses. The DPD also ensures that prominent frontages onto St Albans Road/Jarman Way require high quality design and landscaping.

9.8 Saved Policy 44 of the Local Plan (2004), which discusses the sequential approach and the assessment of shopping proposals outside defined centres, is not wholly compliant with the Framework and therefore more weight is placed on Policy CS16 and the DPD.

### *Emerging Local Plan*

9.9 The Council published the Local Plan 'Emerging Strategy for Growth' consultation document in November 2020. The emerging Local Plan is currently subject to further evidence testing in light of responses received to the last public consultation held between November 2020 and February 2021, and revisions to the strategy are being considered in this regard.

9.10 In July 2021, the council's cabinet raised significant objections to many core proposals in the draft emerging Plan, including the overall Spatial Strategy. As such, the cabinet deferred further progress of the Plan to allow additional time for evidence to be gathered. It is likely that going forward there will be an increased emphasis on brownfield sites within Hemel Hempstead to provide larger amounts of housing to reduce pressure on the Green Belt.

9.11 Regarding timescales, a Local Development Scheme (LDS) was approved in February 2022; highlighting that the adoption of the Plan is now scheduled for October 2025. Considering the stage of the emerging Plan and taking account of paragraph 48 of the Framework, it is considered that only limited weight can be given to the draft allocation of this site. Nevertheless, it is worth noting the contents of the draft Plan in relation to the proposals.

9.12 Paragraph 9.6 in the November 2020 consultation document refers to the identified capacity for 13,200-16,500sq.m net of additional convenience (food) floorspace by 2032. Point 2c in Policy SP6 (delivering the retail and leisure strategy) states that the Council will, '*Continue to support retail development, including a medium sized supermarket, at Jarman Park (Growth Area HH27).*'

9.13 Policy DM21 (main town centre uses outside existing centres) from the emerging Plan is also relevant. Table 23 (out-of-centre retail locations) proposes the following further significant development at Jarman Park, stating: '*Retail-led development, including a possible foodstore. Food and drink uses, leisure uses and a hotel also acceptable on part of the site (Growth Area HH27).*'

9.14 Growth Area HH27 (Jarman Park - out of centre retail allocation) in the 'proposals and sites' part of the consultation document (see page 295) covers all the land controlled by Lidl. It is proposed that the site be allocated for:

- Retail led development, including a possible foodstore.
- Food and drink uses, leisure uses and a hotel also acceptable on part of the site.

- The sale and display of clothing and footwear is not acceptable, unless ancillary to the main use of an individual unit.

9.15 In addition, the following site-specific requirements are set out for HH27:

Urban Design Principles:

- The nature and scale of development should aim to maximise the use of the site and ensure no significant adverse impact on Hemel Hempstead town centre.
- Prominent frontages onto St. Albans Road/Jarman Way require high quality design and landscaping.

Access, Highways and Sustainable Transport:

- A traffic study may be required and road works should accommodate traffic generation.

Environmental Health:

- Undertake ground contamination surveys to ensure that the site is safe and suitable for the intended use.

#### *Planning Policy Note – Emerging Plan*

9.16 Whilst it is acknowledged that there are a range of draft policies within the emerging Plan, they are considered to have little weight due to the current stage of the Plan and because of their un-adopted nature. Some of the draft policies are mentioned in this report, however, the full range of policies, whilst considered, are not discussed in detail.

#### *Retail Evidence Base for the Emerging Local Plan*

9.17 Nexus Planning were commissioned by the Council to provide a number of documents in relation to retail and leisure in South West Hertfordshire and Dacorum. These are as follows:

- South West Hertfordshire Retail and Leisure Study (September 2018); and
- Further Dacorum Retail Study (April 2020).

9.18 In November 2020, the Council also published a 'Retail and Town Centres Topic Paper'.

9.19 The April 2020 study is of most relevance. It shows that there is capacity for a substantial increase in convenience floorspace in Dacorum and that the only potential site in Hemel Hempstead Town Centre (Market Square) cannot meet all of this need. Also, this site is not currently available.

#### *Objection from Riverside Shopping Centre*

9.20 An objection letter was received from G R Planning Consultancy Ltd, acting on behalf of the freehold owners of the town centres' Riverside Shopping Centre (RSC). The letter highlighted that a former Debenhams unit has become available and could be subdivided to accommodate Lidl's requirements. The letter explained that the loss of Debenhams has created a void in the town centre and Lidl should be directed to this sequentially preferable town centre site.

9.21 Avison Young (AY), on behalf of Lidl, responded to the points raised by G R Planning (see pages 4-8 of letter referenced 01C000373, dated 22 July 2021). The letter from AY appears to accept that the former Debenhams unit is available and viable, however, concerns were raised over the suitability of the unit. Paragraph 2.10 of the Planning and Retail Statement explains that:

*'In relation to a proposal in the London Borough of Merton in 2006 the Inspector concluded (and the Secretary of State agreed) that there 'are inherent characteristics of the Lidl business model that limit the scope for flexibility'. Those characteristics were cited as:-*

- a store of a size that may accommodate all functions that form the business model*
- the need for a high proportion of sales relative to storage space*
- a need to enable efficient movement of palletted goods*
- the fact that Lidl stores concentrate on selling a limited range of primarily convenience goods which limits the scope for disaggregation.'*

9.22 Paragraphs 2.11-2.14 highlight that subsequent appeals have established that for Lidl to operate its business model it has certain requirements. The current requirements are as follows:

- A minimum site area of 0.8ha;
- A minimum net floorspace of 1,325sq.m on a single level; and
- A minimum of 120 adjacent surface level parking spaces.

9.23 Following AY's response, G R Planning withdrew the objection from RSC, noting that following the Lidl's site visit to the Debenhams in April 2021, it was established that the unit would be unsuitable to accommodate their business model. G R Planning explained that their clients will continue to engage with the council to pro-actively approach the issue of out-of-centre retail development and protection of the town centre.

### Retail Impacts

9.24 The application has been supported by a number of retail related documents. These include a Planning and Retail Statement prepared by Avison Young in March 2021. In September 2021 an objection was received by Martin Robeson Planning Practice ('MRPP') on behalf of Tesco Stores Limited. A subsequent 'Response to Objections by Tesco Stores Limited' was received from AY in November 2021.

9.25 At this point Nexus Planning were approached and asked to provide an independent commentary on the retail matters and representations received, in addition to a 'Supplementary Note on Retail Impact Issues' received from Carney Sweeney in June 2022. It is worth noting that Carney Sweeney replaced AY as the new planning agents around April 2022.

9.26 In August 2022 Nexus provided their retail policy advice. They responded on four key points, which are summarised below:

#### 1. The 'fall back' position

9.27 Planning permission previously existed for a larger retail development on the site, including up to 1,184sq.m net convenience goods floorspace (4/00595/18/MFA). During the course of this application, the timeframe lapsed for 4/00595/18/MFA. Therefore, Nexus highlighted that despite some initial debate, it is now acknowledged by both parties that the permission has lapsed and as it was not implemented and therefore the value of the 'fall back' position holds no weight. Nexus agree with this position.

#### 2. The Sequential Test

9.28 MRPP consider that the Applicant's submission fails to properly consider the sequential test as their original PRS fails to examine other out-of-centre sites. In addition, the submission fails to



examine two sites in Hemel Hempstead, namely the West Herts College Site and the Market Square.

9.29 Nexus agree with MRPP in that the Applicant has *'too narrowly interpreted guidance on the sequential test in Paragraphs 87 and 88'* of the Framework and that *'other out-of-centre sites should be considered where they might be more accessible or better connected.'* Despite AY's rebuttal, Nexus agree with MRPP's interpretation, as *'Paragraph 88...makes it clear that it is possible to distinguish a sequential preference between different out-of-centre sites based on these factors.'*

9.30 Following from this, Nexus note the fundamental suggestion made by the Applicant that *it is not necessary* to carry out a sequential test as the site is identified in an up-to-date Development Plan. Specifically, AY highlighted that Policy S/1 of the adopted Site Allocations Document states that the site is *'expected to support the development of food retailing and non-food goods (excluding clothing and footwear unless ancillary to the main use of a unit) and leisure uses.'* Furthermore, *'there is a case to say that, provided that the proposed development does not have an adverse impact on the centre...then the delivery of retail development in this location would be acceptable with an up-to-date local plan, and therefore the sequential test would not be applicable to these proposals.'*

9.31 Nexus note that whilst the associated Policy Map includes the application site, they do not consider the broad wording of the allocation likely to constitute 'accordance with an up-to-date plan' when considered alongside what is proposed in this application. This is primarily because there is no mention of a standalone foodstore. Further, the emerging Plan is not at a stage that can be considered 'up-to-date'. Taking this into account, Nexus consider that the Applicant should have carried out a sequential test.

9.32 The two aforementioned sites (see para. 9.28) are then discussed – West Herts College Site and the Market Square. Nexus note that whilst AY do not contest the availability of the West Herts College Site, drawings relating to the suitability and feasibility of delivering a foodstore and associated infrastructure have been provided. These include a degree of flexibility as per Paragraph 88 of the Framework – Nexus acknowledge that the drawings are adequate in this respect and show a scheme that would be circa 30% smaller than what is proposed at Jarman Way. AY suggest that the proposals would be unsuitable for a number of reasons including: encroachment on the River Gade, visual impacts and potential highways conflicts.

9.33 A recent application for the redevelopment/expansion of the college campus has recently been submitted to the LPA (see 22/02344/MFA). The application advises that West Herts College Group's strategy objectives are to modernise and update facilities at the Decorum Campus. Nexus note that whilst this is not yet determined, it is evidence that the future of the site is unlikely to be for the purposes of a foodstore.

9.34 Turning to the Market Square site, MRPP correctly identify that whilst Dacorum's Strategic Planning Team's comments state that *'...the site is not currently available'*, the test is whether the site is *'expected to become available within a reasonable period of time'* (as per Para. 87 of the Framework). Further information was requested from the Strategic Planning Team and in summary they explained that, *'the Market Square site is not available (or expected to become available within a reasonable period) for a food store development of the approximate size proposed by Lidl at Jarman Park.'* In light of this, Nexus consider that although the site is appropriate to be subject to the sequential test, there is no reasonable prospect of its use as a foodstore within a reasonable period.

### 3. The Impact Test

9.35 Nexus echo MRPP's concerns regarding the impact test carried out in the original PRS, specifically in relation to the town centre health-checks undertaken and the failure to use up-to-date empirical evidence in terms of a survey of current shopping patterns.

9.36 An updated health-check analysis was submitted by AY (dated 22 November 2021), which was deemed appropriate by Nexus, however, the updated impact assessment provided by Carney Sweeney (submitted in June 2022) was considered by Nexus to likely under-estimate trade diversion from the town centre and in particular, the Asda store.

9.37 As the assessment was considered inadequate, further information was provided by the Applicant. This is discussed in more detail in the 'Nexus Planning Retail Impact Assessment' section below.

#### 4. Overall Compliance with Prevailing Retail Policy

9.38 Having considered the sequential test, Nexus are satisfied that alternative sites should have been considered as the proposals do not sit squarely within the site allocation criterion. However, an assessment of the two alternative sites revealed that neither would be available for use as a foodstore within a reasonable period. Therefore, Nexus do not object on sequential test grounds. This view is echoed by the LPA.

9.39 As above, the assessment of retail impact was considered insufficient at this stage as the information provided by Carney Sweeney was not felt to be realistic. Further, the trade diversion assessments from both AY and Carney Sweeney were not considered to be fully justified.

9.40 A further assessment was provided by Carney Sweeney dated 26 August 2022. This was further reviewed in a subsequent response from Nexus (dated October 2022). These items will be discussed in detail below.

#### *Nexus Planning Retail Impact Assessment*

9.41 Nexus previously identified that the Applicant has successfully demonstrated compliance with the sequential test. However, some points of contention arose, in particular the trade diversion from the town centre. Nexus noted that Carney Sweeney's assessment of the cumulative impact of the proposed Lidl store and the approved Aldi store (4/03157/16/MFA) on convenience goods facilities appears to be underplayed. Further, the suggested impact on comparison goods turnover was not considered to be realistic.

9.42 Due to the above, Nexus have reviewed the cumulative impact of the Lidl and Aldi proposals in terms of the reduction in turnover of Hemel Hempstead Town Centre. Their assessment suggests a reduction of circa 2.1% (i.e. £2.6 million), which contrasts from the original modelling undertaken by Avison Young (0.7%) and subsequent re-assessment undertaken by Carney Sweeney (1.2%). Nexus state that the isolated (independent) impact of the Lidl proposal equates to 1% on Hemel Hempstead Town Centre.

9.43 Nexus visited the town centre in October 2022 to survey the level of unit vacancy and establish the level of impact. Their findings reveal 43 vacant units, of which ten were evidenced to be under alteration. This represents a vacancy rate of 12.4% (including all units under alteration), which was an improvement to the last figure surveyed by Experian Goad in July 2021 (16.7%). Nexus note that *'this contrasts favourably to the latest UK average which is 13.8% (Experian Goad, March 2022).'*

9.44 In addition to assessing the trade diversion, Nexus undertook an assessment on potential store closures. They highlighted that whilst they *'consider there to be some threat to the Asda store in particular...the store is unlikely to suffer closure.'* Additionally, Nexus note that Asda have not objected to the proposals.

9.45 Taking all of the above into account Nexus conclude that the town centre appears to be in reasonable health and whilst the overall cumulative impact on the Town Centre is adverse (2.1%), it is not considered to reach the level of 'significant adverse' as per Paragraph 91 of the Framework.

## *Summary*

9.46 The objections from RSC and Tesco have been taken into account and the information provided by the Applicant has been independently scrutinised by Nexus Planning on behalf of the LPA.

9.47 The sequential test has been passed. Despite contention with the trade diversion figures it is concluded that the proposals are unlikely to result in a significant adverse impact on the town centre, or result in any specific store closures, when considered independently or cumulatively with the nearby Aldi store. A comprehensive review of the retail impacts has been undertaken and an up-to-date survey has revealed that the town centre seems to be of reasonable health. Therefore, the retail impact is considered acceptable in accordance with Paragraphs 86-91 of the Framework and Policy CS16 of the Core Strategy.

9.48 To ensure that the impact on the town centre is limited, it is felt necessary to impose a condition restricting the Class E floor and sales area to the sizes suggested in the application documentation, restricting the use to convenience goods and restricting the sale of comparison goods to 332sq.m. This condition is felt to meet the relevant tests set out in the Framework (para. 56) and has been agreed with the Applicant.

## Design, Materials and Visual Impact

9.49 Paragraph 130 (b) of the Framework states that developments should be visually attractive as a result of good architecture, layout and appropriate and effective landscaping. Policies CS11 and CS12 of the Core Strategy states that development should preserve attractive streetscapes and plant trees/shrubs to help assimilate development.

9.50 The immediate area is primarily characterised by large format units comprising commercial uses. There are some differences in design across Jarman Park. For example, Tesco Extra is brick-built with a flat roof, which differs from the neighbouring 'XC Centre', which is metal clad and has an undulating roof-form. McDonalds has a standard design, using brick, wood and metal sheeting. The modernisation of the main cinema and restaurant complex has also resulted in the incorporation of wood and metal elements on its facade. Soft landscaping is used throughout soften the buildings within the leisure and retail park.

9.51 The application site has a prominent frontage onto St Albans Road and the gateway into the retail/leisure park. The proposed materials include profiled metal sheet and timber cladding, and brick and glazed curtain walling. The guttering and downpipes are a natural zinc finish. The north, east and south elevations of the site are broken up into white and silver aluminium composite cladding, a standard Lidl design. The west elevation facing Jarman Way has the most visual interest, displaying a glazed appearance and an active frontage. A canopy would provide some definition to the glazed facade and cover to the trolley storage area and cycle stands.

9.52 The proposed design is not considered particularly innovative and matches Lidl's standard building style. The main building frontage on to St Albans Road would have limited architectural features. However, an area of proposed landscaping, as indicated in the Detailed Planting Plan (see drawing 9508-L-01), would help to soften the facade and improve the appearance of the site. The glazed elevation, providing active views into and out of the building, would front Jarman Way. This would create a welcoming entrance when entering the site either by foot, bicycle or vehicle.

9.53 Changes to the orientation and design were discussed throughout the course of this application, however, considering the limited size of the site and the context of the wider Jarman Park complex and other buildings within the locality, it is not felt that the proposed foodstore would appear at odds with the character and appearance of the area. The removal of the existing hording,

which has been in place for a number of years, and the opening up of the site, is considered as a visual benefit.

9.54 As above, the landscaping plan shows that boundary of the site facing St Albans Road, Jarman Way and along the vehicular access to site would have a green frontage including a range of plant/shrub species. Four Acer campestre trees would be planted along the east elevation facing St Albans Road. Lidl were pushed for additional planting in-line with the Council's sustainability objectives (Policy CS29) and three additional Acer campestre 'streetwise' trees were added, to the north of the building. The soft landscaping would help to break up the built development when viewed from the road and would soften the edges of the site. There is also small areas of soft landscaping within the site, minimising the visual impact of the proposed car park.

9.55 Overall, the proposed size and design of the building would appear consistent with the existing street scene, using modern materials and a simple form to reflect its context. The glazed curtain wall would create a focus point to the building and give views into the store. The removal of the existing hoarding, which surrounds the site, would open up the site and the proposed planting would provide some visual and environmental benefits. Taking all of this into account, the proposed design and visual impacts are considered acceptable.

#### Impact on Residential Amenity

9.56 Paragraph 130 (f) of the Framework states developments should retain high standards for existing and future users. Policy CS12 of the Core Strategy states development should avoid visual intrusion, loss of sunlight and daylight, loss of privacy and disturbance to neighbouring properties.

9.57 The nearest residential dwellings to the proposed development are located to the north (White Hart Drive) and east (Bennetts End Road). Due to the width of St Albans Road and the open, treed land occupied by the Bennetts End flood lagoon, there would be sufficient buffers between the site and nearby residential areas. The proposed building would be sited over 60 metres from the nearest residential property.

9.58 The car park to the north of the proposed building would be closer to the properties on White Hart Drive. However, considering the distance (over 40m), it is unlikely that there would be any unacceptable impacts with regards to noise or air pollution. If approved, it is suggested that external lighting impacts be controlled via an appropriately worded condition (see condition 17).

9.59 No objections have been raised by the Environmental and Community Protection Team in relation to noise, air quality or lighting. A noise condition (see condition 7) has been recommended to safeguard residents from noise impacts, which would be added if the application is approved.

9.60 Overall, the additional traffic, noise and other impacts of the development would not have a significant adverse impact on residential amenity subject to the aforementioned conditions. The proposal is therefore considered to accord with Policy CS12 and the Framework in this regard.

#### Accessibility, Traffic Generation and Highway Safety

##### *Accessibility*

9.61 Paragraph 105 of the Framework states significant developments should be focused on locations which are or can be made sustainable, through limiting the need to travel and offering a genuine choice of transport modes. This can help to reduce congestion and emissions, and improve air quality and public health. Paragraph 112 states development should give priority first to pedestrian and cycle movements, both within the scheme and with neighbouring areas, facilitate access to high quality public transport and be designed to enable charging of plug-in and other ultra-low emission vehicles in safe, accessible and convenient locations.

9.62 The site is within Jarman Park, located off Jarman Way and St Albans Road. Jarman Way is a dual carriageway with a speed limit of 30mph operating a one-way system around Jarman Park. It also includes an informal pedestrian crossing before the junction with the St Albans roundabout. There are dropped kerbs and tactile paving present at key crossing points around Jarman Way, providing pedestrian access to the site.

9.63 St Albans Road connects the development site to the A41 as well as Hemel Hempstead's town centre. St Albans Road is also a dual carriageway, with a speed limit of 40mph. It also benefits from footways and wide verges.

9.64 With regards to vehicular access to the development site, there is an existing access 'stub' present for vehicular traffic along with footways off Jarman Way. The access would not require modification, except for the removal of the bollards. Therefore, a new vehicular access is not required to be constructed and the existing stub would provide access to the site.

9.65 With regards to accessibility for pedestrians, approximately 140 metres to the west of the roundabout at St Albans Road, a footbridge is present which provides a connection to the site from the residential areas to the north, such as Windmill Road, White Hart Drive and The Holt. Appendix C, paragraph 4 of the DBC's Parking Standards Supplementary Planning Document (SPD) 2020 states that surveys for commercial developments should cover an area within 500m walking distance (or an approximate 5-minute walk) of a site.

9.66 Figure 5.1 of the Applicant's Transport Statement, as well as Figure 3.4 of the Transport Plan, shows the accessibility of the site within a 2km walking distance, equating to 2000 metres or 1.2 miles. Figure 5.1 shows that the development site would serve a large catchment area as well as several residential areas.

9.67 Paragraph 124 of the Framework states planning decisions should support development that makes efficient use of land, taking into account the availability and capacity of infrastructure and services – both existing and proposed – as well as their potential for further improvement and the scope to promote sustainable travel modes that limit future car use.

9.68 There are six existing bus stops are within 800 metres of the development site, encouraging the use of public transport over private vehicles. Four bus services currently run within close proximity to the development site and could provide sustainable transport to hose from Leverstock Green, St Albans and Boxmoor. There are two bus stops within 300m walking distance of the. There are several bus stops located within 400m of the pedestrian access points on Windmill Road, Bennetts End Road and St Albans Hill.

9.69 A continuous cycle way/footway is present to the north of the development site, located on the southern side of St Albans Road. This connects the development site to other recommended cycle routes within Hemel Hempstead. Figure 3.5 of the submitted Travel Plan demonstrates that in relation to cycling accessibility, a 5km radius of the site provides accessibility for individuals and residents in Piccotts End and Apsley, as well as those using the national cycle route, Route 57, as it is within 2km of the development site.

9.70 There is are three railway stations within 4km (2.5 miles) of the site, increasing the modes of sustainable transport to access the site and decreasing the need for single occupancy car trips.

