



## **1.0 Reason for Referral to the Planning Committee**

- 1.1 This application is referred to the Planning Committee because the proposed development constitutes a departure from the Local Plan being a town centre use in an out-of-centre location. In addition, the application constitutes major development where an objection has been received.

## **2.0 Synopsis**

- 2.1 The key issues for consideration are the principle of development; highway impact; design and layout; and amenity. Matters of flood risk and drainage; ecology; and heritage are also considered. Representations received from consultees, and as part of the public consultation, are taken into account as part of these considerations.
- 2.2 The application is subsequently recommended for approval subject to conditions.

## **3.0 Site Description and Context**

- 3.1 The application site is the site of a former Homebase store with service yard, garden centre, and car parking located at the junction of St Andrews Avenue and Ipswich Road (south), with the site being accessed from St Andrew's Avenue. The existing building and car parking areas are set back from the road behind a brick wall, with the case of the car parking area being set behind a grass bund. The site is currently vacant, with the access being sealed off.
- 3.2 The existing building stands at 8.2 metres high (6.6 metres to eaves) but is not particularly dominant within the streetscene. From viewpoints along St Andrews Avenue the roofslope rises away from the road so the overall height of the building is less discernible; the building is also set behind a brick wall which reduces the visual impact of the building. The site is at a much higher level than Ipswich Road, with the dominant feature being the existing retaining wall; the height difference means that views of the building from Ipswich Road are largely obscured.
- 3.3 The site is located within the Colchester Settlement Boundary and is identified in the Local Plan as being a Regeneration Area, although there is no specific Site Allocation Policy attributed to this.
- 3.4 In terms of context, the site is approximately 700 metres (as the crow flies) from the Town Centre. It sits within an area that is predominantly residential, albeit alongside a busy road network of St Andrew's Avenue, Ipswich Road, and Cowdray Avenue. The site is opposite a Waitrose supermarket on its eastern side and borders the railway line to the west.

## 4.0 Description of the Proposal

- 4.1 The application seeks planning permission to subdivide the existing Homebase store into two units, along with external alterations. The conversion would involve the demolition of the existing glazed garden centre and external front lobby, with a small extension being proposed to the southern elevation of the building for deliveries. As a result of these works the internal floorspace of the building would reduce from 3,539sqm to 2,930sqm.
- 4.2 The smaller of the two units (958sqm) is proposed to be sub-let under the same use/sales restrictions that cover the Homebase permission. The larger of the two units (1,972sqm) is proposed for food and drink retail (Lidl).
- 4.3 The hours of opening are stated as being 0800-2200 Monday to Friday; 0800-2200 Saturdays; and 1000-1600 on Sundays and Bank Holidays. Parking provision is shown to be increased from the existing:

Type of vehicle	Existing number of spaces	Total proposed (including spaces retained)	Difference in spaces
Cars	142	153	11
Disability spaces	14	12	-2
Motorcycles	0	12	12
Cycle spaces	0	16	16

- 4.4 The submitted Planning and Retail Assessment provides further background information on the Lidl format and its position in the UK market. The assessment explains that Lidl is classified as a 'deep' or 'hard' discounter, concentrating on selling a limited range of primarily own brand goods at 'extremely competitive prices', meaning that Lidl is distinct from the mainstream convenience retailers such as Tesco, Asda, Sainsbury's and Morrisons in the offer that they provide to shoppers. There are over 750 stores currently trading nationwide, with approximately 5.5% share of the UK grocery market. Lidl stores serve a relatively compact catchment area and are intended to provide a local shopping facility. The strategy for Lidl stores in urban areas is to serve a catchment area that equates to a 0-5 minute drive. It is expected that customer will use Lidl stores to purchase the 'basic staples' of their weekly shop, before travelling to other retailers to purchase specialist or luxury items that are not offered at Lidl.
- 4.5 Non-food items are limited to approximately 15-20% of floor space in store. The non-food offer is mainly focused on household cleaning and health and beauty products, as well as non-food 'specials' such as garden equipment, furniture, TVs at limited availability.

4.6 The application is accompanied by the following supporting information:

- Drawings showing car parking, topographic and underground services, landscape proposals, tree protection plan, site plan, floor plans, elevations, and swept path analysis.
- Air Quality Assessment
- Colchester Car Park Results
- Drainage Report
- Design and Access Statement
- Ecological Appraisal
- Noise Survey
- Planning and Retail Statement (including further information from Rapleys regarding the Sequential Test, dated 7<sup>th</sup> May 2019).
- Statement of Community Involvement
- Transport Assessment
- Travel Plan

4.7 Prior to submitting the application, the Agent carried out their own public consultation, advertising the proposal to local residents via leaflet drop (issued to 2,571 properties) and holding a public consultation even where 40 people attended to discuss the proposals.