9.71 Paragraph 112 of the Framework states developments should address the needs of people with disabilities and reduced mobility. A ramp would be located to the north-west of the site, allowing and enhancing the accessibility to the site for those with reduced mobility. It is considered that suitable disabled access would be provided in accordance with the Equality Act 2010.

9.72 The above confirms that the application site is within an accessible location, provide an easily accessed site and would offer a genuine choice of transportation modes. The proposal is therefore considered acceptable in relation to the aforementioned policies in this regard.

#### *Traffic Generation and Highway Safety*

9.73 Paragraph 2.28 of the Parking Standards SPD 2020 states new development with a significant parking requirement will only be permitted where measures are taken to address problems such as traffic generation.

9.74 Policies CS8, CS9 and saved Policy 51 seek to ensure developments have no detrimental impacts in terms of highway safety. Paragraph 111 of the Framework states, *'Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.'*

9.75 Paragraphs 110 and 112 require development, amongst other things, to promote opportunities to, and prioritise, sustainable travel modes, as well as providing safe, secure and attractive plans to minimise scope for conflicts between pedestrians, cycles and vehicles.

9.76 Table 6.4 of the submitted Transport Assessment (TA) by SCP (March 2021) shows the trip generation for this current application as 122 arrivals and 125 departures on a weekday peak pm time (4pm-5pm) and 158 arrivals and 174 departures on a Saturday peak (12pm-1pm). The TA illustrates that the proposed development would generate fewer trips than the previously approved application, resulting in 84 fewer two-way movements on a weekday peak time and 292 fewer two-way movements on a Saturday peak. However, as previously alluded to, the timeframe lapsed for the previous application and little weight is therefore attributed to this. Furthermore, this application only relates to part of the previously approved site, not its entirety.

9.77 The TA assumes that 40% of the trips to the proposed use would be 'pass-by/diverted/linked' trips rather than new (primary) ones. Hertfordshire County Council (HCC) as the Highway Authority have reviewed the TA's assessment methodology and have confirmed that *'following consideration of the nature and size of the proposals, the parameters and approached used is considered to be acceptable...'*

9.78 ARCADY Junction Modelling Software has been used to determine the impact of new (primary) trips created by the development proposals on the nearest main highway junction i.e. the Jarman Way / St Albans Road roundabout. Following consideration and a review of the results, HCC have stated that the impact of the resultant additional trip generation on the surrounding highway network would *'not be considered to be significant or severe enough to recommend refusal from a highways perspective.'*

9.79 The TA also includes a swept path analysis (see SCP/190913/ATR03) to illustrate that a 16.5 metre heavy goods vehicle (HGV) can utilise the proposed site access arrangements and delivery bay, turning around on the site and egressing to Jarman Way and the surrounding highway network in forward gear. The proposed vehicle arrangements including the levels of vehicular visibility were considered acceptable to HCC. Turning to emergency vehicle access, Hertfordshire Fire and Rescue have not objected to the proposals.

9.80 The Highway Authority requested a number of planning conditions and obligations to ensure the acceptability of the scheme, which will be discussed in turn below.

#### *Highway Authority's 1<sup>st</sup> Condition*

9.81 HCC requested a higher level of electric vehicle charging points on the site. This was negotiated through the course of the application and is discussed in the following 'Parking Provision'

section. In summary, the proposal now includes a significantly greater number of charging points and passive provision. The second part of this condition required details on the use of tactile paving on the footways either side of the existing bell-mouth access into the site from Jarman Way. This would ensure that the crossing point for pedestrians is safe. Carney Sweeney were contacted on this matter and they agreed that this element could be secured by condition if the application is approved (see Condition 12).

#### *Highway Authority's 2<sup>nd</sup> Condition*

9.82 HCC requested the imposition of one of their standard conditions that ensure that the proposed on-site car and cycle parking and turning areas are laid out, demarcated, levelled and drained in accordance with the approved details and thereafter retained for that use. Carney Sweeney have confirmed their agreement to this condition (see Condition 11).

#### *Highway Authority's 3<sup>rd</sup> Condition*

9.83 A Construction Management Plan (CMP) condition has been suggested by the Highway Authority to protect highway safety and the amenity of other users of the public highway and rights of way. This condition would be used to provide satisfactory construction management principles and actions as to avoid any unacceptable impacts on the surrounding environs. As above, the imposition of this condition has been agreed with the Agent on this matter (see Condition 6).

#### *Highway Authority's Travel Plan Obligation*

9.84 HCC's Travel Plan Guidance highlights that a full travel plan is required for the scale of this development. Therefore, a full travel plan is required, if the application is approved, from first occupation until five years post full occupation.

9.85 HCC has confirmed that an 'Evaluation and Support Fee' is required via Section 106 Agreement to allow the Highway Authority to annually review the travel plan report. A £1,200 per annum index-linked retail price index (RPI) fee is required to enable this.

9.86 It has been confirmed that this contribution is fairly and reasonably related to the development of this size and meets the relevant tests under Regulation 122 of Community Infrastructure Levy Regulations 2010. The Applicant has agreed to this planning obligation and as such a legal agreement has been prepared by the LPA in this regard.

#### *Summary*

9.87 The application site is situated in a sustainable location and would adequately connect to the existing foot and cycle network. The proposal provides cycle parking and disabled access. As such, no objection is raised in terms of accessibility. The proposed development has been assessed in terms of trip generation and highway safety. No significant impacts on the safety or operation of the surrounding highway network have been identified. Subject to the aforementioned conditions and the legal agreement, the proposal is deemed acceptable in this regard, complying with Section 9 of the Framework, Policies CS8 and CS9 of the Core Strategy and saved Policy 51 of the Local Plan.

#### Parking Provision

9.88 Paragraph 104 of the Framework identifies that transport issues should be considered from the earliest stages of development proposals and that patterns of movement, streets, parking and other transport considerations are integral to the design of schemes, and contribute to making high quality places. Policy CS6 of the Core Strategy highlights that new developments should provide sufficient, safe and convenient parking based on car parking standards.

9.89 The Council's Parking Standards SPD 2020, paragraph 7.14, sets out the parking requirements for commercial developments, including Class E (food stores). The SPD states that for a food retailer exceeding 2,500sq.m in GEA, one car parking space should be provided per 18sq.m of GEA. The proposed development has a GEA of 2,595sq.m and therefore the proposal would require a total of 144 parking spaces. The Proposed Site Plan (see PL-03, Revision R) indicates that 130 parking space would be provided, 14 below the SPD's requirement. The following justification for the shortfall has been provided in the Planning Statement:

- 1. The Transport Assessment includes a parking demand analysis that shows expected car park demand at peak times will be comfortably accommodated by the 130 spaces proposed, so that there is no need for any greater amount of spaces to be provided.*
- 2. Providing additional car parking spaces is likely to require reducing the amount of landscaping proposed.*
- 3. The site is adjacent to a very large retail park with a very significant amount of parking capacity.*

9.90 Point 1 above refers to Paragraphs 4.20-4.24 in the TA, which describes the parking accumulation exercise undertaken to determine the suitability of the proposed on-site parking provision. Figure 4.2 illustrates that car parking demand peaks at approximately 64 spaces at 11:00-12:00 on a weekday. Figure 4.3 demonstrates that demand peaks at 78 spaces during 11:00-12:00 on a weekend. Section 6 of the TA drills into this in more detail and compares the proposal to the previously approved permission (i.e. 4/00595/18/MFA). The data reveals that the proposal would generate significantly fewer trips than the approved permission; 84 fewer two-way movements in the weekday PM peak and 292 fewer two-way movements in the Saturday peak.

9.91 Point 2 above does not justify the shortfall but it does explain that there would be a loss of planting and biodiversity benefits if more parking was provided. Point 3 highlights that other areas of Jarman Park could be used for parking. Parking around the cinema/restaurant complex could be used, there may be parking restrictions on other car parks e.g. Tesco Extra. Furthermore, despite some other parking availability, it is not considered likely that customers would park further away from the store, but does give the option if the car park was completely full.

9.92 Based on the parking accumulation exercise, it appears that the estimated parking accumulation of the food store would sit below the proposed on-site parking provision. Headroom is given for particularly busy times of year e.g. Christmas and Easter. The conclusion of this work is that the proposal is unlikely to result in the parking reaching maximum capacity, even during peak hours. The proposal would result on less trips when compared to the previously approved scheme and even though the previous scheme related to a larger site (incorporating a section of land to the south), it appears that the concentration of commercial development vs. the number of parking spaces was much greater and still considered acceptable on the previous scheme. This assessment was based on different standards i.e. policy pre-dating the 2020 SPD and as mentioned before, the 'fall back' position now has no weight due to the permission timeframe lapsing. It does however show that previous schemes have been allowed with a greater traffic generation on this site.

9.93 Dacorum's Parking SPD sets specific parking standards for the Borough but identifies that justification would be required if there is a deviation from these standards. Taking all of the above into account, it is considered that although the site would underprovide by 14 parking spaces when assessed against the SPD standards, the assessment within the TA is considered adequate in justifying the shortfall.

#### *Disabled / Enlarged Spaces*

9.94 The Parking SPD states for commercial developments, 6% of the total parking provision should be DDA compliant and 4% should be enlarged standard spaces. Therefore, the development would require approximately 8 DDA compliant spaces and 10 enlarged spaces. The submitted drawings



show 10 DDA compliant spaces have been provided and all 12 parent and child spaces would be enlarged, exceeding the requirement. This is considered acceptable.

### *Electric Vehicle Charging Points*

9.95 HCC have reviewed the parking accumulation study and raised no concerns with the total level of parking provision proposed, although they did recommend that a larger level of electronic vehicular charging points are provided. The original scheme proposed two electric vehicle charging bays. Negotiations took place and as per the letter from AY (dated July 2021), Lidl proposed the provision of two rapid chargers. They highlighted that these chargers could charge four cars at any one time and would be better suited to the proposed use, for example, during a shop, a customer could fully or almost fully charge their car. They explained that the cost of rapid chargers is far greater than standard chargers and this therefore justified a low number of electric vehicle charging points (EVCP) should be deemed acceptable.

9.96 The Parking SPD 2020 states 20% of all parking spaces are required to have active EVCP, with an additional 20% with passive provision. This equates to 52 spaces out of the total 130 requiring either active or passive charging provision for electric vehicles. Further discussions were held with the Strategic Planning Team over Lidl's justification for fewer charging points, albeit providing rapid chargers. Strategic Planning stated that the standards should not be deviated from. Lidl therefore agreed to add the 52 spaces (50% active and 50% passive) as per the SPD requirements. The Proposed Site Plan (PL-03R) now illustrates two active 'rapid' EVCPs and 24 active 'fast' EVCPs in addition to 26 'fast' passive EVCPs. The provision of these EVCPs would be captured through proposed condition 12 should the application be approved. Taking all of this into account, the proposal would provide a policy-compliant number of electric vehicle charging bays and the addition of two 'rapid' charging points is welcomed.

### *Cycle Parking*

9.97 With regards to parking for cyclists, the Parking SPD identifies that one short term space should be provided for every 250 square metre of gross external area, plus one long term space per ten staff members on site at any one time. The development would therefore require ten spaces for cycle parking. The site plan displays 12 spaces, which would be available for cyclists to park at the west elevation of the store. This exceeds the requirement and is considered acceptable.

### *Larger Vehicles / Deliveries*

9.98 Paragraph 7.11 of the Parking SPD states the Council will require relevant developments to provide adequate lorry, commercial service vehicle and/or coach parking. This standard will be assessed and agreed on an individual case basis. 'Roads in Hertfordshire: highways design guide' includes guidance on service vehicle and coach parking bay design.

9.99 The proposed development comprises a dedicated delivery bay located to the southern side of the proposed building. Saved Appendix 4 of the TA shows that a typical 16.5m long articulated delivery HGV would be able to enter and leave the site in a forward gear, utilising the proposed site access and arrangements as well as the proposed delivering bay. HCC Highways have raised no concerns with this.

### Other Material Planning Considerations

#### *Energy, Lighting and Sustainability*

9.100 The energy and carbon performance expectations for new developments are rapidly evolving as the UK moves towards a legislated net zero commitment by 2050. Section 14 of the Framework

explains that the planning system should support the transition to a low carbon future in a changing climate.

9.101 DBC was one of the first local authorities to declare a climate and ecological emergency and has made a pledge to become net zero by 2030, and with its housing stock to become net zero by 2050 in line with UK targets.

9.102 The Framework identifies that the purpose of the planning system is to contribute to the achievement of sustainable development. This encompasses economic, social and environmental factors.

9.103 Proposals should be designed in accordance with DBC's 'Be Lean (use less energy), Clean (supply energy efficiently) and Green (use renewable energy)' principles (see Figure 16 (p.121) of the Core Strategy). Policy CS28 requires new developments to minimise carbon emissions and CS29 requires new development to comply with the highest standards of sustainable design and construction, laying out a number of principles to be satisfied.

9.104 The application is accompanied by an Energy Use and Sustainability Statement (EUSS). The Statement explains how the site incorporates passive and active design strategies to reduce the energy requirements of the store and limit carbon emissions.

9.105 Drawing PL-05 B proposes 538 photovoltaic (solar) panels on the roof. This would provide 180kWp to the store, supplementing the buildings energy requirements. The Design and Access Statement highlights that the lighting in the ancillary areas would be sensor-activated and therefore would not waste energy through periods of inactivity. Furthermore, the lighting on the sales floor drops to one third the normal level when the alarm is set (at the end of the day) to reduce energy usage further. The outdoor lighting would also be turned off after store closure.

9.106 The Design and Access Statement highlights that Lidl use materials that are highly rated within the Building Research Establishment's Green Guide in the construction of new stores. The windows have an aluminium frame which can be recycled at the end of its operational life. This material is also durable, having some of the longest replacement intervals according to the Green Guide. In terms of layout, the entrance canopy is situated on the north-eastern corner of the building and serves to manage thermal gain within the building.

9.107 At the time of writing the EUSS, it is noted that there is a 143.5% carbon dioxide reduction and a 141.3% energy reduction when the building is assessed against the relevant requirements in Building Regulations.

9.108 Based on the above and subject to conditions requiring the above to be adhered to (see Condition 14), the proposal would broadly meet and exceed current and emerging Policy requirements in terms of sustainability and carbon emissions. Therefore, the proposals are considered to comply with Policies CS28 and CS29, as well as the Framework.

#### Impact on Trees and Landscaping

9.109 Paragraph 174 of the Framework states that 'Planning polices and decisions should contribute to and enhance the natural environment by...recognising the...wider benefits from natural capital and ecosystem services—including...trees and woodland'.

9.110 Saved Policy 99 (Preservation of Trees, Hedgerows and Woodlands) furthers this, highlighting that encouragement will be given to the preservation of trees and hedgerows. Where new development is proposed a high priority will be given to their retention and their protection during development. Policy 100 (Tree and Woodland Planting) continues by encouraging tree and hedge planting in appropriate locations, particularly as part of landscaping schemes.

9.111 Policy CS12 requires development to retain important trees or replace them with suitable species if their loss is justified and plant trees and shrubs to help assimilate development. Policy CS13 requires new development to contribute to the quality of the public realm by incorporating suitable trees and soft landscaping.

9.112 The site is currently undeveloped and is dominated by rough scrub vegetation and rutted surfaces. In terms of trees, there are very few affecting the site and while trees were recorded outside this to the south and east, they are irrelevant to this application. The most significant vegetation in terms of the Lidl food store site is located in the top north-east corner and are located around an existing Gas Governor structure. These trees are all of the species scots pine (*Pinus sylvestris*), with the majority of the remaining vegetation being scrub. None of the trees surrounding the site are subject to Tree Preservation Orders (TPOs).

### *Tree Survey*

9.113 The submitted Arboricultural Impact Assessment (AIA) by the RPS Group (January 2021) illustrates a tree quality assessment, categorising the trees as groups or individuals using BS5937:2012 standards. A total of 11 individual trees were surveyed in addition to four groups of trees. Of the 11 individuals recorded, four were classed as Category B (moderate quality), five as Category C (low quality) and two Category U (poor quality / dead) in accordance with the retention category grading in BS5837:2012. The four groups recorded were all recorded as Category B.

9.114 The trees were also rated in terms of physiological condition, which ranks them in terms of whether they can be expected to make a lasting contribution to the site. Of the 11 individual trees recorded, four were considered to be in good physiological condition, six in fair condition and one in poor condition. The four groups were recorded as being in generally good physiological condition.

9.115 In terms of age, of the 11 individual trees, their age class distributions are distributed as two young, two semi-mature, two early mature and five mature. The four groups contained trees generally ranging between young and semi-mature.

### *Arboricultural Implications*

9.116 No recorded trees of any significance will require removal in order to facilitate the development proposals. A number of areas of self-seeded scrub and young trees will require removal including the entirety of S8 and S9, as well as the partial removal of S5, S7 and S13. This vegetation is not of a size or value that would pose a constraint to development. All of these removals can be seen on the Tree Protection Plan (see Drawing 710) along with vegetation to be retained.

9.117 The majority of trees recorded during the survey are located outside the site boundary to the east and south and will therefore not be impacted by the proposals. The only trees requiring greater consideration are the scots pine trees (T6, T7 and T9) located to the north-east corner of the site and these will be protected using protective fencing (e.g. Heras style) during the operations on site (see Drawing 710).

9.118 The survey recommends a Construction Exclusion Zone (CEZ), as illustrated on the Tree Protection Plan (see Drawing 710), and that all tree protection fencing should be erected to its final position during the pre-development period. It is proposed that the fencing be erected in the position shown on the Tree Protection Plan. Once the protective barriers are in place they would remain in situ throughout the course of the development until the completion of all building works. The protective fencing barrier is to be constructed in accordance with the specification detailed at Appendix D of the AIA.

9.119 The AIA identifies that any landscaping associated works within the root protection areas (RPAs) of trees should be carried out by hand in the final stages of the development so as to minimise risk of harm to tree T6, T7 and T9. Furthermore, any topsoil application within RPAs should be kept to minimum and must never exceed 10cm in depth. A condition would be implemented, if this application is approved, to ensure that all of the tree works are carried out in accordance with the AIA, CEZ and Tree Protection Plan (see Condition 5).

### *Planting*

9.120 Drawing 9508-L-01 (Revision B) provides a comprehensive planting plan for the development that encompasses seven Acer trees and a variety of native and ornamental shrubs and flowers. The proposed planting would have ecological benefits and provide a more diverse range of plants when compared to the existing scrubland. HCC Ecology have reviewed the planting scheme and have raised no concerns. They have requested a Landscaping and Ecological Management Plan (LEMP) condition be imposed to ensure that all of the environmental benefits are provided and maintained satisfactorily. If this application is approved, this condition would be added (see Condition 4).

### Ecology

9.121 An Ecological Appraisal (August 2020) by FPCR Environment and Design Ltd has been submitted to assess the ecological implications of this development. Habitats of greatest value included areas of dense/scattered scrub and boundary trees. The remaining on-site habitats consisted of species poor semi-improved grassland and tall ruderal vegetation of low ecological value.

9.122 The site is not located within close proximity to statutory designated sites of international or national conservation importance. However, two sites of local conservation value and 37 Herts Ecological Network Sites were identified within 1km of the site. One Ecological Network Site lies within the boundaries of the site and the development would result in the partial loss of this. The rest are unlikely to be directly or indirectly impacted due to their location.

9.123 The submitted documentation highlight that evidence of badgers, in the form of old hairs and three disused setts. The reports therefore suggest precautionary general mitigation before and during construction.

9.124 Tree inspections have revealed no potential bat roosting features and therefore the Ecological Appraisal states that they can be removed without constraint. The on-site habitats were identified as having limited value to bats, and with implementation of a sensitive lighting scheme, it is unlikely that bats will be affected. Therefore, no further surveys are felt to be necessary. As previously mentioned, an external lighting scheme would be required via permission if the proposals are granted permission. The standard bird nesting informative would be added if the application is approved, informing the Applicant of when tree works should be undertaken.

9.125 The recommended biodiversity enhancements, as identified in the Ecological Appraisal (e.g. native tree planting and the installation of bird and bat boxes) can be captured in the aforementioned LEMP condition (Condition 4).

9.126 The Ecological Appraisal recommended a reptile survey, as the site offers a habitat suitable for reptiles, specifically slow worm. As such, FPCR produced a Reptile Report (November 2020) to support the application.

### *Reptiles*

9.127 The on-site habitats including the poor semi-improved grassland, tall ruderal and dense/scattered scrub offered suitable commuting, foraging and refuge habitats, to support a viable

population of reptiles. A strategic reptile presence/absence survey was undertaken in areas identified as being of potential suitable reptile habitat within the application site boundary. The surveys of the site undertaken in 2020 confirmed their absence from site habitats, therefore they do not pose a constraint to the proposals. As such, no further survey or mitigation was recommended.

9.128 HCC Ecology have responded to the application and raised no objection, highlighting that the recommendations in the Ecological Appraisal should be followed and secured by condition, specifically badgers (section 5.14), bats and lighting (sections 5.19 and 5.22), and hedgehogs (section 5.33). They have requested that these are carried out in full and would therefore be included within the proposed conditions if the application is approved.

### Waste Management and Recycling

9.129 DBC's Waste Services Team reviewed the information as submitted and identified that although the documentation states that no waste is left on site and the recyclable cardboard and plastic waste is returned to the distribution centre, there did not appear to be provision for other waste on the site.

9.130 AY responded on behalf of Lidl, stating:

*In response to the Waste/Refuse Team comments, I can confirm that Lidl's operational model includes that all waste is returned to the Regional Distribution Centre on the return journeys of store delivery HGVs along with any other return items. The overall majority of waste is recyclable, and is separated and bagged within the warehouse area of the store before being loaded onto the returning delivery HGVs. Non-recyclable waste (which I understand is very limited) is also returned to the Regional Distribution Centre in a similar manner.*

9.131 The Waste Services Team were re-consulted and subsequently raised no objection to this approach. As such, it appears that Lidl operate a self-sufficient waste/recycling operation. This considered acceptable in accordance with Policy CS29 of the Core Strategy and saved Policy 129 of the Local Plan.

### Flood Risk and Drainage

9.132 The Framework, Section 14, states that when determining any planning applications, local planning authorities should ensure that flood risk is not increased elsewhere. Where appropriate, applications should be supported by a site-specific flood-risk assessment. Core Strategy Policy CS31 echoes this approach.

9.133 Paragraph 169 of the Framework states that major developments are expected to incorporate sustainable drainage systems (SuDs) with appropriate operational standards, maintenance arrangements and where possible, provide multifunctional benefits.

9.134 The Planning Practice Guidance identifies that new developments should be designed to provide adequate flood risk management, mitigation, and resilience against the 'design flood' for their lifetime. This is a flood event of a given annual flood probability, which is generally taken as fluvial (river) flooding likely to occur with a 1% annual probability (a 1 in 100 chance each year), or tidal flooding with a 0.5% annual probability (1 in 200 chance each year), against which the suitability of a proposed development is assessed and mitigation measures, if any, are designed.

9.135 The application has been supported by a Flood Risk Assessment and Outline Drainage Strategy Report (Fourth Issue, July 2022). This supersedes the Third Issue dated March 2021. Further drainage details (e.g. drainage results, drainage plans and flood routing plans) have been provided upon request of the Lead Local Flood Authority (LLFA) and JBA Drainage Consultants

(who reviewed the proposals on behalf of the council in absence of further comments from the LLFA).

9.136 As the proposed development is located in Flood Zone 1 (low risk of flooding from surface, tidal, fluvial and artificial sources) and is classed as a 'less vulnerable' usage, the site can be considered appropriate for the proposed use and no 'Sequential Test' is required. The 'Exception Test' is not required as the site is located in Flood Zone 1.

9.137 JBA have reviewed the updated drainage proposals and have not raised any significant concerns with the proposed drainage proposals. They asked for the LPA's opinion on the Applicant's use of underground storage tanks. Whilst not considered as an ideal solution, it is felt that, due to the limited size of the site and limited opportunities for above-ground SuDs (e.g. swales and basins), and the Site Allocations DPD's urge to '*maximise the use of the site*', the proposed underground storage would be an acceptable solution. To ensure that the storage tanks are maintained adequately, a condition is recommended should the application be approved, requiring the Applicant to provide details on the timing, phasing, management and maintenance arrangements for the SuDs features and drainage network, for approval by the LPA. This condition would be required to ensure satisfactory drainage and flood prevention on the site (see Condition 16).

9.138 Final technical details have been provided by the Applicant and the LPA is awaiting JBA's confirmation that these details are appropriate. Members will be further updated prior to committee in this regard.

9.139 Given the above assessment it is considered that, when the mitigation works detailed are taken into account, the proposed drainage strategy is deemed acceptable and no significant issues are identified relation to water resources or flood risk. Therefore, the proposal is considered acceptable in relation to Policy CS31 and Section 14 of the Framework.

#### Contamination and Ground Conditions

9.140 Appendix E of the Flood Risk Assessment and Drainage Strategy (Fourth Issue) is letter from Applied Geology (September 2019) which provides a review of previous ground conditions investigations in respect of the site.

9.141 The letter explains that the site was formerly occupied by part of a sewage farm in the far southwest (between around 1901 and 1950) and part of a large landfill site in the east, southeast and south (infilled between around 1953 and 1968. Anecdotal evidence suggests that the landfill, known as 'Jarman Fields', was a corporation tip and infilled with domestic refuse, builders' rubble and soils. The landfill was capped on completion of filling and grassed.

9.142 It is noted that gas protection measures have been installed in surrounding developments to protect against methane, for example, gas membranes in the Tesco Extra superstore and gas membranes and ventilated voids with fans in the cinema and leisure complex.

9.143 DBC's Environmental and Community Protection Team (ECP) has been consulted on the planning application. They note that a comprehensive 'Remediation Strategy and Preliminary Piling Risk Assessment' was submitted in support of 4/00595/18/MFA, which was agreed subject to conditions at the time. ECP have confirmed that whilst previously agreed, the historic report needs updating and further information should be provided to ensure the development is acceptable in terms of ground contamination (see ECP comments for full details). As such, two conditions have been requested in relation to:

- (1) The provision of a site investigation report (and subsequent remediation method statement if required), compliance with the aforementioned report (and statement) and a remediation verification report; and

(2) If any contamination other than that reported in the previous condition is discovered, a scheme rendering this contamination harmless shall be provided to the LPA.

9.144 Subject to the above conditions (see Conditions 8 and 9), ECP have raised no objections to the proposals in terms of contaminated land. Taking the above into account and the further investigations that could be secured by condition, it is not considered that ground conditions or contamination would pose a significant constraint to the proposed development. The proposals are therefore considered to comply with Policy CS32 and the Framework in this regard.

### Noise

9.145 ECP consider that the proposal is of relatively low risk to cause adverse noise impact from the operational phase and consider noise from the construction phase and mechanical services plant can be suitably conditioned via consent conditions (see Condition 7), which have been agreed with the Applicant and are set out in the later 'Conditions and Reasons' section. The proposals are therefore deemed acceptable, complying with Paragraphs 130 (f), 174 and 185 of the Framework and Policies CS12 and CS32 of the Core Strategy in relation to noise impacts.

### Air Quality

9.146 An Air Quality Report by BWB (December 2020) has been submitted to support the application. The Report sets out mitigation measures to address potential air quality issues in relation to construction and operation phases. These are summarised below.

#### *Construction*

9.147 A number of measures were recommended to be included in a Dust Management Plan (DMP) to minimise emissions during construction. The Report concludes that with implementation of these measures, the impact of construction phase dust emissions would be 'not significant' in accordance with Institute of Air Quality Management (IAQM) guidance.

#### *Operation*

9.148 A detailed road traffic emissions assessment was carried out to understand the impact of predicted road traffic on local air quality conditions. The modelling was undertaken in accordance with the Defra Local Air Quality Management Technical Guidance.

9.149 The proposals were not predicted to result in any new exceedances of relevant air quality objectives and therefore the impact of the development on local air quality was predicted to be 'negligible' in accordance with IAQM and Environmental Protection UK guidance. ECP have not raised an objection to the methodology or outcome of the assessment.

9.150 Subject to the imposition of a 'Construction Environmental Management Plan' condition (see condition 6), the ECP Team are amenable to the development proposals in relation to air quality. The proposal therefore complies with Paragraphs 105 and 186 of the Framework, Policy CS32 of the Core Strategy and saved Policy 51 of the Local Plan in this regard.

### Environmental Impact Assessment

9.151 The proposal falls within the applicable threshold and criteria for the purposes of the definition of 'Schedule 2 Development' as per the Town and Country Planning (Environmental Impact Assessment) Regulations 2017, as the development appears to include more than one hectare of urban development that is not dwellinghouse development.

9.152 Schedule 3 provides the selection criteria for screening Schedule 2 development, including the characteristics of development, the location of development and the types and characteristics of the potential impact. These have been assessed in relation to the following points.

#### 9.153 Characteristics of development

- The size and design of the whole development;
- The cumulating impacts with other existing development and/or approved development;
- The use of natural resources, in particular land, soil, water and biodiversity;
- The production of waste;
- Pollution and nuisances; and
- The risk of major accidents and/or disasters relevant to the development concerned, including those caused by climate change, in accordance with scientific knowledge.

#### 9.154 Location of development

- The existing and approved land use;
- The relative abundance, availability, quality and regenerative capacity of natural resource (including soil, land, waters and biodiversity) in the area and its underground; and
- The absorption capacity of the natural environment.

#### 9.155 Types and characteristics of the potential impact

- The magnitude and spatial extent of the impact;
- The nature of the impact;
- The transboundary nature of the impact;
- The intensity and complexity of the impact;
- The probability of the impact;
- The expected onset, duration, frequency and reversibility of the impact;
- The cumulative impact with the impact of other existing and/or approved development; and
- The possibility of effectively reducing the impact.

9.156 Taking the above considerations into account, it is deemed that the proposal would not lead such a significant impact to the environment, in accordance with the criteria set out in Schedule 3. Therefore, it is not felt that an Environmental Impact Assessment is considered necessary in this instance.

### Planning Obligations

#### *Community Infrastructure Levy (CIL)*

9.157 The proposed development would be subject to Community Infrastructure Levy (CIL) charges in accordance with Policy CS33 of the Core Strategy and the 'Charging Schedule'. The current CIL requirements for convenience based supermarkets, as set out in the Annual CIL Rate Summary 2022, is £196.06 per sq.m. This rate is live as of January 2022.

#### *Section 106 Agreement*

9.158 As previously discussed, a Section 106 Agreement has been prepared to capture the Travel Plan Evaluation and Support Contribution amounting to £6,000 (index linked), as requested by HCC.



## 10. CONCLUSION

10.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004) requires that applications are determined in accordance with the development plan unless other material considerations indicate otherwise. In addition, Section 143 of the Localism Act amends Section 70 of the Town and Country Planning Act relating to the determination of planning applications and states that in dealing with planning applications, the authority shall have regard to:

- a. Provision of the development plan insofar as they are material,
- b. Any local finance considerations, so far as they are material to the application (such as CIL if applicable), and,
- c. Any other material considerations

10.2 The principle of development is considered acceptable. The proposed convenience floorspace would support the growth of Hemel Hempstead and no significant adverse impacts have been identified on the town centre.

10.3 The proposed foodstore would match Lidl's standard approach in terms of design and whilst not considered particularly innovative, it would integrate within the existing retail and leisure park. The proposed landscaping would help to soften the impacts of the building and break up the car park.

10.4 A number of other material planning considerations have been assessed including as residential amenity, accessibility, highway safety, parking provision, sustainability, waste management, flood risk/drainage, contamination, noise, air quality, etc. No significant impacts have been identified that would warrant the refusal of the planning application.

10.5 There are a number of relevant development plan policies and supplementary guidance that are listed in the 'Planning Policies' section and elsewhere in this report. Taking all of the above into account, it is recommended that permission be granted (delegated with a view to approval) as per the recommendation below.

## 11. RECOMMENDATION

11.1 That planning permission be delegated with a view to approval subject to the completion of the Section 106 Agreement, which relates to the travel plan evaluation and support fee, and the conditions listed below.

### Condition(s) and Reason(s):

1. **The development hereby permitted shall begin before the expiration of three years from the date of this permission.**

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

2. **The Class E floorspace hereby permitted shall have a maximum gross floor area of 2,488sq.m. The net sales area of the Class E floorspace shall not exceed 1,652sq.m. The use shall be restricted to the sale of convenience goods with no more than 332 sq.m for the sale of comparison goods.**

Reason: To limit the impact of the development on the vitality and viability of Hemel Hempstead town centre, and other centres nearby, in accordance with Policy CS16 of the Dacorum Core Strategy 2013 and for the avoidance of doubt.

3. **Customers shall not be permitted on the premises other than within the following times:**

**07:00 - 23:00 Mondays to Saturdays; and  
10:00 - 17:00 on Sundays and Bank Holidays.**

Reason: To protect the residential amenities of the locality, having regard to Policy CS12 of the Dacorum Borough Core Strategy (2013) and Paragraph 130 (f) of the National Planning Policy Framework (2021).

4. **A Landscape and Ecological Management Plan (LEMP) including long term design objectives, management responsibilities and maintenance schedules for all landscape areas shall be submitted to and approved by the local planning authority prior to the construction of the superstructure. The LEMP shall also describe how it is planned to incorporate biodiversity as part of the development and achieve overall net gains for biodiversity.**

**The LEMP should refer to the recommendations in Sections 5.14 (badgers), 5.19 and 5.22 (bats and lighting) and 5.33 (hedgehogs) of the Ecological Appraisal by FPCR (August 2021). The LEMP should also include the ecological enhancements set out in Sections 5.20, 5.21, 5.28, 5.34, 5.35 and 5.36 of the Appraisal, which relate to bat and bird boxes, other habitat features, replacement tree planting and the use of species to benefit to wildlife.**

**The approved plan shall be implemented in accordance with the approved details. Any planting must be carried out within one planting season of completing the development. Any tree or shrub which forms part of the approved landscaping scheme which within a period of three years from planting fails to become established, becomes seriously damaged or diseased, dies or for any reason is removed shall be replaced in the next planting season by a tree or shrub of a species, size and maturity.**

Reason: To ensure that the development contributes to and enhances the natural environment in accordance with Policy CS26 of the Dacorum Borough Core Strategy (2013) and Paragraph 174 (d) of the National Planning Policy Framework (2021). These details are required prior to commencement to ensure that an overall on-site net gain for biodiversity can be achieved before construction works begin. The LEMP should include details of when the biodiversity enhancements will be introduced and this may be reliant on the construction process/timings.

5. **The proposed tree works shall be carried out in accordance with the approved Arboricultural Impact Assessment by the RPS Group (January 2021) and Tree Protection Plan (Drawing 710). The tree protection fencing shall be erected during the pre-development period and remain in-situ throughout the course of development until completion of all building works. The suggested Construction Exclusion Zones shall be used to protect trees and any landscaping works within the root protection areas must be carried out by hand in the final stages of development to minimise the risk of damaging trees. All work shall be carried out in accordance with B.S.3998:2010 "Tree Work Recommendations".**

Reason: To ensure that the loss of the tree is mitigated by a replacement in accordance with saved Policy 99 of the Dacorum Borough Local Plan (2004), Policy CS12 of the Dacorum Borough Core Strategy (2013) and Paragraph 174 of the National Planning Policy Framework (2021).

6. Prior to the commencement of any below ground construction works including the erection of any foundations a Construction Management Plan shall be submitted to and approved in writing by the local planning authority. The plan should consider all phases (including any relevant demolition) of the development. The construction of the development shall only be carried out in accordance with the approved Construction Management Plan which shall include details of:

1. Demolition, construction and phasing programme;
2. Contractors access arrangements for vehicles, plant and personnel including the location of construction traffic routes to, from and within the site, details of their signing, monitoring and enforcement measures;
3. Prior notice and agreement procedures for works outside agreed limits and hours (construction/demolition hours shall be carried out between 07:00 hours to 18:00 hours Monday to Friday, and 08:00 hours to 13:00 hours on Saturday and at no time on Sundays, Bank or Public Holidays, unless in accordance with agreed emergency procedures for deviation);
4. Delivery times for construction/demolition purposes, which shall be carried out between 07:00 to 18:00 hours Monday to Friday, 08:00 to 13:00 hours on Saturdays and at no time on Sundays, bank or public holidays, unless otherwise agreed in writing by the local planning authority in advance;
5. Soil management strategy;
6. Noise method, monitoring and recording statements in accordance with the provisions of BS 5228-1: 2009+A12014;
7. Maximum noise mitigation levels for construction equipment, plant and vehicles;
8. Vibration method, monitoring and recording statements in accordance with the provisions of BS 5228-2: 2009;
9. Maximum vibration levels;
10. Dust management (including wheel washing measures) in accordance with the provisions of Air Quality Management, Guidance on the assessment of dust from demolition and construction (2014);
11. Prohibition of the burning of waste on site during demolition/construction;
12. Site lighting;
13. Screening and hoarding details;
14. Access and protection arrangements around the site for pedestrians, cyclists and other road users;
15. Procedures for interference with public highways, including permanent and temporary realignment, diversions and road closures;
16. External safety and information signing and notices;
17. Prior notice and agreement procedures for works outside agreed limits;
18. Complaints procedures, including complaints response procedures; and
19. Membership of the Considerate Contractors Scheme.

Reason: In order to protect highway safety and the amenity of other users of the public highway and rights of way, in accordance with saved Policies 51 and 54 of the Dacorum Borough Local Plan (2004), Policy CS8 of the Dacorum Borough Core Strategy (2013) and Paragraphs 110 and 112 of the National Planning Policy Framework (2021).

7. Before any mechanical services plant including heating, ventilation and refrigeration to which the application refers is used at the premises, a scheme shall be submitted to and approved in writing by the local planning authority which demonstrates that the latest British Standard 4142 (noise design) requirements can be complied with.

Calculated noise levels shall be determined at the boundary of the nearest ground floor noise sensitive premises or 1 meter from the facade of the nearest first floor (or higher) noise sensitive premises. An alternative position for

assessment/measurement may be used to allow ease of access, which must be shown on a map (if needed) and noise propagation calculations detailed to show how the design criteria is achieved.

The proposals shall thereafter be retained in accordance with the approved scheme.

Reason: To protect the residential amenities of the locality, having regard to Policies CS12 and CS32 of the Dacorum Borough Core Strategy (2013) and Paragraph 130 (f) of the National Planning Policy Framework (2021).

**8. (a) No development approved by this permission shall be commenced until a Site Investigation (Phase II environmental risk assessment) report has been submitted to and approved by the local planning authority which includes:**

- (i) A full identification of the location and concentration of all pollutants on this site and the presence of relevant receptors, and;**
- (ii) The results from the application of an appropriate risk assessment methodology.**

**(b) No development approved by this permission (other than that necessary for the discharge of this condition) shall be commenced until a Remediation Method Statement report; if required as a result of (a), above; has been submitted to and approved by the Local Planning Authority.**

**(c) This site shall not be occupied, or brought into use, until:**

- (i) All works which form part of the Remediation Method Statement report pursuant to the discharge of condition (b) above have been fully completed and if required a formal agreement is submitted that commits to ongoing monitoring and/or maintenance of the remediation scheme.**
- (ii) A Remediation Verification Report confirming that the site is suitable for use has been submitted to, and agreed by, the local planning authority.**

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other off-site receptors in accordance with Policy CS32 of the Dacorum Borough Core Strategy (2013) and Paragraphs 183 and 185 of the National Planning Policy Framework (2021).

**9. Any contamination, other than that reported by virtue of Condition 8 encountered during the development of this site shall be brought to the attention of the local planning authority as soon as practically possible; a scheme to render this contamination harmless shall be submitted to and agreed by, the local planning authority and subsequently fully implemented prior to the occupation of this site. Works shall be temporarily suspended, unless otherwise agreed in writing during this process because the safe development and secure occupancy of the site lies with the developer.**

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other off-site receptors in accordance with Policy CS32 of the Dacorum Borough Core Strategy (2013) and Paragraphs 183 and 185 of the National Planning Policy Framework (2021).

10. **Prior to the commencement of any below ground construction works, including the erection of any foundations, a scheme showing tactile paving on the footways either side of the existing bellmouth access into the site from Jarman Way shall be submitted to and approved in writing by the local planning authority. The proposals shall then be implemented in accordance with the approved scheme and thereafter retained for the lifetime of the development.**

Reason: In order to protect highway safety and the amenity of other users of the public highway and rights of way, in accordance with saved Policies 51 and 54 of the Dacorum Borough Local Plan (2004), Policy CS8 of the Dacorum Borough Core Strategy (2013) and Paragraphs 110 and 112 of the National Planning Policy Framework (2021).

11. **Prior to the first use of the development hereby permitted the proposed on-site car and cycle parking and turning areas shall be laid out, demarcated, levelled, surfaced and drained in accordance with the approved plans and retained thereafter available for that specific use.**

Reason: In order to protect highway safety and the amenity of other users of the public highway and rights of way, in accordance with saved Policies 51 and 54 of the Dacorum Borough Local Plan (2004), Policy CS8 of the Dacorum Borough Core Strategy (2013) and Paragraphs 110 and 112 of the National Planning Policy Framework (2021).

12. **Prior to first use of the development hereby approved, details of the 'Rapid' and 'Fast' Electric Vehicle Charging Points as illustrated on drawing PL-03 (Revision R) shall be submitted to the local planning authority and approved in writing. The Electric Vehicle Charging Points and associated infrastructure shall then be provided in accordance with the agreed specifications and provided (both active and passive provision) in accordance with drawing PL-03 (Revision R). The Electric Vehicle Charging points and associated infrastructure shall thereafter be retained in accordance with the approved details.**

Reason: To ensure that adequate provision is made for the charging of electric vehicles in accordance with Policies CS8, CS12 and CS29 of the Dacorum Borough Core Strategy (2013) and the Car Parking Standards Supplementary Planning Document (2020).

13. **The landscaping works shown on the Detailed Planting Plan (9508-L-01) shall be carried out within one planting season of completing the development.**

**Any tree, shrub or plant which forms part of the approved planting scheme which within a period of five years from planting fails to become established, becomes seriously damaged or diseased, dies or for any reason is removed shall be replaced in the next planting season by a tree or shrub of a species, size and maturity.**

Reason: To improve the appearance of the development and its contribution to biodiversity and the local environment, as required by saved Policy 99 of the Dacorum Borough Local Plan (2004) and Policy CS12 (e) of the Dacorum Borough Council Core Strategy (2013).

14. **The development hereby permitted shall be carried out in accordance with the submitted and approved Energy Usage and Sustainability Statement. The passive and active design strategies, as summarised in Section 14, shall be provided, in addition to the Alternative Low or Zero Carbon technologies.**

Reason: To ensure the sustainable development of the site in accordance with the aims of Policies CS28 and CS29 of the Dacorum Borough Core Strategy (2013), the Sustainable

Development Advice Note (2016) and Paragraphs 154 and 157 of the National Planning Policy Framework (2021).

15. **Prior to the first use of the development hereby permitted, a Foul Water Drainage Strategy shall be provided to the local planning authority confirming whether there is sufficient capacity within the existing sewer network to accommodate for the increased flows. The strategy shall include a phasing plan to enable Thames Water to carry out any required upgrades (if needed) within an agreed timeframe to accommodate the development. Specifically, the phasing plan shall include:**

**Details on timescales for the development and when it will be occupied;  
The point(s) of connection for water supplies; and  
The point(s) where wastewater will be discharged and whether flows will be gravity or pumped.**

**The development shall be carried out in accordance with the approved details.**

Reason: To ensure that the site is subject to an acceptable drainage system serving the development and to ensure that if any reinforcement works are provided if necessary to avoid flooding and/or potential pollution incidents in accordance with Policies CS31 and CS32 of the Dacorum Borough Core Strategy (2013) and Paragraph 169 of the National Planning Policy Framework (2021).

Note: The developer can request information to support the discharge of this condition by visiting the Thames Water website at [thameswater.co.uk/preplanning](http://thameswater.co.uk/preplanning).

16. **No development shall take place until details of the implementation, adoption, maintenance and management of the sustainable drainage system shall have been submitted to and approved in writing by the Local Planning Authority. Those details shall include:**

**(a) a timetable for its implementation; and,  
(b) a management and maintenance plan for the lifetime of the development which shall include the arrangements for adoption by any public body or statutory undertaker, or any other arrangements to secure the effective operation of the sustainable drainage system throughout its lifetime.**

**The sustainable drainage system shall be implemented and thereafter managed and maintained in accordance with the approved details.**

Reason: To ensure that the site is subject to an acceptable drainage system serving the development and to prevent flooding by ensuring the satisfactory storage of and disposal of surface water from the site in accordance with Policy CS31 of the Dacorum Borough Core Strategy (2013) and Paragraph 169 of the National Planning Policy Framework (2021).

17. **Prior to the construction of the buildings hereby permitted, details of any external lighting shall be submitted to and approved in writing by the local planning authority. The external lighting scheme shall take into account the recommendations set out in Paragraph 5.19 of the Ecological Appraisal by FPCR (August 2020). Development shall be carried out in accordance with the approved details prior to first occupation of the development.**

Reason: To ensure that the lighting is designed to minimise problems of glare, protect residential amenity, to minimise impacts on biodiversity and avoid unnecessary light pollution in accordance with Policies CS12, CS26 and CS29 of the Dacorum Borough Core

Strategy (2013) and Paragraphs 130 and 174 of the National Planning Policy Framework (2021).

18. **The development hereby permitted shall be carried out in accordance with the following approved plans/documents:**

**PL-01A - Location Plan**  
**PL-03R - Proposed Site Plan**  
**PL-04C - Proposed Building Plan**  
**PL-05B - Proposed Roof Plan**  
**PL-06B - Proposed Elevations**  
**9508-L-01E - Detailed Planting Plan**  
**204 - Proposed Flood Routing Plan**  
**200H - Proposed Drainage Plan**  
**201E - Proposed Levels Plan**

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

**Informatives:**

1. Planning permission has been granted for this proposal. The Council acted pro-actively through positive engagement with the applicant at the pre-application stage and during the determination process which lead to improvements to the scheme. The Council has therefore acted pro-actively in line with the requirements of the Framework (paragraph 38) and in accordance with the Town and Country Planning (Development Management Procedure) (England) (Amendment No. 2) Order 2015.
2. All wild birds, nests and eggs are protected under the Wildlife & Countryside Act 1981 (as amended). The grant of planning permission does not override the above Act. All applicants and sub-contractors are reminded that site clearance, vegetation removal, demolition works, etc. between March and August (inclusive) may risk committing an offence under the above Act and may be liable to prosecution if birds are known or suspected to be nesting. The Council will pass complaints received about such work to the appropriate authorities for investigation. The Local Authority advises that such work should be scheduled for the period 1 September - 28 February wherever possible. If this is not practicable, a search of the area should be made no more than 2 days in advance of vegetation clearance by a competent Ecologist and if active nests are found, works should stop until the birds have left the nest.
3. The site has potential to support hedgehogs. Hedgehogs are protected under Schedule 6 of the Wildlife and Countryside Act 1981, which prohibits killing and trapping by certain methods. They are also a UK Priority species under the NERC Act (SEC.41) 2006. The species is therefore considered one of the UK's target species to avoid further population decline.

To avoid killing or injuring of hedgehogs it is best practice for any brash piles to be cleared by hand if possible. Any trenches on site should be covered at night or have mammal ramps to ensure that any animals that enter can safely escape - this is particularly important if holes fill with water. It is also possible to provide enhancements for hedgehogs by making small holes (13cm x 13cm) within any boundary fencing. This allows foraging hedgehogs to be able to pass freely throughout a site but will be too small for most pets.

4. It is an offence to take or disturb the breeding or resting location of protected species, which include: all Bats, Badger, Otter, Hazel dormouse, Water vole, Reptiles (Common lizard,

Slow-worm, Grass snake), Great crested newt, wild birds and Roman snail. Precautionary measures should be taken to avoid harm where appropriate. If protected species, or evidence of them, is discovered during the course of any development, works should stop immediately and advice sought as to how to proceed. This may be obtained from Natural England: 0300 060 3900 or a suitably qualified ecological consultant.

## APPENDIX A: CONSULTEE RESPONSES

### Consultee Responses

Consultee	Comments
<b>Trees &amp; Woodlands</b>	<p>According to the information submitted no trees of significant landscape value or amenity will be detrimentally affected by the development. Subsequently I have no objections to the application being approved.</p>
<b>Waste Services (DBC)</b>	<p>Although it says there is no waste left on site and it's recyclable cardboard and plastic waste is returned to the distribution centre there seems to be no provision for other waste.</p> <p>Response from Applicant:</p> <p>In response to the Waste/Refuse Team comments, I can confirm that Lidl's operational model includes that all waste is returned to the Regional Distribution Centre on the return journeys of store delivery HGVs along with any other return items. The overall majority of waste is recyclable, and is separated and bagged within the warehouse area of the store before being loaded onto the returning delivery HGVs. Non-recyclable waste (which I understand is very limited) is also returned to the Regional Distribution Centre in a similar manner.</p> <p>Please let me know if you require further detail on this.</p> <p>Response from Waste Services:</p> <p>That's great thanks - no objection.</p>
<b>Conservation &amp; Design (DBC)</b>	<p>Supportive of the proposals layout and massing which is in-keeping with the context of the surrounding retail park and will support a functional site. We do not see it impacting negatively on the adjacent future development site coming forward due to the largely blank façade and access road.</p> <p>Whilst it is good to see proposed landscaping improvements around the sites perimeter and integrated into the car parking, it would be good to see if this can be increased or densified to improve the overall appearance and contribute towards onsite biodiversity gain. In particular the areas of turf within the car park (shown within the site plan</p>



	<p>and visuals on pg 1 and 14) could have small trees planted to improve the design of the car park area, some additional trees could also be added to the sites perimeter hedge planting such as along the access road.</p> <p>We request for an additional pedestrian entrance from the St Albans Rd path to the NE side of the site to allow for easier pedestrian access from local residents living off the Bennetts end rd and surrounding area. It is a large site and at present only one pedestrian entrance has been proposed. This will allow for a more connected and inclusive site and support sustainable transport network within Hemel. (NDG M1: 77/78).</p> <p>The building is fairly unarticulated when compared with the some of the neighbouring buildings within the context of the retail park. For instance Tesco which uses local redbrick materials and articulates the façade up into smaller bays and McDonalds which uses elements of finer timber detailing to break up panels.</p> <p>The principal north elevation also contains large amounts of blank panelling facing Jarman's Way which we suggest should be broken up / articulated further to provide an attractive elevation to the entrance of the retail park. Could there be a change in material or articulation designed into this elevation? Or screening added via trees, vertical gardens, planters etc.</p> <p>The entrance should also be further developed to provide a more distinctive store front and attractive entrance. Timber detailing around the porch / entrance could work well in providing an attractive design or a change in colour of panelling material to denote the entrance and porch overhang?</p> <p>Recommendation:</p> <p>No objection in principal, however we recommend the applicant addresses our above design comments to make for an acceptable proposal. Proposal should be aiming for a high standard of design and public realm and be visually attractive as set out in NDG (I2 :53) and DBC Strategic Design Guide (5.1).</p>
<p><b>Strategic Planning &amp; Regeneration (DBC)</b></p>	<p>1. The proposed development</p> <p>The proposal is for a foodstore of 2,595 sqm gross external area (1,662 sqm net sales area) for Lidl. The site area is 1.2 ha. Lidl also control a further 0.81 ha. of land directly to the south of the application site. This land is expected to be brought forward for development in the future.</p> <p>2. National planning policy context</p>

(i) National Planning Policy Framework (NPPF)

Paragraphs 85-90 provide guidance on ensuring the vitality of town centres. These paragraphs also deal with out of centre retail development. Paragraph 86 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..."

Paragraph 89 includes the following guidance:

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

(ii) Planning Policy Guidance on 'Town centres and retail'

The PPG contains more detailed guidance on the sequential test (paragraphs 009-013) and the impact test (paragraphs 014-018).

3. Local planning policy context (adopted policies)

Key aspects of relevant policies are summarised below:

(i) Core Strategy (2013)

Policy CS16 (shops and commerce) states that:

"New retail floorspace will only be permitted outside of defined centres if the proposal complies with the sequential approach and demonstrates a positive overall outcome in terms of the impact assessment."

(ii) Site Allocations Development Plan Document (2017)

Table 1 (Out of Centre Retail Locations) classifies Jarman Park as an out of centre retail and leisure location. The main uses proposed at Jarman Park are:

"Food retailing and non-food goods (excluding clothing and footwear unless ancillary to the main use of a unit). Leisure uses."

The Schedule of Retail Proposals and Sites shows all the land controlled by Lidl as site S/1. The planning requirements for S/1 are as follows:

"Acceptable uses are retail and leisure uses. The nature and scale of development should aim to maximise the use of the site and ensure no significant adverse impact on Hemel Hempstead town centre. The sale and display of clothing and footwear is not acceptable, unless ancillary to the main use of an individual unit. Prominent frontages onto St Albans Road/Jarman Way require high quality of design and landscaping. A traffic study may be required and road works should accommodate traffic generation."

(iii) Dacorum Borough Local Plan 1991-2011 (2004)

Local Plan Policy 44 (shopping development outside existing centres) is a saved policy. However, it is not fully compliant with current Government policy. Therefore, more weight should be given to Core Strategy Policy CS16 and the site specific guidance in the Site Allocations.

#### 4. Emerging new Local Plan

The Council published the Local Plan Emerging Strategy for Growth consultation document in November 2020. However, the new Local Plan is still at a fairly early stage. Therefore, and taking account of NPPF paragraph 48, only limited weight should be given to the November 2020 document. Nevertheless, it is important to be aware of the Council's emerging proposals for the Jarman Park site.

Paragraph 9.6 in the November 2020 consultation document refers to the identified capacity for 13,200-16,500 sqm net of additional convenience (food) floorspace by 2032. Point 2c in Policy SP6 (delivering the retail and leisure strategy) states that the Council will:

"Continue to support retail development, including a medium sized supermarket, at Jarman Park (Growth Area HH27)."

Also relevant is Policy DM21 (main town centre uses outside existing centres). Table 23 (out of centre retail locations) within this policy proposes the following further significant development at Jarman Park:

"Retail-led development, including a possible foodstore. Food and drink uses, leisure uses and a hotel also acceptable on part

of the site (Growth Area HH27)."

Growth Area HH27 (Jarman Park - out of centre retail allocation) in the 'Proposals and sites' part of the consultation document covers all the land controlled by Lidl. It is proposed that the site be allocated for:

- o Retail led development, including a possible foodstore.
- o Food and drink uses, leisure uses and a hotel also acceptable on part of the site.
- o The sale and display of clothing and footwear is not acceptable, unless ancillary to the main use of an individual unit.

In addition, the following site-specific requirements are set out for HH27:

"Urban Design Principles:

- o The nature and scale of development should aim to maximise the use of the site and ensure no significant adverse impact on Hemel Hempstead town centre.
- o Prominent frontages onto St. Albans Road/Jarman Way require high quality design and landscaping.

Access, Highways and Sustainable Transport:

- o A traffic study may be required and road works should accommodate traffic generation.

Environmental Health:

- o Undertake ground contamination surveys to ensure that the site is safe and suitable for the intended use."

## 5. Retail evidence Base for new Local Plan

Nexus Planning have produced the following documents:

- o South West Hertfordshire Retail and Leisure Study (September 2018)
- o Further Dacorum Retail Study (April 2020)

These documents and the Council's 'Retail and Town Centres Topic Paper' can be found via the link below:

<https://www.dacorum.gov.uk/home/planning-development/planning-strategic-planning/new-single-local-plan/technical-work-for-the-early-partial-review>

The April 2020 study is of most relevance. It shows that there is a need for a substantial increase in convenience floorspace in Dacorum and

that the only potential site in Hemel town centre (Market Square) cannot meet all of this need. Also, this site is not currently available.

#### 6. Planning History

The whole of the land controlled by Lidl has planning permission (4/00595/18/MFA) for:

"Construction of 5 retail (Class A1) units totalling 10,730sqm floorspace, and one unit totalling 186 sqm for use as financial services or café/restaurant (Class A2 or Class A3) and associated access, car parking, service yard and landscaping."

One unit is proposed for a convenience store. Condition 2 attached to the planning permission restricts the total net sales area to 8,584 sqm and the convenience retail unit to 1,184 sqm.

#### 7. Applicant's sequential and impact tests

Section 4 of Avison Young's 'Planning and Retail Statement' accompanying the current application contains a retail and centres policy assessment. This assessment includes a commentary on the sequential test carried out for the permitted Kier scheme (4/00595/18/MFA) and an updated impact assessment.

Paragraph 4.19 points out that the amount of convenience floorspace in the Kier scheme (1,184 sqm (net)) is only 478 sqm lower than the net sales area of the proposed Lidl store.

The table in paragraph 4.50 indicates that the greatest impact of the Lidl store would be on Aldi, Maylands Avenue and Tesco, Jarman Park, but these out of centres stores do not attract any planning policy protection. The largest estimated impact on a store in a defined centre is 5% in respect of Asda in Hemel Hempstead town centre. Table 9c in Appendix II estimates an overall impact on Hemel Hempstead town centre of 3.2%. The next highest impact on an existing centre is 1.1% at Woodhall Farm local centre.

Paragraph 4.52 states that the Council accepted with the much larger Kier proposal, that there was no evidence to suggest that there was likely to be a significant adverse impact upon existing, planned or committed town centre investment. Avison Young are not aware of any material changes in circumstance which would indicate a change in this conclusion.

Paragraphs 4.53-4.63 provide a sequential assessment. This is despite

paragraph 4.54, which contends that there is a case to say that the sequential test is not be applicable to the proposal, as it does not have an adverse impact on centre and is in accordance with an up-to-date local plan.

Section 4 ends by stating that the conclusions on the Kier scheme - that the provision of discount foodstore in this location would not give rise to significant adverse impacts - remain true. In relation to the sequential test, the report considers that the sites discounted by Kier remain unavailable. Therefore, it is concluded that the proposed development by Lidl satisfies both the impact and sequential tests.

## 8. Conclusions

Key points to note are as follows:

- o The whole of the land controlled by Lidl is proposed for food retailing, non-food goods and leisure uses in the Site Allocations document, which is an up-to-date plan.
- o The Local Plan Emerging Strategy for Growth consultation document (November 2020) proposes that the whole site be allocated for retail led development, including a possible foodstore on the site. Food and drink uses, leisure uses and a hotel are also regarded as acceptable on part of the site. However, only limited weight can be given to the emerging Local Plan, as it is still at an early stage.
- o The Further Dacorum Retail Study (2020) shows that there is a need for a substantial increase in convenience floorspace in Dacorum. The only potential site in Hemel town centre (Market Square) cannot meet all of this need and this site is not currently available.
- o Planning permission exists on the whole of Lidl's land for 10,730sqm of retail floorspace, including a convenience store with a net sales area of up to 1,184 sqm.
- o A sequential test to support the current application was not needed, as the proposal is in accordance with an up-to-date development plan (i.e. the Site Allocations). Nevertheless, we agree with the applicants that there is no sequentially preferable site that is suitable and available for the proposed development.
- o The applicant's impact assessment shows that the proposed Lidl store would not have a significant adverse impact on any existing centre. This appears to be a reasonable conclusion as the total retail floorspace proposed is much lower than with the Kier scheme, whilst the proposed convenience floorspace is less than 500 sqm more. PBA

	<p>appraised the Kier scheme for the Council - we haven't checked their report, but our understanding is that it expressed concern about the cumulative impact of the amount of non-food floorspace proposed at Jarman Park and Maylands Avenue, but they had no such concerns about the total amount of convenience floorspace proposed. Therefore, we do not consider it necessary for the Council to commission an independent review of the applicant's impact assessment.</p> <p>o We were concerned at the pre-application stage that the land controlled by Lidl but not required for the proposed convenience store was split into two small areas, that might have been difficult to develop. We are pleased to note that the current application proposes just one area for future development and this is of a reasonable size (0.81 ha.) and shape.</p> <p>In view of the above, we do not wish to raise any in principle objections to the proposed development. These comments do not address other policy issues such as car parking provision.</p>
<p><b>Hertfordshire Property Services (HCC)</b></p>	<p>Response by HCC's Growth &amp; Infrastructure Unit to Application (major full) for planning permission. Reference: 21/01018/MFA Proposal: Construction of a Class E limited assortment discount foodstore with associated car parking, access, landscaping and engineering works. Address: Land North Of Jarman Centre Jarman Way Hemel Hempstead Hertfordshire</p> <p>Thank you for your email regarding the above mentioned planning application.</p> <p>Hertfordshire County Council's Growth &amp; Infrastructure Unit do not have any comments to make in relation to financial contributions required by the Toolkit, as this development is situated within your CIL Zone and does not fall within any of the CIL Reg123 exclusions. We therefore have no further comments on behalf of these services, although you may be contacted separately by our Highways Department.</p> <p>Please note this does not cover the provision of fire hydrants and we may contact you separately regarding a specific and demonstrated need in respect of that provision.</p> <p>I trust the above is of assistance if you require additional information please contact the Growth &amp; Infrastructure Unit Growth@hertfordshire.gov.uk.</p>
<p><b>Herts Valleys CCG</b></p>	<p>No comment.</p>
<p><b>Crime Prevention</b></p>	<p>I am content that security has been considered for this development as</p>

<b>Design Advisor</b>	detailed in the Design and Access statement (page 19), if the client would like any further crime prevention or security advice please contact this office.
<b>EDF Energy</b>	No comment.
<b>Lead Local Flood Authority (HCC)</b>	<p><u>Initial comments received 27<sup>th</sup> April 2021</u></p> <p>Thank you for consulting us on the above application for Construction of a Class E limited assortment discount foodstore with associated car parking, access, landscaping and engineering works at Land North Of Jarman Centre, Jarman Way, Hemel Hempstead, Hertfordshire.</p> <p>The applicant has provided the following information in support of the application:</p> <ul style="list-style-type: none"> <li>o LIDL Foodstore, Hemel Hempstead, Flood Risk Assessment &amp; Outline Drainage Strategy Report, Project Ref. 12883, Report Ref. JH / FRA / 12883, Report Status: Third Issue, dated 04th March 2021, prepared by Baynham Meikle Partnership Limited.</li> </ul> <p>Unfortunately, the information provided to date does not provide a suitable basis for an assessment to be made of the flood risk arising from the proposed development. Therefore, we object to the grant of planning permission. In order for the Lead Local Flood Authority to advise the relevant Local Planning Authority that the site will not increase flood risk to the site and elsewhere and can provide appropriate sustainable drainage techniques the following information is required as part of the surface water drainage assessment:</p> <ol style="list-style-type: none"> <li>1. Feasible discharge mechanism</li> <li>2. Provision of greenfield runoff rates</li> <li>3. Adequate provision of climate change</li> <li>4. Provision of above ground SuDS</li> <li>5. Appropriate management and treatment</li> <li>6. Management of informal flooding, updates to calculations and modelling, including provision of half drain down times</li> </ol> <p>The overcome the above objection points, please see below comments:</p> <p>Overcoming our objection</p> <ol style="list-style-type: none"> <li>1. The proposed method of surface water discharge is to sewer. The applicant has assessed the surface water discharge hierarchy to determine the feasibility of infiltration based on 2017 ground investigation reports. The Geo-Environmental Assessment, prepared by Waterman, dated March 2017 is shown at Appendix E of the FRA</li> </ol>



and has been summarised within the FRA. From a review of this document it is noted how Made Ground and Landfill were reported. It is acknowledged that the underlying strata is unsuitable for infiltration. Considering the strata, all SuDS features should be lined.

The applicant has detailed how from surveys conducted of the existing utilities within the vicinity of the site, it is evident that there is a surface water sewer within the existing access to the site with adequate depth. This sewer is proposed to be utilised to discharge surface water flows.

However, from a review of the asset maps available to the LLFA on DigDat, the proposed discharge point is not a mapped Thames Water sewer, it is therefore a private asset. The applicant therefore needs to get permission from the asset owner that they are happy to accept the proposed connection. This confirmation is needed in order to ensure the site has a feasible surface water discharge mechanism.

If the applicant plans to connect to a Thames Water asset, they will need a pre-planning enquiry from Thames Water that they are happy to accept the proposed volumes and flows.

Please see comments below regarding the proposed discharge rate.

2. The applicant has determined the proposed surface water discharge rate based on 5l/s/Ha. However, this is old guidance, and we would advise the applicant that they should determine the pre-development greenfield runoff rates for the site, based on IH124 / FEH methods. If the applicant is proposing to design for the 1 in 100 year plus climate change event, discharge should be restricted to the QBAR rate, else the applicant could use a variable control for the 1 in 1 and 1 in 100 events.

The current proposed discharge rate is too high, and we would expect a lower discharge rate, as detailed.

Further, it is acknowledged that the applicant is proposing a discharge rate which is combined between the proposed site (the red line boundary) and a potential future development site (the blue line boundary), please see comments regarding this below. However, we would advise that the discharge should be restricted to the pre-developed greenfield runoff rate for both sites.

3. The applicant has used a provision of climate change of 35%. However, we would advise that the applicant should use 40%.

If there is out of network flooding for the 1 in 100 year plus 40% the applicant will need to detail how these proposed areas of informal flooding are to be managed within the site, ensuring no off-site flooding.

4. As the proposed site is classed as greenfield, it is LLFA policy that above ground features should be used, underground tanks should not be used on greenfield sites. Currently, no above ground features are being provided, which is not acceptable. The proposed drainage strategy is based entirely on gullies, pipes, an underground tank and petrol interceptor, which is the least sustainable solution. The current method of gullies and pipes for the access road is also not acceptable.

The applicant should be providing SuDS features such as attenuation basins, permeable paving and swales.

If once features such as these are included, some additional underground storage is needed in order to manage for the 1 in 100 year plus climate change event, strong technical justification needs to be provided.

It is acknowledged that there are HGVs on site, however, above ground features such as permeable paving with sub-base for the customer/staff car parking spaces could be used.

In terms of the justification of SuDS features the applicant has discounted multiple SuDS features based on cost. Cost is not an adequate justification for the lack of implementation of a sustainable scheme.

5. Appropriate management and treatment of surface water is not being provided for the site.

The applicant has detailed how: Pervious pavements have been disregarded due to the space constraints, the HGV loads, maintenance and the high cost involved. Instead, an oil interceptor will be provided to ensure water quality will be raised.

It is acknowledged that where HGVs are driven, pervious pavements, may not be appropriate and they may need tarmac roads, however, more sustainable on surface methods of management and treatment could be provided, such as filter strips, filter drains and swales.

Mechanical methods of treatment require a rigorous maintenance regime, on surface SuDS features are easier to maintain and more sustainable. If mechanical methods of treatment are still needed to ensure appropriate management and treatment of surface water, these need to be fully justified.

Appropriate management and treatment needs to be provided for the access road.

The applicant needs to demonstrate that the site meets the appropriate level of treatment as detailed in the Ciria SuDS Manual.

6. All calculations and modelling will need to be updated considering the above comments and with any updates to the drainage strategy.

Half drain down times for the attenuation need to be provided for the 1 in 100 year plus climate change event. The current MicroDrainage modelling states that Half Drain Time has not been calculated as the structure is too full. Half drain down time for all events including the 1 in 100 year plus climate change event need to be provided within 24 hours.

Currently flood volume is leaving the system in the 1 in 100 year plus climate change event (25.440m<sup>3</sup>). The applicant needs to detail how this is being managed within the site.

Additional comments to the LPA/applicant

The applicant has included information for a discharge rate for the remaining land within their ownership; within the blue line boundary, but not the red line boundary; the applicant has defined discharge rates for "LIDL", "Remaining Land" and "Access Road". As above, we would advise that in all instances the pre-development greenfield runoff rate should be used and the current proposed rate, is based on old guidance and is too high. Permission is also needed from the asset owner.

As the entire site in both instances is proposing the final discharge location to be a manhole in the access road, with flow controls for each site, we will comment on that site as and when we are consulted when it comes forward.

We would advise that the above comments are on the drainage scheme for the development proposed within the red line boundary.

For further advice on what we expect to be contained within the surface water drainage assessment to support a planning application, please refer to our Developers Guide and Checklist on our surface water drainage webpage.

<https://www.hertfordshire.gov.uk/services/recycling-waste-and-environment/water/surface-water-drainage/surface-water-drainage.aspx#>

Informative to the LPA

We ask to be re-consulted with the above addressed. We will provide

you with bespoke comments within 21 days of receiving formal re-consultation. Our objection will be maintained until an adequate surface water drainage assessment has been submitted.

Please note, if the LPA decides to grant planning permission, we wish to be notified for our records.

Further comments received 28<sup>th</sup> February 2022

Thank you for re-consulting us on the above application for Construction of a Class E limited assortment discount food store with associated car parking, access, landscaping and engineering works at Land North of Jarman Centre, Jarman Way, Hemel Hempstead, Hertfordshire.

The applicant has provided the following information in response to our latest letter of objection dated 27 August 2021:

- Covering letter JH/12883 dated 22 December 2021 prepared by Bayheim Meikle
- Covering e-mail dated 7 January 2022 prepared by Avison Young
- Proposed drainage plan 12883 200 F dated 17 December 2021 prepared by Bayheim Meikle
- Proposed site plan 190400 PL-03 Rev N dated 14 December 2021 prepared by Whittam/Cox Architects
- Micro drainage Greenfield Calculations dated 17 December 2021 prepared by Bayheim Meikle
- Micro drainage proposed surface water calculations dated 17 December 2021 prepared by Bayheim Meikle

The applicant has provided the previous information:

- o Avison Young Covering letter dated 22 July 2021
- o Technical Note prepared by Bayham Meikle dated 16 July 2021 reference 12883-JH 1st issue

Our previous response dated 27 August 2021 objected on the following points:

1. Feasible discharge mechanism
2. Provision of greenfield runoff rates
3. Adequate provision of climate change
4. Provision of above ground SuDS
5. Appropriate management and treatment
6. Management of informal flooding, updates to calculations and modelling, including provision of half drain down times

Unfortunately, the information provided to date does not provide a suitable basis for an assessment to be made of the flood risk arising from the proposed development.

Therefore, we continue to object to the grant of planning permission. In order for the Lead Local Flood Authority to advise the relevant Local Planning Authority that the site will not increase flood risk to the site and elsewhere and can provide appropriate sustainable drainage techniques the following information is required as part of the surface water drainage assessment:

The overcome the above objection points, please see below comments (previous comments in italic):

Overcoming our objection

1. 'The applicant has detailed how from surveys conducted of the existing utilities within the vicinity of the site, it is evident that there is a surface water sewer within the existing access to the site with adequate depth. This sewer is proposed to be utilised to discharge surface water flows.

Based on the appendices provided which is an extract from a Thames Water email response and Land Registry information, it is still not clear whether permission to connect from the asset owner has been granted and if the existing drainage system has the capacity to accept the proposed discharge rates and volumes.

The Thames Water response seems to relate to their concern regarding ground water inundation into their sewers and any proposed sewer systems. As the sewer being proposed to connect into is not a Thames Water Asset, we still need confirmation that the asset owner (this may be the landowner which from the Land Registry information appears to be Dacorum BC). The extract provided which has no point of reference, appears to suggest that there is a 'right to connect' and enter 3rd party land. This still does not provide confirmation that connection is feasible, and the existing drainage system can cater for the proposed discharge rate and volumes'.

The covering e-mail from Avison Young dated 7 January 2022 queries the right to connect and capacity of the existing surface water sewer with the LPA to direct the query to DBC estates department. No further information has been provided if this permission has been granted and whether the capacity of the existing sewer to receive the proposed revised discharge rate of 4.1l/s (Qbar) and surface water volumes is adequate. This information is required to confirm a feasible means of discharge.

2. 'No technical justification has been provided to not assess the pre-development greenfield run-off rates using the industry best practice as stated in our previous response. Referring to previous FRAs and agreed rates is not a technical justification for not undertaking an assessment using current best practice and up to date policies on implementing appropriate surface water management.

Please refer to our updated Local Flood Risk Management Strategy including SuDS policies

<https://www.hertfordshire.gov.uk/medialibrary/documents/environment-and-planning/water/flood-risk-management/lfrmsfor-hertfordshire-full-report.pdf> adopted in February 2019 with specific reference to Policy 15 in relation to greenfield rates and Policy 18 in relation to above ground SuDS features.

We ask that this is assessed for the current greenfield conditions using the modelling methods quoted in our last response. We note on the submitted drainage plan submitted with the technical note a rate of 5.5l/s is now being proposed and a rate of 4l/s for the future development site. We are unable to comment on the other site which has not yet come forward for planning'.

The applicant has provided a revised pre-development greenfield rate which has calculated rates for all events from the 1 in 1 year to the 1 in 100 year. The calculations also include the Qbar rate of 4.1l/s, which the applicant is proposing to use for the final discharge rate which is 0.6l/s higher than the 1 in 1 year rate. We appreciate that the applicant is struggling to achieve half drain down times due to the greenfield rate proposed, we therefore may be able to accept the slightly higher rate of 4.1l/s if the applicant can provide an adequate SuDS management train.

3. The applicant previously used the provision of climate change of 35%. The applicant has now revised the surface water calculations to provide an allowance of 40%.

However, we requested that if as a result there is out of network flooding, any informal flooding will need to be managed within the site. We note from the updated calculations flooding occurs at pipe 1.000 of a volume of 9m<sup>3</sup> during the 1 in 100 year + 40% allowance for climate change. This should be shown on a site plan based on proposed site levels to demonstrate that this can be safely retained within the site.

The applicant has carried out revised drainage calculations based on the revised discharge rate and drainage scheme which shows no

flooding from the drainage system for all rainfall events up to the 1 in 100 year + climate change event for 40%.

4. As stated previously for a greenfield site we expect the inclusion of above ground SuDS (See Policy 18 of the LFRMS- link provided under Point 2) and as explained previously these can be small in scale offering multiple attenuation, conveyance, and water quality treatment within the site prior to discharge into an underground drainage system. No technical information has been provided to justify not including above ground features and permeable paving which as stated before could be sited in areas where HGVs do not use i.e., customer car parking bays.

As the proposed site is classed as greenfield, it is LLFA policy that above ground features should be used, underground tanks should not be used on greenfield sites. Currently, no above ground features are being provided, which is not acceptable. The proposed drainage strategy is based entirely on gullies, pipes, an underground tank and petrol interceptor, which is the least sustainable solution.

The current method of gullies and pipes for the access road is also not acceptable.

The applicant should be providing SuDS features such as attenuation basins, permeable paving and swales.

If once features such as these are included, some additional underground storage is needed in order to manage for the 1 in 100 year plus climate change event, strong technical justification needs to be provided.

In terms of the justification of SuDS features the applicant has discounted multiple SuDS features based on cost. Cost is not an adequate justification for the lack of implementation of a sustainable scheme.

It has now been stated that the reason for not using permeable paving is again due to HGVs going over the permeable paving and loosening the paving block causing a trip hazard to customers. This is not something we have come across before and as stated previously you would place the permeable paving in areas where the HGVs do not drive over, one would assume this would not include customer parking bays and that the HGVs have a dedicated access route. Any areas that had to be traditionally tarmacked due to the loading of HGVs could be levelled to ensure any run-off from these areas drains into the permeable paving areas.

The permeable paving could be supplemented with an artificial sub-base to create more storage which in this case could be lined due to the previous use of the site.

It is also stated the reason for not using filter strips and swales is due to the perimeter of the site including bunds. As these areas are changing the levels of the site, the applicant may need to consider how the bunds will be drained, usually a filter trench at the bottom of a bund would be provided.

Until an adequate sustainable drainage system which aims to mimic the existing greenfield site is provided, we will maintain our objection to this point. Site layout and space should be taken into account for the provision of SuDS, not deciding the site layout then deciding where SuDS can be accommodated.

Whilst we acknowledge the applicant has now included a swale, pond, interception filter drains (at the base of the bunds) and a proportion of permeable paving within the western part of the car park, the proposed drainage scheme does not follow the SuDS hierarchy and surface water treatment train.

The proposed swale to manage the volumes and water quality from the access road we find proportionate and adequate to serve the small area of access road prior to discharge with an overflow tank for attenuation during higher events.

However, the remainder of the site is still relying on the proposed tank for attenuation and is placed as the first attenuation stage for the majority of the car park and internal road run-off. The tank is located upstream of the pond so any surface water run-off is placed underground straight away and any hydrocarbons and other diffuse pollution will discharge straight into the tank. The tank then discharges into the pond, by which time the pollution and silt are already discharged into the tank and at a greater depth. The tank should be used as a residual storage at the end of the system once it has been passed through the above ground storage measures, utilising as much storage as possible within the permeable paving subbase and above ground storage features.

There is also still a large proportion of car park left unattenuated and untreated by source control measures. Whilst we acknowledge the inclusion of the pond, as explained this will not treat the run-off due to the interception of the tank.

5. Appropriate management and treatment of surface water is still not being provided for the site. As explained previously we will not accept



petrol interceptors as a 'treatment' stage as part of a sustainable drainage system. Also, appropriate management and treatment still needs to be provided for the access road.

The applicant needs to demonstrate that the site meets the appropriate level of treatment as detailed in the Ciria SuDS Manual.

As explained under Point 4, there is inadequate treatment of the car park to the north of the site and the internal roads. Source control measures are required for these areas to provide adequate treatment prior to discharge. As stated under point 4, the use of the pond after the tank does not provide an adequate SuDS treatment train, allowing the hydrocarbons and diffuse pollution into the tank untreated.

Permeable paving is provided on the western side of the site prior to discharge into the tank. It should be clarified if the permeable paving will include a granular subbase to provide a secondary treatment stage prior to the discharge into the tank.

6. As previously stated:

'All calculations and modelling will need to be updated considering the above comments and with any updates to the drainage strategy. Half drain down times for the attenuation need to be provided for the 1 in 100 year plus climate change event. The current MicroDrainage modelling states that Half Drain Time has not been calculated as the structure is too full. Half drain down time for all events including the 1 in 100 year plus climate change event need to be provided within 24 hours.

Currently flood volume is leaving the system in the 1 in 100 year plus climate change event (25.440m<sup>3</sup>). The applicant needs to detail how this is being managed within the site.

The technical note has stated in response:

'Please find appended updated calculations and drainage plan which includes a 40% CC allowance with the attenuation adjusted to suit. Any minor flooding within the 100-year event + CC will be contained within local low spots at surface level'.

We have reviewed the updated calculations and this shows that half drain down times still cannot be achieved within the proposed tank. We suggest that some upstream above storage attenuation options may need to be considered to reduce the rate and volume entering the tank at any one time. As a traditional piped system with an end of system tank is being proposed all surface water during all events is entering tank, placing the operation of the drainage system solely on the tank. By

providing alternative on site and at source drainage features this will reduce the 'peak' of the flow and volume entering the tank, allowing it to empty more efficiently. However ideally the drainage system should only include a tank as a last resort as stipulated in our requirements in point 4 for the implementation of more sustainable drainage options.

In any case any flooding of the site should be shown on the site layout plan with extents and volumes, based on proposed levels detailing how this will be managed on site.

Based on the revised drainage scheme, revised surface water calculations have been undertaken which shows that half drain down of the drainage system is only possible up to the 1 in 30-year event. Any proposed storage measures should demonstrate a half drain down time within 24 hours up to the 1 in 100 year + climate change event. If this is not possible, either additional upstream storage should be explored, or it should be demonstrated that the drainage system can cope with a subsequent 1 in 30-year event (following the 1 in 100 plus climate change).

Additional comments to the LPA/applicant

For further advice on what we expect to be contained within the surface water drainage assessment to support a full planning application, please refer to our Developers Guide and Checklist on our surface water drainage webpage.

Informative to the LPA

We ask to be re-consulted with the above addressed. We will provide you with bespoke comments within 21 days of receiving formal re-consultation. Our objection will be maintained until an adequate surface water drainage assessment has been submitted.

Please note, if the LPA decides to grant planning permission, we wish to be notified for our records.

Further comments received 27<sup>th</sup> August 2021

Thank you for re-consulting us on the above application for Construction of a Class E limited assortment discount food store with associated car parking, access, landscaping and engineering works at Land North of Jarman Centre, Jarman Way, Hemel Hempstead, Hertfordshire.

The applicant has provided the following information in response to our previous letter of objection dated 27 April 2021:

- o Avison Young Covering letter dated 22 July 2021
- o Technical Note prepared by Bayham Meikle dated 16 July 2021 reference 12883-JH 1st issue

Our previous response dated 27 April 2021 objected on the following points:

1. Feasible discharge mechanism
2. Provision of greenfield runoff rates
3. Adequate provision of climate change
4. Provision of above ground SuDS
5. Appropriate management and treatment
6. Management of informal flooding, updates to calculations and modelling, including provision of half drain down times

Unfortunately, the information provided to date does not provide a suitable basis for an assessment to be made of the flood risk arising from the proposed development. Therefore, we continue to object to the grant of planning permission. In order for the Lead Local Flood Authority to advise the relevant Local Planning Authority that the site will not increase flood risk to the site and elsewhere and can provide appropriate sustainable drainage techniques the following information is required as part of the surface water drainage assessment:

The overcome the above objection points, please see below comments:

Overcoming our objection

1. The proposed method of surface water discharge is to sewer. It is acknowledged that the underlying strata is unsuitable for infiltration. Considering the strata, all SuDS features should be lined.

The applicant has detailed how from surveys conducted of the existing utilities within the vicinity of the site, it is evident that there is a surface water sewer within the existing access to the site with adequate depth. This sewer is proposed to be utilised to discharge surface water flows. Based on the appendices provided which is an extract from a Thames Water e-mail response and Land Registry information, it is still not clear whether permission to connect from the asset owner has been granted and if the existing drainage system has the capacity to accept the proposed discharge rates and volumes.

The Thames Water response seems to relate to their concern regarding

ground water inundation into their sewers and any proposed sewer systems. As the sewer being proposed to connect into is not a Thames Water Asset, we still need confirmation that the asset owner (this may be the landowner which from the Land Registry information appears to be Dacorum BC). The extract provided which has no point of reference, appears to suggest that there is a 'right to connect' and enter 3rd party land. This still does not provide confirmation that connection is feasible, and the existing drainage system can cater for the proposed discharge rate and volumes.

Please see comments below regarding the proposed discharge rate.

2. No technical justification has been provided to not assess the pre-development greenfield run-off rates using the industry best practice as stated in our previous response. Referring to previous FRAs and agreed rates is not a technical justification for not undertaking an assessment using current best practice and up to date policies on implementing appropriate surface water management.

Please refer to our updated Local Flood Risk Management Strategy including SuDS policies

<https://www.hertfordshire.gov.uk/media-library/documents/environment-and-planning/water/flood-risk-management/lfrms-for-hertfordshire-full-report.pdf> adopted in February 2019 with specific reference to Policy 15 in relation to greenfield rates and Policy 18 in relation to above ground SuDS features.

We ask that this is assessed for the current greenfield conditions using the modelling methods quoted in our last response. We note on the submitted drainage plan submitted with the technical note a rate of 5.5l/s is now being proposed and a rate of 4l/s for the future development site. We are unable to comment on the other site which has not yet come forward for planning.

3. The applicant previously used the provision of climate change of 35%. The applicant has now revised the surface water calculations to provide an allowance of 40%.

However, we requested that if as a result there is out of network flooding, any informal flooding will need to be managed within the site. We note from the updated calculations flooding occurs at pipe 1.000 of a volume of 9m<sup>3</sup> during the 1 in 100 year + 40% allowance for climate change. This should be shown on a site plan based on proposed site levels to demonstrate that this can be safely retained within the site.

4. As stated previously for a greenfield site we expect the inclusion of above ground SuDS (See Policy 18 of the LFRMS- link provided under Point 2) and as explained previously these can be small in scale

offering multiple attenuation, conveyance, and water quality treatment within the site prior to discharge into an underground drainage system. No technical information has been provided to justify not including above ground features and permeable paving which as stated before could be sited in areas where HGVs do not use i.e., customer car parking bays.

As the proposed site is classed as greenfield, it is LLFA policy that above ground features should be used, underground tanks should not be used on greenfield sites. Currently, no above ground features are being provided, which is not acceptable. The proposed drainage strategy is based entirely on gullies, pipes, an underground tank and petrol interceptor, which is the least sustainable solution. The current method of gullies and pipes for the access road is also not acceptable. The applicant should be providing SuDS features such as attenuation basins, permeable paving and swales.

If once features such as these are included, some additional underground storage is needed in order to manage for the 1 in 100 year plus climate change event, strong technical justification needs to be provided.

In terms of the justification of SuDS features the applicant has discounted multiple SuDS features based on cost. Cost is not an adequate justification for the lack of implementation of a sustainable scheme.

It has now been stated that the reason for not using permeable paving is again due to HGVs going over the permeable paving and loosening the paving block causing a trip hazard to customers. This is not something we have come across before and as stated previously you would place the permeable paving in areas where the HGVs do not drive over, one would assume this would not include customer parking bays and that the HGVs have a dedicated access route. Any areas that had to be traditionally tarmacked due to the loading of HGVs could be levelled to ensure any run-off from these areas drains into the permeable paving areas.

The permeable paving could be supplemented with an artificial sub-base to create more storage which in this case could be lined due to the previous use of the site.

It is also stated the reason for not using filter strips and swales is due to the perimeter of the site including bunds. As these areas are changing the levels of the site, the applicant may need to consider how the bunds will be drained, usually a filter trench at the bottom of a bund would be provided.

Until an adequate sustainable drainage system which aims to mimic the existing greenfield site is provided, we will maintain our objection to this point. Site layout and space should be taken into account for the provision of SuDS, not deciding the site layout then deciding where SuDS can be accommodated.

5. Appropriate management and treatment of surface water is still not being provided for the site.

As explained previously we will not accept petrol interceptors as a 'treatment' stage as part of a sustainable drainage system. Also, appropriate management and treatment still needs to be provided for the access road.

The applicant needs to demonstrate that the site meets the appropriate level of treatment as detailed in the Ciria SuDS Manual.

6. As previously stated:

'All calculations and modelling will need to be updated considering the above comments and with any updates to the drainage strategy. Half drain down times for the attenuation need to be provided for the 1 in 100 year plus climate change event. The current MicroDrainage modelling states that Half Drain Time has not been calculated as the structure is too full. Half drain down time for all events including the 1 in 100 year plus climate change event need to be provided within 24 hours.

Currently flood volume is leaving the system in the 1 in 100 year plus climate change event (25.440m<sup>3</sup>). The applicant needs to detail how this is being managed within the site.

The technical note has stated in response:

'Please find appended updated calculations and drainage plan which includes a 40% CC allowance with the attenuation adjusted to suit. Any minor flooding within the 100-year event + CC will be contained within local low spots at surface level'.

We have reviewed the updated calculations and this shows that half drain down times still cannot be achieved within the proposed tank. We suggest that some upstream above storage attenuation options may need to be considered to reduce the rate and volume entering the tank at any one time. As a traditional piped system with an end of system tank is being proposed all surface water during all events is entering tank, placing the operation of the drainage system solely on the tank. By

providing alternative on site and at source drainage features this will reduce the 'peak' of the flow and volume entering the tank, allowing it to empty more efficiently. However ideally the drainage system should only include a tank as a last resort as stipulated in our requirements in point 4 for the implementation of more sustainable drainage options.

In any case any flooding of the site should be shown on the site layout plan with extents and volumes, based on proposed levels detailing how this will be managed on site.

Additional comments to the LPA/applicant

As above, we would advise that in all instances the pre-development greenfield runoff rate should be used and the current proposed rate, is based on old guidance and is too high. Permission is also needed from the asset owner.

As the entire site in both instances is proposing the final discharge location to be a manhole in the access road, with flow controls for each site, we will comment on that site as and when we are consulted when it comes forward.

We would advise that the above comments are on the drainage scheme for the development proposed within the red line boundary. For further advice on what we expect to be contained within the surface water drainage assessment to support a planning application, please refer to our Developers Guide and Checklist on our surface water drainage webpage.

<https://www.hertfordshire.gov.uk/services/recycling-waste-and-environment/water/surface-water-drainage/surface-water-drainage.aspx#>

Informative to the LPA

We ask to be re-consulted with the above addressed. We will provide you with bespoke comments within 21 days of receiving formal re-consultation. Our objection will be maintained until an adequate surface water drainage assessment has been submitted.

Please note, if the LPA decides to grant planning permission, we wish to be notified for our records.

Further comments received 28<sup>th</sup> February 2022

Thank you for re-consulting us on the above application for Construction of a Class E limited assortment discount food store with associated car parking, access, landscaping and engineering works at

Land North of Jarman Centre, Jarman Way, Hemel Hempstead, Hertfordshire.

The applicant has provided the following information in response to our latest letter of objection dated 27 August 2021:

- Covering letter JH/12883 dated 22 December 2021 prepared by Bayheim Meikle
- Covering e-mail dated 7 January 2022 prepared by Avison Young
- Proposed drainage plan 12883 200 F dated 17 December 2021 prepared by Bayheim Meikle
- Proposed site plan 190400 PL-03 Rev N dated 14 December 2021 prepared by Whittam/Cox Architects
- Micro drainage Greenfield Calculations dated 17 December 2021 prepared by Bayheim Meikle
- Micro drainage proposed surface water calculations dated 17 December 2021 prepared by Bayheim Meikle

The applicant has provided the previous information:

- o Avison Young Covering letter dated 22 July 2021
- o Technical Note prepared by Bayham Meikle dated 16 July 2021 reference 12883-JH 1st issue

Our previous response dated 27 August 2021 objected on the following points:

1. Feasible discharge mechanism
2. Provision of greenfield runoff rates
3. Adequate provision of climate change
4. Provision of above ground SuDS
5. Appropriate management and treatment
6. Management of informal flooding, updates to calculations and modelling, including provision of half drain down times

Unfortunately, the information provided to date does not provide a suitable basis for an assessment to be made of the flood risk arising from the proposed development.

Therefore, we continue to object to the grant of planning permission. In order for the Lead Local Flood Authority to advise the relevant Local Planning Authority that the site will not increase flood risk to the site and elsewhere and can provide appropriate sustainable drainage techniques the following information is required as part of the surface water drainage assessment:

The overcome the above objection points, please see below comments



(previous comments in italic):

#### Overcoming our objection

1. 'The applicant has detailed how from surveys conducted of the existing utilities within the vicinity of the site, it is evident that there is a surface water sewer within the existing access to the site with adequate depth. This sewer is proposed to be utilised to discharge surface water flows.

Based on the appendices provided which is an extract from a Thames Water email response and Land Registry information, it is still not clear whether permission to connect from the asset owner has been granted and if the existing drainage system has the capacity to accept the proposed discharge rates and volumes.

The Thames Water response seems to relate to their concern regarding ground water inundation into their sewers and any proposed sewer systems. As the sewer being proposed to connect into is not a Thames Water Asset, we still need confirmation that the asset owner (this may be the landowner which from the Land Registry information appears to be Dacorum BC). The extract provided which has no point of reference, appears to suggest that there is a 'right to connect' and enter 3rd party land. This still does not provide confirmation that connection is feasible, and the existing drainage system can cater for the proposed discharge rate and volumes'.

The covering e-mail from Avison Young dated 7 January 2022 queries the right to connect and capacity of the existing surface water sewer with the LPA to direct the query to DBC estates department. No further information has been provided if this permission has been granted and whether the capacity of the existing sewer to receive the proposed revised discharge rate of 4.1l/s (Qbar) and surface water volumes is adequate. This information is required to confirm a feasible means of discharge.

2. 'No technical justification has been provided to not assess the pre-development greenfield run-off rates using the industry best practice as stated in our previous response. Referring to previous FRAs and agreed rates is not a technical justification for not undertaking an assessment using current best practice and up to date policies on implementing appropriate surface water management.

Please refer to our updated Local Flood Risk Management Strategy including SuDS policies

<https://www.hertfordshire.gov.uk/medialibrary/documents/environment-and-planning/water/flood-risk-management/lfrmsfor-hertfordshire-full-r>

eport.pdf adopted in February 2019 with specific reference to Policy 15 in relation to greenfield rates and Policy 18 in relation to above ground SuDS features.

We ask that this is assessed for the current greenfield conditions using the modelling methods quoted in our last response. We note on the submitted drainage plan submitted with the technical note a rate of 5.5l/s is now being proposed and a rate of 4l/s for the future development site. We are unable to comment on the other site which has not yet come forward for planning'.

The applicant has provided a revised pre-development greenfield rate which has calculated rates for all events from the 1 in 1 year to the 1 in 100 year. The calculations also include the Qbar rate of 4.1l/s, which the applicant is proposing to use for the final discharge rate which is 0.6l/s higher than the 1 in 1 year rate. We appreciate that the applicant is struggling to achieve half drain down times due to the greenfield rate proposed, we therefore may be able to accept the slightly higher rate of 4.1l/s if the applicant can provide an adequate SuDS management train.

3. The applicant previously used the provision of climate change of 35%. The applicant has now revised the surface water calculations to provide an allowance of 40%.

However, we requested that if as a result there is out of network flooding, any informal flooding will need to be managed within the site. We note from the updated calculations flooding occurs at pipe 1.000 of a volume of 9m<sup>3</sup> during the 1 in 100 year + 40% allowance for climate change. This should be shown on a site plan based on proposed site levels to demonstrate that this can be safely retained within the site.

The applicant has carried out revised drainage calculations based on the revised discharge rate and drainage scheme which shows no flooding from the drainage system for all rainfall events up to the 1 in 100 year + climate change event for 40%.

4. As stated previously for a greenfield site we expect the inclusion of above ground SuDS (See Policy 18 of the LFRMS- link provided under Point 2) and as explained previously these can be small in scale offering multiple attenuation, conveyance, and water quality treatment within the site prior to discharge into an underground drainage system. No technical information has been provided to justify not including above ground features and permeable paving which as stated before could be sited in areas where HGVs do not use i.e., customer car parking bays.

As the proposed site is classed as greenfield, it is LLFA policy that above ground features should be used, underground tanks should not be used on greenfield sites. Currently, no above ground features are being provided, which is not acceptable. The proposed drainage strategy is based entirely on gullies, pipes, an underground tank and petrol interceptor, which is the least sustainable solution.

The current method of gullies and pipes for the access road is also not acceptable.

The applicant should be providing SuDS features such as attenuation basins, permeable paving and swales.

If once features such as these are included, some additional underground storage is needed in order to manage for the 1 in 100 year plus climate change event, strong technical justification needs to be provided.

In terms of the justification of SuDS features the applicant has discounted multiple SuDS features based on cost. Cost is not an adequate justification for the lack of implementation of a sustainable scheme.

It has now been stated that the reason for not using permeable paving is again due to HGVs going over the permeable paving and loosening the paving block causing a trip hazard to customers. This is not something we have come across before and as stated previously you would place the permeable paving in areas where the HGVs do not drive over, one would assume this would not include customer parking bays and that the HGVs have a dedicated access route. Any areas that had to be traditionally tarmacked due to the loading of HGVs could be levelled to ensure any run-off from these areas drains into the permeable paving areas.

The permeable paving could be supplemented with an artificial sub-base to create more storage which in this case could be lined due to the previous use of the site.

It is also stated the reason for not using filter strips and swales is due to the perimeter of the site including bunds. As these areas are changing the levels of the site, the applicant may need to consider how the bunds will be drained, usually a filter trench at the bottom of a bund would be provided.

Until an adequate sustainable drainage system which aims to mimic the existing greenfield site is provided, we will maintain our objection to this

point. Site layout and space should be taken into account for the provision of SuDS, not deciding the site layout then deciding where SuDS can be accommodated.

Whilst we acknowledge the applicant has now included a swale, pond, interception filter drains (at the base of the bunds) and a proportion of permeable paving within the western part of the car park, the proposed drainage scheme does not follow the SuDS hierarchy and surface water treatment train.

The proposed swale to manage the volumes and water quality from the access road we find proportionate and adequate to serve the small area of access road prior to discharge with an overflow tank for attenuation during higher events.

However, the remainder of the site is still relying on the proposed tank for attenuation and is placed as the first attenuation stage for the majority of the car park and internal road run-off. The tank is located upstream of the pond so any surface water run-off is placed underground straight away and any hydrocarbons and other diffuse pollution will discharge straight into the tank. The tank then discharges into the pond, by which time the pollution and silt are already discharged into the tank and at a greater depth. The tank should be used as a residual storage at the end of the system once it has been passed through the above ground storage measures, utilising as much storage as possible within the permeable paving subbase and above ground storage features.

There is also still a large proportion of car park left unattenuated and untreated by source control measures. Whilst we acknowledge the inclusion of the pond, as explained this will not treat the run-off due to the interception of the tank.

5. Appropriate management and treatment of surface water is still not being provided for the site. As explained previously we will not accept petrol interceptors as a 'treatment' stage as part of a sustainable drainage system. Also, appropriate management and treatment still needs to be provided for the access road.

The applicant needs to demonstrate that the site meets the appropriate level of treatment as detailed in the Ciria SuDS Manual.

As explained under Point 4, there is inadequate treatment of the car park to the north of the site and the internal roads. Source control measures are required for these areas to provide adequate treatment prior to discharge. As stated under point 4, the use of the pond after the tank does not provide an adequate SuDS treatment train, allowing the hydrocarbons and diffuse pollution into the tank untreated.

Permeable paving is provided on the western side of the site prior to discharge into the tank. It should be clarified if the permeable paving will include a granular subbase to provide a secondary treatment stage prior to the discharge into the tank.

6. As previously stated:

'All calculations and modelling will need to be updated considering the above comments and with any updates to the drainage strategy. Half drain down times for the attenuation need to be provided for the 1 in 100 year plus climate change event. The current MicroDrainage modelling states that Half Drain Time has not been calculated as the structure is too full. Half drain down time for all events including the 1 in 100 year plus climate change event need to be provided within 24 hours.

Currently flood volume is leaving the system in the 1 in 100 year plus climate change event (25.440m<sup>3</sup>). The applicant needs to detail how this is being managed within the site.

The technical note has stated in response:

'Please find appended updated calculations and drainage plan which includes a 40% CC allowance with the attenuation adjusted to suit. Any minor flooding within the 100-year event + CC will be contained within local low spots at surface level'.

We have reviewed the updated calculations and this shows that half drain down times still cannot be achieved within the proposed tank. We suggest that some upstream above storage attenuation options may need to be considered to reduce the rate and volume entering the tank at any one time. As a traditional piped system with an end of system tank is being proposed all surface water during all events is entering tank, placing the operation of the drainage system solely on the tank. By providing alternative on site and at source drainage features this will reduce the 'peak' of the flow and volume entering the tank, allowing it to empty more efficiently. However ideally the drainage system should only include a tank as a last resort as stipulated in our requirements in point 4 for the implementation of more sustainable drainage options.

In any case any flooding of the site should be shown on the site layout plan with extents and volumes, based on proposed levels detailing how this will be managed on site.

Based on the revised drainage scheme, revised surface water

	<p>calculations have been undertaken which shows that half drain down of the drainage system is only possible up to the 1 in 30-year event. Any proposed storage measures should demonstrate a half drain down time within 24 hours up to the 1 in 100 year + climate change event. If this is not possible, either additional upstream storage should be explored, or it should be demonstrated that the drainage system can cope with a subsequent 1 in 30-year event (following the 1 in 100 plus climate change).</p> <p>Additional comments to the LPA/applicant</p> <p>For further advice on what we expect to be contained within the surface water drainage assessment to support a full planning application, please refer to our Developers Guide and Checklist on our surface water drainage webpage.</p> <p><a href="https://www.hertfordshire.gov.uk/services/recycling-waste-andenvironment/water/surface-water-drainage/surface-water-drainage.aspx#">https://www.hertfordshire.gov.uk/services/recycling-waste-andenvironment/water/surface-water-drainage/surface-water-drainage.aspx#</a></p> <p>Informative to the LPA</p> <p>We ask to be re-consulted with the above addressed. We will provide you with bespoke comments within 21 days of receiving formal re-consultation. Our objection will be maintained until an adequate surface water drainage assessment has been submitted.</p> <p>Please note, if the LPA decides to grant planning permission, we wish to be notified for our records.</p>
<p><b>Hertfordshire Ecology</b></p>	<p>Thank you for consulting Hertfordshire Ecology on the above, for which I have the following comments:</p> <p>An Ecological Appraisal by fpcr (report date August 2020) has been submitted in support of this application. The presence of suitable habitat for Reptiles particularly slow worms was highlighted in the report and further surveys completed in September 2020 which found no evidence of their presence. I have no reason to doubt the findings of these reports in terms of the likely presence of protected species and value of the onsite habitats.</p> <p>Consequently, I advise that the recommendations for Badgers in section 5.14, Bats in relation to lighting in sections 5.19 and 5.22, and Hedgehogs in section 5.33 are carried out in full and are best secured by Condition. Measures to safeguard nesting birds recommended in section 5.27 should be include as an informative with any consent given.</p>

	<p>I support the inclusion of the ecological enhancements (sections 5.20, 5.21, 5.28, 5.34- 5.36) in the form: of bat and bird boxes, other habitat features, replacement tree planting and the use of species of benefit to wildlife. Some of the above planting recommendations appear to be reflected in the accompanying planting scheme. However, I advise that this information is combined with the location of all the recommended enhancements and demonstrated within a Landscape and Ecological Management Plan which should be secured by Condition.</p> <p>Since the application will result in the loss of the existing habitats and the planning system should aim to deliver overall net gains for biodiversity where possible (as laid out in the National Planning Policy Framework and other planning policy documents). The LPA needs to be satisfied that the overall impact of the development is beneficial to biodiversity. Furthermore, since the January 2020 Environment Bill a greater emphasises should be given to measurable biodiversity net gain using the current version of the Natural England Biodiversity Metric. Although this is not yet law and cannot be used as a reason for refusal, this metric would allow the LPA to assess whether sufficient biodiversity net gain has been achieved by the development and I would support its use in this case.</p> <p>I trust these comments are of assistance.</p>
<p><b>Herts &amp; Middlesex Wildlife Trust</b></p>	<p>No comment.</p>
<p><b>Environment Agency</b></p>	<p>No comment.</p>
<p><b>Environmental And Community Protection (DBC)</b></p>	<p>Thank you for your consultation on the above planning application. I have reviewed the details and information provided.</p> <p>I understand the proposal relates to the Erection of a Class E limited assortment discount foodstore with associated car parking, access, landscaping and engineering works.</p> <p>Noise</p> <p>I consider that the proposal is of relatively low risk to cause adverse noise impact from the operational phase and consider noise from the construction phase and mechanical services plant can be suitably conditioned via consent conditions, which I detail below.</p> <p>Air Quality</p> <p>The AQ report submitted by BWB reference MCP2317, dated December 2020 concluded;</p>

1. Construction Phase- measures were recommended for inclusion in a DMP to minimise emissions during construction activities. With the implementation of these mitigation measures the impact of construction phase dust emissions is considered to be 'not significant' in accordance with IAQM guidance

2. Operational Phase- A detailed road traffic emissions assessment was undertaken to consider the impact of development-generated road traffic on local air quality at identified existing receptor locations. Road traffic emissions were modelled using the dispersion model ADMSRoads and concentrations of NO<sub>2</sub>, PM<sub>10</sub> and PM<sub>2.5</sub> were predicted at identified sensitive receptor locations. The modelling assessment was undertaken in accordance with Defra Local Air Quality Management Technical Guidance.

The development was not predicted to result in any new exceedances of the relevant air quality objectives and the impact of the development on local air quality was predicted to be 'negligible' in accordance with IAQM and EPUK guidance I do not have any objections to the methodology or outcome of the assessment and consider that construction phase matters can be suitably controlled via a Dust Management Plan condition, which i detail below.

#### Proposed Conditions

##### Mechanical Services Noise Control Condition

Before any mechanical services plant including heating, ventilation and refrigeration to which the application refers is used at the premises, a scheme shall be submitted to and approved in writing by the local planning authority which demonstrates that the following noise design requirements can be complied with and shall thereafter be retained as approved.

The cumulative measured or calculated rating level of noise emitted from the mechanical services plant, shall be 5dB(A) below the existing background noise level, at all times that the mechanical system etc. operates. The measured or calculated noise levels shall be determined at the boundary of the nearest ground floor noise sensitive premises or 1 meter from the facade of the nearest first floor (or higher) noise sensitive premises, and in accordance to the latest British Standard 4142; An alternative position for assessment /measurement may be used to allow ease of access, this must be shown on a map and noise propagation calculations detailed to show how the design criteria is achieved.



Demolition and Construction Environmental Management Plan (DCEMP)

Prior to the commencement of development, a Demolition and Construction Environmental Management Plan (DCEMP) shall be submitted to and approved in writing by the local planning authority. The DCEMP shall include the consideration of the following aspects of demolition and construction:

1. Demolition, construction and phasing programme.
2. Contractors access arrangements for vehicles, plant and personnel including the location of construction traffic routes to, from and within the site, details of their signing, monitoring and enforcement measures.
3. Construction/Demolition hours shall be carried out between 07:30 hours to 17:30 hours Monday to Friday, and 0800 hours to 1300 hours on Saturday and at no time on Sundays, Bank or Public Holidays, unless in accordance with agreed emergency procedures for deviation. Prior notice and agreement procedures for works outside agreed limits and hours.
4. Delivery times for construction/demolition purposes shall be carried out between 07:30 to 17:30 hours Monday to Friday, 0800 to 1300 hours on Saturdays and at no time on Sundays, bank or public holidays, unless otherwise agreed in writing by the local planning authority in advance.
5. Soil Management Strategy.
6. Noise method, monitoring and recording statements in accordance with the provisions of BS 5228-1: 2009+A12014.
7. Maximum noise mitigation levels for construction equipment, plant and vehicles.
8. Vibration method, monitoring and recording statements in accordance with the provisions of BS 5228-2: 2009.
9. Maximum vibration levels.
10. Dust management (including wheel washing measures) in accordance with the provisions of Air Quality Management, Guidance on the assessment of dust from demolition and construction (2014).
11. Prohibition of the burning of waste on site during demolition/construction.
12. Site lighting.
13. Screening and hoarding details.
14. Access and protection arrangements around the site for pedestrians, cyclists and other road users.
15. Procedures for interference with public highways, including permanent and temporary realignment, diversions and road closures.
16. External safety and information signing and notices.
17. Prior notice and agreement procedures for works outside agreed limits.
18. Complaints procedures, including complaints response procedures.

19. Membership of the Considerate Contractors Scheme.

The development shall then be undertaken in accordance with the agreed plan.

Contamination

Having reviewed the application documents, in particular the Applied Geology Site Investigation Review letter ref: AG3066-19-AJ05, dated September 2019, I am able to confirm that there is no objection to the proposed development.

However, for the reasons detailed later in this memo I am recommending that the following contaminated land conditions should be included on the planning permission, should permission be granted.

Contaminated Land Conditions:

Condition 1:

- (a) No development approved by this permission shall be commenced until a Site Investigation (Phase II environmental risk assessment) report has been submitted to and approved by the Local Planning Authority which includes:
  - (i) A full identification of the location and concentration of all pollutants on this site and the presence of relevant receptors, and;
  - (ii) The results from the application of an appropriate risk assessment methodology.
- (b) No development approved by this permission (other than that necessary for the discharge of this condition) shall be commenced until a Remediation Method Statement report; if required as a result of (a), above; has been submitted to and approved by the Local Planning Authority.
- (c) This site shall not be occupied, or brought into use, until:
  - (i) All works which form part of the Remediation Method Statement report pursuant to the discharge of condition (b) above have been fully completed and if required a formal agreement is submitted that commits to ongoing monitoring and/or maintenance of the remediation scheme.
  - (ii) A Remediation Verification Report confirming that the site is suitable for use has been submitted to, and agreed by, the Local Planning Authority.

Reason: To ensure that the issue of contamination is adequately

addressed and to ensure a satisfactory development, in accordance with Core Strategy (2013) Policy CS32.

Condition 2:

Any contamination, other than that reported by virtue of Condition 1 encountered during the development of this site shall be brought to the attention of the Local Planning Authority as soon as practically possible; a scheme to render this contamination harmless shall be submitted to and agreed by, the Local Planning Authority and subsequently fully implemented prior to the occupation of this site. Works shall be temporarily suspended, unless otherwise agreed in writing during this process because the safe development and secure occupancy of the site lies with the developer.

Reason: To ensure that the issue of contamination is adequately addressed and to ensure a satisfactory development, in accordance with Core Strategy (2013) Policy CS32.

Informative:

The above conditions are considered to be in line with paragraphs 170 (e) & (f) and 178 and 179 of the NPPF 2019.

The Environmental Health Team has a web-page that aims to provide advice to potential developers, which includes a copy of a Planning Advice Note on "Development on Potentially Contaminated Land and/or for a Sensitive Land Use" in use across Hertfordshire and Bedfordshire. This can be found on [www.dacorum.gov.uk](http://www.dacorum.gov.uk) by searching for contaminated land and I would be grateful if this fact could be passed on to the developers.

Whilst it is acknowledged that Condition 17 is in place on the existing permission, 4/00595/18/MFA, for a similar development to that proposed by this application, the imposition of the above conditions is necessary for the following reasons:

- o This application 21/01018/MFA is not identical to that permitted by 4/00595/18/MFA
- o A period of 4 years has passed since the last ground investigation and gas monitoring
- o The submitted review of the historical land contamination work is of limited value for the following reasons:
  - a. It does not provide a comparison between the two planning applications against which the historical results have been, or can be, considered

	<p>b. It does not provide a usable summary of the previous findings with no summary tables, no mapping and no other context to the analytical results that are referred to.</p> <p>c. The summary of the findings of the gas monitoring are not clear and similar to point (b) there is insufficient context to the results referred to.</p> <p>d. There has been no qualitative assessment of the applicability of the work undertaken to date in relation to its suitability to this application.</p> <p>o The previously agreed remediation methodology has not been submitted in relation to the development proposed by 21/01018/MFA, so its applicability to the proposed development cannot be assessed. As indicated in the above bullet points it is also based on ground contamination information from 4 years ago.</p>
<b>Parks &amp; Open Spaces (DBC)</b>	No comment.
<b>Hertfordshire Building Control</b>	No comment.
<b>Affinity Water - Three Valleys Water PLC</b>	No comment.
<b>Thames Water</b>	<p>Waste Comments</p> <p>Thames Water would advise that with regard to FOUL WATER sewerage network infrastructure capacity, we would not have any objection to the above planning application, based on the information provided.</p> <p>With the information provided Thames Water has been unable to determine the waste water infrastructure needs of this application for SURFACE WATER drainage. Thames Water request that the following condition be added to any planning permission. "No development shall be occupied until confirmation has been provided that either:- 1. Capacity exists off site to serve the development or 2. A development and infrastructure phasing plan has been agreed with the Local Authority in consultation with Thames Water. Where a development and infrastructure phasing plan is agreed, no occupation shall take place other than in accordance with the agreed development and infrastructure phasing plan. Or 3. All wastewater network upgrades required to accommodate the additional flows from the development have been completed. Reason - Network reinforcement works may be required to accommodate the proposed development. Any reinforcement works identified will be necessary in order to avoid flooding and/or potential pollution incidents. The developer can request information to support the discharge of this condition by visiting the Thames Water website at <a href="http://thameswater.co.uk/preplanning">thameswater.co.uk/preplanning</a>. Should the</p>

	<p>Local Planning Authority consider the above recommendation inappropriate or are unable to include it in the decision notice, it is important that the Local Planning Authority liaises with Thames Water Development Planning Department (telephone 0203 577 9998) prior to the planning application approval.</p> <p>Thames Water recognises this catchment is subject to high infiltration flows during certain groundwater conditions. The scale of the proposed development doesn't materially affect the sewer network and as such we have no objection, however care needs to be taken when designing new networks to ensure they don't surcharge and cause flooding. In the longer term Thames Water, along with other partners, are working on a strategy to reduce groundwater entering the sewer networks.</p> <p>Thames Water recognises this catchment is subject to high infiltration flows during certain groundwater conditions. The developer should liaise with the LLFA to agree an appropriate sustainable surface water strategy following the sequential approach before considering connection to the public sewer network. The scale of the proposed development doesn't materially affect the sewer network and as such we have no objection, however care needs to be taken when designing new networks to ensure they don't surcharge and cause flooding. In the longer term Thames Water, along with other partners, are working on a strategy to reduce groundwater entering the sewer network.</p> <p>Water Comments</p> <p>With regard to water supply, this comes within the area covered by the Affinity Water Company. For your information the address to write to is - Affinity Water Company The Hub, Tamblin Way, Hatfield, Herts, AL10 9EZ - Tel - 0845 782 3333.</p> <p>Supplementary Comments</p> <p>Waste- Regarding SURFACE WATER drainage TW would require the point(s) of connection for this development.</p>
<p><b>Hertfordshire Highways (HCC)</b></p>	<p>Notice is given under article 18 of the Town and Country Planning (Development Management Procedure) (England) Order 2015 that the Hertfordshire County Council as Highway Authority does not wish to restrict the grant of permission subject to the following conditions:</p> <p>1. No development shall commence until full details have been submitted and approved in writing by the Local Planning Authority to illustrate the following:</p>

- o A higher level of active and passive electric vehicle charging provision (in accordance with Dacorum Borough Council's Parking Standards Supplementary Planning Document);
- o Tactile paving on the footways on either side of the existing bellmouth access into the site from Jarmin Way.

Reason: To ensure suitable, safe and satisfactory planning and development of the site in accordance with Policy 5 of Hertfordshire's Local Transport Plan (adopted 2018).

(MAY BE MORE APPROPRIATE TO SECURE THIS AS AN AMENDMENT OR SUPPLEMENT AS PART OF THE CONSULTATION)

## 2. Provision of Parking and Servicing Areas

Prior to the first use of the development hereby permitted the proposed on-site car and cycle parking and turning areas shall be laid out, demarcated, levelled, surfaced and drained in accordance with the approved plans and retained thereafter available for that specific use.

Reason: To ensure construction of a satisfactory development and in the interests of highway safety in accordance with Policy 5 of Hertfordshire's Local Transport Plan (adopted 2018).

## 2. Construction Management Plan / Statement:

No development shall commence until a Construction Management Plan has been submitted to and approved in writing by the Local Planning Authority. Thereafter the construction of the development shall only be carried out in accordance with the approved Plan. The Construction Management Plan shall include details of:

- a. Construction vehicle numbers, type;
- b. Access arrangements to the site;
- c. Traffic management requirements
- d. Construction and storage compounds (including areas designated for car parking, loading / unloading and turning areas);
- e. Siting and details of wheel washing facilities;
- f. Timing of construction activities (including delivery times and removal of waste);

Reason: In order to protect highway safety and the amenity of other users of the public highway and rights of way in accordance with Policies 5, 12, 17 and 22 of Hertfordshire's Local Transport Plan (adopted 2018).

## Planning Obligations

A Full Travel Plan would be required to be in place from first occupation until 5 years post full occupation. A £1,200 per annum (index-linked RPI March 2014) Evaluation and Support Fee would need to be secured via a Section 106 agreement towards supporting the implementation, processing and monitoring of a full travel plan including any engagement that may be needed. For further information please see the following link

<https://www.hertfordshire.gov.uk/services/highways-roads-and-pavements/business-and-developer-information/development-management/highways-development-management.aspx> OR by emailing [travelplans@hertfordshire.gov.uk](mailto:travelplans@hertfordshire.gov.uk)

## Comments / Analysis

The application comprises of an class E, discount foodstore with a Gross Internal Area (GIA) of 2,488sqm retail floor area of 1662m2 on land at Jarman Way, Hemel Hempstead. Jarman Way is a private road and not maintainable at public expense. The application site is abutted on its northern boundary by the A414 St Albans Road, which is designated as a classified A main distributor road and subject to a speed limit of 40mph.

A Transport Assessment (TA) has been submitted as part of the application.

## Vehicle Access

There is an existing bellmouth in / out vehicle access into site via Jarman Way. Jarman Way also provides access to the larger Jarman Park commercial / leisure park and a large one-way system operates around the park. The proposals would utilise this existing access point and do not include any new or altered vehicle access directly from the highway on the A414.

The TA includes swept path analysis / tracking plan (plan no. SCP/190913/ATR03) to illustrate that a 16.5m HGV would be able to utilise the proposed site access arrangements in addition to using the proposed delivery bay, turning around on site and egressing to Jarman Way and the larger wider network in forward gear.

The vehicle arrangements including the levels of vehicular to vehicular visibility are considered to be acceptable by HCC as Highway Authority.

## Emergency Vehicle Access

Due to the size of the proposals, as part of the highway authority's assessment of this planning application, we consider that Hertfordshire Fire and Rescue should be consulted for any comments or recommendations which they may have. Therefore, details of the proposal have been passed to them for attention.

#### Car Parking

The application includes a total provision of 130 car parking spaces including 10 disabled spaces and 2 electric vehicle charging (EVC) bays. Following consideration of the parking accumulation study (included as part of the TA), HCC as Highway Authority would not have an objection to the total level of parking provision although would recommend that a larger level of EVC is provided (at least passive provision) to encourage electric vehicle use in accordance with the Highway Authority's Local Transport Plan (LTP4) and Sustainability Strategy. Dacorum Borough Council's (DBC) parking standards also state that 20% of all parking spaces should provide an active charging whilst 20-30% of all remaining parking spaces should provide passive provision.

DBC as the planning and parking authority would ultimately need to be satisfied with the overall level and type of proposed parking. The layout and design of the parking areas are considered to be acceptable and in accordance with Manual for Streets (MfS).

#### Accessibility and Sustainable Travel

The site is located within a built up area of Hemel Hempstead and within a larger retail / leisure park.

There is an existing cycleway / footway on the southern side of the A414 (adjacent to the site) in addition to an existing footway on the eastern side of Jarman Way to the site and therefore the existing highway network enable pedestrian access to and from the site. Although not highway, it is recommended that tactile paving is provided on either side of the existing bellmouth entrance into the site to ensure that the crossing point for pedestrians is safe for all.

The proposals include an additional pedestrian access point into the site from the A414 St Albans Road through the provision of a stepped access and DDA-compliant ramp, the details of which would be supported by the Highway Authority to maximise permeability and accessibility for non-car users to be in accordance with LTP4.

12 cycle parking spaces have been included as part of the proposals, the general design and level of which is considered to be acceptable.



HCC as Highway Authority would support the promotion and maximisation of cycling as a form of travel to the site. Vehicles would need to be made aware the cyclists would also be using the car park and vehicle access and therefore appropriate signage and lighting would need to be considered and provided.

The nearest bus stops to the site are located within Jarman Park, 110m and 280m from the application site access and also alternative bus stops within 400m from the site, which provide additional services (including weekend services). All of these stops are within an acceptable accessibility distance to encourage travel by bus to and from the site for those journeys further than feasible by bike or on foot, particularly other areas of Hemel Hempstead.

#### Planning Obligations - Travel Plan

A Travel Plan (TP) has been submitted as part of the application to support the promotion and maximisation of sustainable travel options to and from the site and to ensure that the proposals are in accordance with LTP4 and the National Planning Policy Framework (NPPF). The travel plan is considered to be generally acceptable for this stage of the application. Nevertheless the following amendments are required to be submitted in an amended TP prior to occupation.

The required amendments are as follows:

- Interim contact details for TPC are required to be submitted in an amended Travel Plan.
- Secondary contact details for TPC are required to be submitted in an amended Travel Plan.
- Designated car parking spaces for car share schemes are recommended.
- Single occupancy car journey data should be collected separately from car share journey data.

It should be noted in the TP that TRICS (or similar) surveys are to be undertaken every other year, as per HCC guidance (in years 1, 3 and 5 of monitoring).

It should be noted in the TP that a travel plan review is to take place annually, and the review report is to be shared with HCC within three months of data collection.

It should be noted in the TP that an annual support fee of £1,200 is to be paid to HCC for Travel plan evaluation and review.

A full TP will be required to be in place from first occupation until 5 years

post full occupation. A £1,200 per annum index-linked RPI March 2014 Evaluation and Support Fee would need to be secured by section 106 agreement in accordance with Hertfordshire County Council's Travel Plan Guidance. Further guidance is available at: [www.hertfordshire.gov.uk/travelplans](http://www.hertfordshire.gov.uk/travelplans) or [travelplans@hertfordshire.gov.uk](mailto:travelplans@hertfordshire.gov.uk)

The development is situated within DBC's Community Infrastructure Levy (CIL) area. Therefore contributions towards local transports schemes as outlined in HCC's South-West Herts Growth & Transport Plan would be sought via CIL if appropriate.

#### Trip Generation and Highway Impact

A trip generation and impact assessment for the proposed use has been included as part of the TA (Sections 6 and 7). The trip generation is based on trip rate information from the TRICS database with a focus on two peak hours (weekday between 16.00 and 17.00 and Saturday between 12.00 and 13.00). Based on this approach, the proposed use is expected to generate 247 two-way vehicle movements in the weekday peak and 332 two-way vehicle movements in the Saturday peak (significantly less than a previously approved permission for the site).

The TA has also assumed that a certain number of trips to the proposed use would be pass-by/diverted/linked trips rather than new (primary) trips onto the surrounding highway network (based on TRICS and other established research). Subsequently the anticipated highway impacts have been based on the assumption that "40% of trips will be pass-by". Following consideration of the nature and size of the proposals, the parameters and approach used is considered to be acceptable and HCC as Highway Authority.

An ARCADY assessment has subsequently been used to assess the impact of the new (primary) trips generated by the proposed development on the nearest main highway junction (Jarman Way / St Albans Road roundabout). Following consideration and review of the results, the impact of the additional trips / proposed use on the surrounding highway network would not be considered to be significant or severe enough to recommend refusal from a highways perspective.

#### Conclusion

HCC as Highway Authority considers that the proposal would not have a significant impact on the safety and operation of the surrounding highway network. HCC has no objections on highway grounds to the application, subject to the inclusion of the above planning conditions,

	<p>travel plan obligation and informatives, specifically those recommendations in relation to a larger proportion of EVC provision.</p> <p><u>Further comments received 6<sup>th</sup> August 2021</u></p> <p>Hertfordshire County Councils Travel Plan Guidance states that a Full Travel Plan is required for a development for this type if it exceeds 800sqm, the proposed development of 2488sqm easily meets our threshold. These thresholds are in place to ensure requests for the use of Section 106 and the Evaluation and Support contribution are fairly and reasonably related to the development of that size. As per Hertfordshire County Councils Travel Plan guidance all developments that meet our thresholds for a Full Travel Plan are required to be secured via Section 106.</p> <p>The indicative breakdowns below are estimates of annual costs to the county council to provide developers and Travel Plan Co-ordinators the typical level of support needed to verify and assist the proper implementation and success of a Full Travel Plan in a typical year. Travel Plan Evaluation and Support Contributions for Workplace, Residential, Visitor and other Travel Plans.</p>
<p><b>Environment Agency</b></p>	<p>As the site is no longer within a Source Protection Zone, we would not recommend conditions.</p> <p>The site does contain areas of historic landfill however. We would urge the applicant to speak to our permitting team as there may be an active permit for the landfill which the applicant will need to be mindful of and may restrict what can be built where.</p>

**APPENDIX B: NEIGHBOUR RESPONSES**

**Number of Neighbour Comments**

Neighbour Consultations	Contributors	Neutral	Objections	Support
93	2	1	1	0

**Neighbour Responses**

Address	Comments
<p>34 Above Town Dartmouth TQ6 9RG</p>	<p><u>Initial comments received 24<sup>th</sup> May 2021</u></p> <p>I refer to the above application submitted on behalf of Lidl GB Ltd (Applicant). I have been instructed by Aberdeen Standard Investments</p>

<p>OBO</p> <p>Riverside Shopping Centre</p>	<p>who act on behalf of the leasehold owners (Akaria Investments Ltd) of the Riverside Shopping Centre (RSC) within Hemel Hempstead Town Centre. Dacorum Borough Council are the freehold owners of RSC.</p> <p>My clients have only recently been made aware of the submission of this application and they have instructed me to submit an objection to the application. That objection is currently being prepared and will be submitted once we have reviewed the application in more detail. In the meantime, I have agreed with my clients to submit a holding objection to the application.</p> <p>My clients' objections relate to the application of the sequential approach and will argue that there is a preferred site within Hemel Hempstead Town Centre that is suitable, available and viable for the proposed foodstore.</p> <p><u>Further comments received 2<sup>nd</sup> June 2021</u></p> <p>Further to our recent emails in relation to the above application and the response from the Applicants Agent, Avison Young's (AV), in the form of their letter dated 22 July 2021, I have now had the opportunity to discuss this response with my clients.</p> <p>It is clear from AV's letter that the Applicant accepts that the former Debenhams unit is available and viable for the proposed Lidl use. The concerns raised by AV simply relate, therefore, to the suitability of a unit within the Debenhams demise. Whilst Lidl suggest that they have adopted a reasonable level of flexibility in their assessment, that is clearly a matter for your Council to determine having regard to the policies of the revised Framework, Planning Practice Guidance and relevant authorities on this issue.</p> <p>Even so, whilst Lidl's initial feedback, following their site visit to Debenham's in April this year, was positive and encouraging, it is clear from AV's submission that they have since identified what they see as a number of issues with the unit, which they contend render it unsuitable to accommodate their discount business model. Whilst my clients are, as you would expect, extremely disappointed with Lidl's decision, they do not consider, in those circumstances, that there is any merit or benefit in them continuing with their objections to the current application.</p> <p>My clients remain firmly of the view that Lidl would represent a significant asset to the Riverside Shopping Centre (RSC), potentially acting as a catalyst to secure other tenants within the remaining vacant floorspace. My clients concern over the fact that further new retail investment is being, it would appear, allowed to locate on an out-of-centre site (Jarman Park) must be viewed in the context of concerns they have voiced over the last ten years to Planning Services (through similar objections) to the number of large out-of-centre retail developments that the Council have approved in Hemel Hempstead, as well as subsequent relaxations to those approvals to allow more traditional high street retailers to move out-of-centre. Cumulatively, those developments will undoubtedly have impacted on the town centre and drawn investment away from the centre. My clients are firmly of the view that that approach cannot continue and that in the</p>
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future a more robust and pro-active approach must be taken by Planning Services in ensuring that the Government's 'town centre first' policy and the aims and objectives, including the food allocation, of the adopted Town Centre Masterplan, are at the forefront of all decision-making.

My clients will be meeting with the Council in September this year as part of the ongoing management and leasehold arrangements for the RSC and will raise these concerns again. At present, they consider this meeting to be the best forum in which to discuss and hopefully agree a plan of action with the Council that places more weight on ensuring that future retail and commercial investment is directed to the town centre.

Given the above, my clients have instructed me to withdraw their objections to the Lidl application.

I would be grateful, therefore, if you could confirm this in acknowledging receipt of this email.

I refer to the above application submitted on behalf of Lidl GB Ltd (Applicant) and my holding objection dated 24 May 2021.

As you know, I have been instructed by Aberdeen Standard Investments, who act on behalf of the leasehold owners (Akaria Investments Ltd) of the Riverside Shopping Centre (RSC) within Hemel Hempstead Town Centre (HHTC), to object to the application. Dacorum Borough Council are the freehold owners of the RSC.

#### 1. Objections to Lidl Application

##### (a) Former Debenhams Store (Unit 1)

The background and basis for my client's objections is the availability of a preferred sequential site in HHTC, namely the former Debenhams store (Unit 1) within the RSC. As you may be aware, after the national Debenhams business fell into administration, the closure of all of its UK stores was announced, with the RSC Debenhams closing on 8 May 2021. Whilst I can provide you with floorplans of the former Debenhams, if required, the principal details of this vacant unit are as follows:

- o Floorspace - A gross internal area of 7,889 square metres over four floors providing the potential for flexible floorspace and unit sizes with differing configurations
- o Service Yard - Dedicated loading and unloading bay accessed from Moor End Road, with 24-hour seven days a week access and no planning restrictions
- o Surface Level Car Parking - Access to 350 car parking spaces from Level 2 by the pedestrian bridge that serves TK Maxx and the Premier Inn
- o Accessibility to Main Mall and Bus Terminus - Direct access from the Main Mall via footbridges spanning the River Gade, via the Bus Terminus and via High Bridge from the main car park

My clients are firmly of the view that the former Debenhams is the preferred site sequentially, it is available, suitable and viable, and could

easily be adapted and subdivided to meet Lidl's requirements for a new foodstore in Hemel Hempstead.

My clients have confirmed that discussions have, in fact, already taken place with Lidl GB Ltd in relation to a potential Lidl foodstore within the Debenhams demise (Unit 1). Representatives of Lidl viewed the unit on 16 April 2021 and the feedback from that meeting was positive with discussions centred on a Lidl foodstore occupying the ground and first floors, servicing, the placing of trolley bays and reconfiguring the entrances to the Main Mall. Access to Car Park Level 3 was also considered by Lidl's representatives to be a positive advantage of the unit.

(b) Sequential Approach

We have reviewed the Planning & Retail Statement (March 2021) (P&RS) prepared by Avison Young. From this, it is clear that the Applicant agrees to or accepts the following principal points, namely:

- o That the National Planning Policy Framework (February 2019) (Framework) and accompanying Planning Practice Guidance (PPG) adopt a town centre first approach which means that Hemel Hempstead Town Centre (HHTC) is the preferred location for any new retail development (paragraph 3.32, amongst others, of P&RS)
- o That Lidl's requirement is for a rectangular unit with sufficient space to accommodate wide aisles, access for pallets, a minimum single level floor area of 1,325 square metres and access to surface level car parking (paragraph 2.14 of P&RS)
- o That the Lidl application should be subject to both the retail impact and sequential tests, and that in considering the former regard must be had to the impact on existing, planned and committed private and public investment within existing town centres
- o That whilst it is suggested that Lidl's business model limits flexibility, its store requirements have evolved demonstrating that this is not a fixed model (paragraphs 2.13 and 2.14 of P&RS) and that irrespective of this, national policy requires a developer/operator to demonstrate flexibility when applying the sequential approach (paragraph 4.57 of P&RS)
- o That existing surveyed vacant units within HHTC would not be 'suitable' only on the basis that they are too small to accommodate Lidl's floorspace requirements and not for any other reason (requirement) (paragraph 4.61 of P&RS)

The development plan confirms that HHTC is the 'Principal Town Centre' in the Districts retail hierarchy and the first location to where new retail development should be guided and delivered (Tables 5 and 6 to the Core Strategy (2013)). In comparison, Jarman Park is not defined as a town or local centre, but as an out-of-centre retail and leisure location, which paragraph 13.9 of the Core Strategy states is the last location, in order of preference, where new retail development should be delivered.

The preferred location for the proposed Lidl is clearly, therefore, the former Debenhams unit within the RSC.

The Applicant also accepts, in line with the development plan, Framework and PPG, that all in-centre options for new retail development must be thoroughly assessed before less central sites are considered (see also paragraph 13.11 and policy CS16 of the Core Strategy). The availability of the former Debenhams unit confirms that not all in-centre options have been thoroughly assessed or considered, and that this vacant unit has the clear potential to meet Lidl's requirements and is available, suitable and viable.

Furthermore, policy CS33 of the Core Strategy requires new development to meet and contribute towards the development opportunities for the character zones within HHTC, in line with the Town Centre Masterplan (January 2013). These opportunities include securing a new foodstore within the Marlowes Shopping Zone. The Core Strategy (and Masterplan) identify the Marlowes Shopping Zone, which includes the RSC and thus the former Debenhams store, as the prime retail pitch within HHTC, where the objective is to create a strong retail offer. Against this background, the approval of the proposed Lidl at Jarman Park would undermine both the role and viability of the Marlowes Shopping Zone, and prejudice the delivery of the retail food allocation on a sequentially preferred site. That foodstore could perform the important role of a replacement anchor tenant for the RSC.

The application site is not, therefore, the preferred site sequentially for the proposed Lidl store.

Moreover, it is important to emphasise that the extant planning permission on Jarman Park is for a comprehensive development comprising a single terrace of 6 units (ref. 4/00595/18/MFA granted 16 October 2018). Whilst this includes a food unit of 1,184 square metres net floorspace, that unit could not be delivered on its own as the planning permission does not allow for a phased development. It is readily apparent, therefore, that this permission would not meet Lidl's business or operational requirements and is not a development that they would implement.

For the above reasons, this consent cannot represent any form of legitimate fall-back option and can only be accorded limited, if any, weight in the determination of the current application. More importantly, the availability of the Debenhams unit represents a clear change in planning circumstances since the Jarman Park consent was granted in October 2018.

#### (c) Retail Impact

My clients do not wish to comment on the trade draw analysis undertaken by the Applicant. Even so, they have serious concerns over the implications of the proposed Lidl investment on the future of HHTC following the closure of Debenhams. The Applicant should be asked, therefore, to revisit their impact analysis and factor in the implications of the proposed Lidl and the closure of the Debenhams on the vitality and viability of the whole of HHTC, which is the relevant policy test.

My clients also note that Paragraph 13.8 of the Core Strategy states that the future of Jarman Park must be linked closely to the planned

regeneration of HHTC and that the site should remain complementary to the role of HHTC. However, the approval of a Lidl store on Jarman Park would divert investment that should properly be directed to HHTC, undermining any complementary role.

Furthermore, the Applicant accepts that local and national policies require the retail impact test to consider the impact on existing, committed and planned private/public investment, as well as the impact on local consumer choice and the range and quality of the food offer within existing centres (see paragraph 13.12 and policy CS16 of the Core Strategy).

The approval of the proposed Lidl on Jarman Park would divert investment that can and should be directed to the former Debenhams unit. The failure to do so would harm the vitality and viability of the town centre, undermine investor confidence and the potential opportunities to relet this committed (existing) floorspace.

### 3. Conclusions

For the above reasons, my clients would request that the application for the proposed Lidl be refused.

The former Debenhams unit (Unit 1) is the preferred sequential location for this proposed investment, in accord with the town centre first approach.

The former Debenhams unit is available, suitable and viable, and could easily be adapted and subdivided to accommodate Lidl's requirements. Indeed, initial discussions have already taken place with Lidl's representatives concerning a potential foodstore within the Debenhams demise. The unit was viewed by Lidl's representatives on 16 April 2021, and the feedback from those discussions was positive.

The UK retail industry continues to experience significant trading difficulties. In the 15 months prior to the outbreak of Covid 19, those difficulties had been well documented and had seen high street retailers such as Arcadia, Mothercare, Monsoon, Bathstore, Toys R Us, Maplin, Select, New Look, Byron Burger, East, Poundworld, Jamie's Italian, Carluccios, Prezzo and New Look, either seeking a Company Voluntary Agreement or falling into administration. A number of these retailers were represented in HHTC. Those difficulties have continued and worsened considerably during the Covid 19 pandemic, evidenced by the closure of the anchor tenant for the RSC, Debenhams.

My clients have worked tirelessly over these last 3 years to maintain a high occupancy rate within the RSC. There are still a number of voids, but the closure of the Debenhams has created the largest void in the centre that will have a significant impact on footfall and the vitality and viability of HHTC. Despite aggressive marketing campaigns undertaken by my clients Commercial Agents, there remains limited interest in the high street.

As a consequence of the above, it is imperative that any potential opportunity that does come forward, such as the proposed Lidl, is directed to the sequentially preferred site in HHTC.



I would be grateful if could acknowledge receipt of this objection and I would, of course, be happy to discuss any aspect of this further, if that would assist.

Further comments received 30<sup>th</sup> July 2021

Further to our recent emails in relation to the above application and the response from the Applicants Agent, Avison Young's (AV), in the form of their letter dated 22 July 2021, I have now had the opportunity to discuss this response with my clients.

It is clear from AV's letter that the Applicant accepts that the former Debenhams unit is available and viable for the proposed Lidl use. The concerns raised by AV simply relate, therefore, to the suitability of a unit within the Debenhams demise. Whilst Lidl suggest that they have adopted a reasonable level of flexibility in their assessment, that is clearly a matter for your Council to determine having regard to the policies of the revised Framework, Planning Practice Guidance and relevant authorities on this issue.

Even so, whilst Lidl's initial feedback, following their site visit to Debenham's in April this year, was positive and encouraging, it is clear from AV's submission that they have since identified what they see as a number issues with the unit, which they contend render it unsuitable to accommodate their discount business model. Whilst my clients are, as you would expect, extremely disappointed with Lidl's decision, they do not consider, in those circumstances, that there is any merit or benefit in them continuing with their objections to the current application.

My clients remain firmly of the view that Lidl would represent a significant asset to the Riverside Shopping Centre (RSC), potentially acting as a catalyst to secure other tenants within the remaining vacant floorspace. My clients concern over the fact that further new retail investment is being, it would appear, allowed to locate on an out-of-centre site (Jarman Park) must be viewed in the context of concerns they have voiced over the last ten years to Planning Services (through similar objections) to the number of large out-of-centre retail developments that the Council have approved in Hemel Hempstead, as well as subsequent relaxations to those approvals to allow more traditional high street retailers to move out-of-centre. Cumulatively, those developments will undoubtedly have impacted on the town centre and drawn investment away from the centre. My clients are firmly of the view that that approach cannot continue and that in the future a more robust and pro-active approach must be taken by Planning Services in ensuring that the Government's 'town centre first' policy and the aims and objectives, including the food allocation, of the adopted Town Centre Masterplan, are at the forefront of all decision-making.

My clients will be meeting with the Council in September this year as part of the ongoing management and leasehold arrangements for the RSC and will raise these concerns again. At present, they consider this meeting to be the best forum in which to discuss and hopefully agree a plan of action with the Council that places more weight on ensuring that

	<p>future retail and commercial investment is directed to the town centre.</p> <p>Given the above, my clients have instructed me to withdraw their objections to the Lidl application. I would be grateful, therefore, if you could confirm this in acknowledging receipt of this email.</p>
<p>TESCO Extra Jarman Way Hemel Hempstead Hertfordshire HP2 4JS</p>	<p>We act on behalf of Tesco Stores Limited. Our client makes representations of objection to the above planning application. Our client has traded from their nearby Extra superstore at Jarman Way since 1994, as well as from Express stores across the town. Tesco has invested significantly in Hemel Hempstead in creating these important facilities and continues to invest today.</p> <p>The objections to the planning application focus on the following matters:</p> <ul style="list-style-type: none"> <li>o Weight cannot be afforded to the 'fall back' effects that might arise (from a previous scheme that has not come forward) if the application proposal were refused;</li> <li>o The applicant's town centre health check is wholly deficient and there is no up-to-date assessment of existing shopping patterns on which to make judgments concerning the nature of impacts on town and other centres;</li> <li>o The applicant's sequential assessment is not robust and fails to properly consider opportunities within the town centre identified in 2020 by the Council's own retail advisors. It has also failed to consider out of centre opportunities that may be more preferable than the proposal site; and</li> <li>o The proposal fails to maximise the use of the Local Plan allocation as required by the development plan.</li> </ul> <p>Relevant Development Plan Policies</p> <p>Of particular relevance to the development of the application site is Policy SA1: Identified Proposals and Sites (Site Allocations DPD Adopted July 2017) which makes clear that "Sites identified for development or redevelopment should be delivered in accordance with the requirements specified in the relevant schedule" and that "All identified proposals and sites, and other additional sites that come forward during the lifetime of the plan, must comply with relevant policies set out in the Core Strategy and with other relevant policies and guidance". The "Planning Requirements" are set out in the Schedule under the Site Allocations' Proposal S/1. It is important to recognise that this addresses both the application site and the other adjacent land retained by Lidl. Whilst it explains that "Acceptable uses are retail and leisure uses", Policy SA1 is prescriptive in its language that proposals "must comply with relevant policies", and in meeting "Requirements". As a result, the Proposal cannot be read in the manner that many allocations might be and as the applicant's agent (Avison Young) suggests, i.e., in terms of it providing a general acceptance for the stated land uses. Thus, the "Planning Requirements" direct that, "The nature and scale of development should aim to maximise the use of the site and ensure no significant adverse impact on Hemel Hempstead town centre. The sale and display of clothing and footwear is not</p>

acceptable unless ancillary to the main use of an individual unit. Prominent frontages onto St Albans Road/Jarman Way require high quality of design and landscaping. A traffic study may be required and road works should accommodate traffic generation".

In summary, the Development Plan's proposal for this site therefore sets firm limitations on the form, content and type of development that can be permitted. These are relevant to our representations below.

#### 1. No Weight Can be Given to a 'Fall Back' Position

The 2018 permission for development on the application site (which included the adjacent land controlled by the applicant) was for a primarily comparison (bulky) goods scheme and was limited by a condition restricting the maximum sales area of the entire scheme to 8,584sqm with convenience goods sales floorspace restricted to 1,184 sqm. The applicant's agent suggests that the existence of this permission helps to provide justification to support the current proposal. In that regard, the decision maker, as set out in R. v Secretary of State for the Environment ex p. P F Ahern (London) Ltd [1998], needs to ask the question: "is the proposed development in its implications for impact on the environment, or other relevant planning factors, likely to have implications worse than, or broadly similar to, any use to which the site would or might be put if the proposed development were refused?". The application proposal has implications far worse than the permitted scheme, which in comparison can be seen to meet the requirement to 'maximise' development of the wider site, as set out below at point 4.

Whilst Avison Young seek to assert that the convenience goods unit element of the previous scheme was only moderately smaller, two issues arise. First, the sales intensity adopted in the assessment of the convenience goods element of that earlier scheme will have considerably increased and magnified differences between their respective impacts arising from the differences in scale. Second, for a 'fall back' proposition to be relevant there must be a reasonable prospect (even if very modest) that it would be implemented. This retail scheme has not come forward and there must be very considerable doubt as to whether a bulky goods scheme would be now attractive to the market in this locality. Thus, the reality of such a scheme posing a 'broadly similar threat' does not arise. Even if it could, it is relevant that the amount of convenience goods floorspace was strictly controlled with the reason given being "...in the interests of safeguarding the vitality and viability of Hemel Hempstead town centre in accordance with policy CS16". That confirms the very valid reasoning to assert, taking into account up-to-date trading intensity factors applied together with the cumulative effects from other recent developments, that the proposed larger convenience goods store would have 'worse implications' and thus a 'fall back' proposition is of no particular use.

It is therefore important to consider how Avison Young have approached the assessment of the scheme's impact on the town centre and how the review of potential, sequentially preferable opportunities have been undertaken.

## 2. A Deficient Approach to Retail Impact Assessment

The retail impact assessment is flawed in terms of it having failed to adequately review the health, in particular, of Hemel Hempstead town centre and in it not having up-to-date information of shopping patterns on which to base judgments relating to impacts on shopping centres.

### The Lack of a Robust Health Check of Town Centres

Proposal S/1 requires there to be "...no significant adverse impact on Hemel Hempstead town centre" from the scale and nature of the proposed development. The NPPG sets out the 'steps' that need to be taken in applying the impact test, as cast by paragraph 90 of the NPPF. The first of these steps is to "...establish the state of existing centres and the nature of current shopping patterns...". The NPPG then provides the "indicators (that) may be relevant in assessing the health of the town centres...". It lists 13 that are routinely used in assessing the health of centres in retail impact studies. Importantly, it explains that "A judgement as to whether the likely adverse impacts are significant can only be reached in light of local circumstances. For example, in areas where there are high levels of vacancy and limited retailer demand, even very modest trade diversion from the new development may lead to a significant adverse impact" (our emphasis).

However, Avison Young have failed to undertake a health check analysis, only very scant material is provided (with some dating from 2014) from which it is impossible to draw any meaningful conclusions on the current health of the town centre (see at paragraphs 4.27 to 4.29). We note that Avison Young do not attempt to draw any such conclusions as to the robustness or otherwise of the existing health of the centre.

As retailing has now emerged out of lockdown there is an opportunity for a full and effective assessment of the health of town (and other relevant) centres to be undertaken. It is inappropriate to make judgements on the application's trading impact when the essential starting point - to 'establish the state of existing centres', has not been adequately undertaken.

### The Lack of an Adequate Survey of Current Shopping Patterns

Notwithstanding the 'requirement' to undertake a retail impact assessment of the proposal the applicant has not commissioned an up-to-date household survey of shopping behaviour that would have helped determine the true position on "...the nature of current shopping patterns" (in, the second part of the starting point to 'applying the impact test') (see the reference to the NPPG above). Instead, reliance is placed on survey work apparently dating from 2014 (although Avison Young do not confirm this). Whilst Avison Young assert that the only significant change to relevant local shopping patterns was from the opening of the Aldi at Maylands Avenue, this is to ignore the substantial structural changes to shopping patterns from the increasing use of online-retailing and which has significant demographic and locational variations, and a greater propensity by many consumers to undertake food shopping with increasing regularity. These factors have

substantially changed consumer shopping patterns and store usage.

Since survey evidence of current shopping patterns determines the expenditure available to support the various existing shopping facilities and centres, any assessment of trade diversion from them cannot yield accurate findings on town centre impact without that survey information being robust and up-to-date.

The lack of necessary information relating to town centre health and of current shopping patterns results in the submitted assessment of impact to town centre vitality and viability, cannot be relied on.

The application has not been properly scrutinised in these regards, including by the Council's Strategic Planning team. Its response concludes that Peter Brett Associates (PBA), who were commissioned by the Council to advise in respect of the 2018 scheme, had "...no such concerns about the total amount of convenience floorspace proposed" and that therefore "...we do not consider it necessary to commission an independent review of the applicant's impact assessment". However, for all the reasons set out above, one cannot simply assume that the application proposal will not adversely impact the town centre and more completely meet the identified convenience goods needs there. There has been a total lack of scrutiny of these matters and it is necessary for the Council to obtain up to date, independent advice.

### 3. An Inadequate Sequential Assessment

The applicant's sequential assessment (undertaken on their behalf by Avison Young) is incomplete. Only sites within Hemel Hempstead town centre and a brief consideration of two vacant units in Bellgate and Apsley local centres have been reviewed (see at paragraphs 4.59 and 4.62). Bearing in mind that the application site is in an out of centre location, the test operates on the basis that, whilst preference should be given to town centre and then edge of centre sites, if there are none suitable or available (having regard to necessary flexibility), out of centre sites should then be considered. It is therefore incumbent on the applicant to ensure that other out of centre opportunities have been considered. Such sites may be seen as preferable to the application site, having regard to the advice in the NPPF (paragraphs 87 and 88) in respect of their accessibility and being well connected to the town centre.

Notwithstanding that the sequential assessment should be extended, the Council's Site Allocations Document ('SAD') (2017) identifies a town centre site as being suitable to accommodate retail uses including a foodstore. Proposal MU/1 of the document identifies the West Herts College Site/Civic Zone as being suitable for a "Mix of uses to include educational, leisure, and commercial uses including retail uses (possibly including a foodstore)". The planning requirements for the Proposal state that development on the site will be guided by the 2013 Town Centre Masterplan, which promotes the delivery of a foodstore within the Gade Zone of the centre in order to "...provide opportunities for additional public spaces and encourage linked trips to the town centre". (Paragraph 4.3.8). A foodstore is yet to be delivered as part of the phased regeneration of the town centre, and therefore the

determination of this application proposal is an opportunity to satisfy this plan-led requirement. The site, labelled by Avison Young as 'D and J Blocks and Staff Car Park, West Herts College', could be an opportunity to deliver a discount foodstore as part of proposal MU/1. The applicant asserts that the car park remains in operational use and that "...we have not identified anything to indicate that it has been promoted for redevelopment or is otherwise available" (paragraph 6.40). However, the sequential assessment has not provided any evidence of an approach enquiring into the site's likely availability to accommodate the application proposal with the value that it could generate. Whilst the site measures 1.1ha, it does have limitations restricting the developable area. However, these are overstated and, in our view, the developable area is at least 0.5ha. That would meet the minimum parameter that informs the applicant's assessments applied generally across the UK.

Avison Young have omitted the town centre 'Market Square' site from their sequential assessment. We consider it as being suitable to accommodate the application proposals and note the Nexus Retail Study (2020) undertaken on behalf of the Council concludes (in respect of this opportunity - Site 4) "There is opportunity to accommodate both convenience and comparison retail as part of the redevelopment of the wider site" (page 38). The site is described as "highly visible" with a "strong frontage" and thus it would meet the specific parameters put forward by discount food operators. The Council's Strategic Planning team's response confirms that the site is suitable and whilst recognising "...there is a need for a substantial increase in convenience floorspace in Dacorum and the only potential site in Hemel town centre (Market Square) cannot meet all of this need" this response should be read as identifying a sequentially preferable opportunity that should be delivered before out of centre opportunities are permitted. Whilst the Strategic Planning team suggest that "...this site is not currently available" (our emphasis), the test of availability is not one of immediacy, rather it asks whether suitable sites are "expected to become available within a reasonable period" (NPPF paragraph 87). What is a reasonable period will normally be determined in the context of the complexity of the particular sequential site development opportunity, including any wider related issues. As the Council is the primary landowner of the site, the Local Planning Authority should ensure that it has taken the opportunity through the relevant process(es) to identify whether the prospect of an offer from a retailer, such as Lidl, might be a financially and otherwise attractive proposition.

#### 4. Frustrating the Delivery of, or Failing to Maximise the Development of Scarce Urban Land

Avison Young's Planning and Retail Statement explains that "Lidl also control a further 0.81 hectares of land directly south of the application site...", and that whilst "This land does not form part of the application...Lidl anticipates that it will come forward for development in future" (paragraph 1.6).

With Proposal S/1 imposing a requirement that "The nature and scale of development should aim to maximise the use of the site", (our emphasis), it is necessary for the application to demonstrate how this

will be achieved. However, Avison Young in seeking "...to provide the Council with comfort..." offer only that "...the foodstore proposal has been designed so that a neat, accessible development plot remains..."; that "two points of access into the remaining development plot will be created", and "... that a drainage system serving the remaining development could connect to the system that will serve the Lidl foodstore" (paragraphs 5.1 and 5.2). It is on that basis that Avison Young suggest only that the "...delivery of the Lidl foodstore, ahead of development on the remaining plot, will not prejudice the complete delivery of the Jarman Fields allocation, and so there is no conflict with Proposal S/1 of the Site Allocations Plan." (paragraph 5.3). However, the relevant "Planning Requirement" set by Proposal S/1 is to use "...the nature and scale of development" (across the whole site) "to maximise the use of the site". It thus seeks to secure a positive outcome consistent with the principles of sustainable development. 'Not prejudicing development on the balance of the site' is a completely different and inadequate outcome in terms of securing policy compliance.

Moreover, whilst some form of development might not prejudice the allocation, it sees only 'retail and leisure uses as acceptable'. However, the manner in which the proposed store is laid out across the 'front' part of the site would obscure other retail or leisure development from critical approach views that would substantially limit market interest, viability and thus deliverability. Notwithstanding this, such an arrangement would limit the overall extent of what would otherwise have been the maximisation of floorspace across the whole site. The permitted 2018 scheme illustrates how beneficially the site can be laid out to accommodate 10,916sqm gross of floorspace. With the application proposal (of 2,595sqm GEA) in place and which would take a considerable part of the available allocation, only a modest proportion of what was previously achievable could physically be achieved.

Even without the applicant providing options to show how some meaningful development might be accommodated on the site with the proposed store in place, it is inevitable that the proposal would frustrate the 'maximisation' of the use of the whole site and its delivery.

The proposal therefore fails to comply with the 'maximisation' requirement of Proposal S/1.

#### Conclusions

No weight can be given to the outcome from a 'fall back' situation arising from a scheme permitted on the wider site three years ago. There is no evidence that that scheme could come forward and its convenience goods content is in any event restricted to a level significantly below that of the application's.

The two key precursors to ensure an effective retail impact assessment - town centre health checks and up-to-date evidence of shopping patterns - are missing. No weight can therefore be placed on the outcome of the application's assessment.

The sequential assessment of alternative sites is flawed. It fails to

consider other out of centre opportunities. In respect of town centre opportunities, sites identified by the Council's own expert as suitable for convenience goods retailing, have not been assessed or adequately reviewed.

The application fails to comply with relevant development plan policy in particular Policy SA1 and the related Planning Requirements set out in Proposal S/1. The application scheme will fail to maximise the use of the wider allocated site.

Having regard to all of the above, planning permission should be refused.