## **5.0 Land Use Allocation**

5.1 Regeneration Area

## **6.0 Relevant Planning History**

6.1 A summary of relevant planning history is as follows:

- 78/0756 – Planning Permission REFUSED and DISMISSED at Inquiry for a single-storey domestic retail supermarket and associated car parking due to the site being allocated for Office use.
- 79/1360 – Outline Permission REFUSED for a single-storey supermarket and associated car parking due to site being allocated for Office use and inadequate space for car parking.
- 80/0913 – Outline Permission ALLOWED at Appeal for the erection of a retail shop for building, household, garden and leisure products with parking for approximately 216 vehicles plus unloading and manoeuvring space for goods vehicles.
- 80/0913/A – Reserved Matters APPROVED for a shop for the display and retail sale of building, household garden and leisure products.
- 96/0362 – Variation of Condition 3 of Planning Permission COL/80/0913 (Restricting use to retailing home improvement products and DIY goods) APPROVED. Goods permitted to be sold are:
  - Furniture
  - Carpets
  - Electrical goods
  - Home improvement products
  - DIY goods and materials
  - Caravans with ancillary leisure products

- 146471 – Planning Permission APPROVED a variation of condition 1 of planning permission 96/0362 (itself a variation of COL/80/0913) to allow for the sale of all A1 non-food goods by a Catalogue Showroom Retailer within an area of up to 185 square metres within the existing Homebase sales area.

## **7.0 Principal Policies**

7.1 Planning law requires that applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise. The National Planning Policy Framework (NPPF) must be taken into account in planning decisions and is a material consideration, setting out national planning policy. Colchester's Development Plan is in accordance with these national policies and is made up of several documents as follows below.

7.2 The adopted Colchester Borough Core Strategy (adopted 2008, reviewed 2014) contains local strategic policies. Particular to this application, the following policies are most relevant:

- SD1 - Sustainable Development Locations
- CE1 - Centres and Employment Classification and Hierarchy
- CE2a - Town Centre
- UR1 - Regeneration Areas
- UR2 - Built Design and Character
- PR2 - People-friendly Streets
- TA1 - Accessibility and Changing Travel Behaviour
- TA2 - Walking and Cycling
- TA3 - Public Transport
- TA4 - Roads and Traffic
- TA5 - Parking
- ENV1 - Environment
- ER1 - Energy, Resources, Waste, Water and Recycling

7.3 The adopted Colchester Borough Development Policies (adopted 2010, reviewed 2014) sets out policies that apply to new development. Specific to this application are policies:

- DP1 Design and Amenity
- DP3 Planning Obligations and the Community Infrastructure Levy
- DP14 Historic Environment Assets
- DP17 Accessibility and Access
- DP19 Parking Standards
- DP20 Flood Risk and Management of Surface Water Drainage
- DP21 Nature Conservation and Protected Lanes

7.4 The Neighbourhood Plan for Boxted / Myland & Braiswick is also relevant. This forms part of the Development Plan in this area of the Borough.

7.5 Submission Colchester Borough Local Plan 2017-2033:

The Council is developing a new Local Plan that has been submitted to the Planning Inspectorate (October 2017). An Inspector has been appointed and the formal examination commenced in January 2018. The examination is ongoing.

Paragraph 48 of the Framework states that decision makers may give weight to relevant policies in emerging plans according to:

1. The stage of preparation of the emerging plan;
1. The extent to which there are unresolved objections to relevant policies in the emerging plan; and
2. The degree of consistency of relevant policies to the policies in the Framework.

The Emerging Local Plan is at an advanced stage and is, therefore, considered to carry some weight in the consideration of the application, but as it is yet to undergo a full and final examination, it is not considered to outweigh the material considerations assessed above in accordance with up-to-date planning policies and the NPPF.

7.6 Regard should also be given to the following adopted Supplementary Planning Documents (SPD):

- Vehicle Parking Standards
- Sustainable Design and Construction
- The Essex Design Guide
- External Materials in New Developments
- Shopfront Design Guide
- Sustainable Drainage Systems Design Guide
- Cycling Delivery Strategy
- Managing Archaeology in Development
- Air Quality Management Guidance Note

## 8.0 Consultations

8.1 The stakeholders who have been consulted and who have given consultation responses are as set out below. More information may be set out on our website.

8.2 Arboricultural Officer: The submitted tree protection plan (18-053-03) is acceptable. No objections subject to the tree protection plan being an approved document and a condition to require approval of a scheme of supervision for arboricultural protection measures.

8.3 Archaeological Adviser: No material harm will be caused to the significance of below-ground archaeological remains by the proposed development. There will be no requirement for any archaeological investigation.

8.4 Building Control: No comments received.

8.5 Environmental Protection: With regards to amenity, no objection subject to condition to control delivery hours.

With regards to air quality, there are some queries regarding the data used, but regardless of these, mitigation is sought in the form of electric charging points for cars (at least 1 x triple standard AC/DC rapid charging point). Provided the development is undertaken to a high BREEAM standard, there would be no need to specifically condition any further mitigation measures.

- 8.6 Essex County Council Highways: The impact of the proposal is acceptable to the Highway Authority from a highway and transportation perspective subject to conditions to agree a construction traffic management plan, bus stop upgrades (Ipswich Road south), and to agree a travel plan. Note: although a Travel Plan has been submitted with the application, the Highway Authority have a number of queries that need to be addressed (details of cycle parking, budget allocation, car sharing opportunities, separate modal targets for staff and customers required, pedestrian links etc).
- 8.7 Essex County Council SUDs: No objection due to the type of development proposed and the improved water quality and discharge rates. Suggested conditions should the Local Planning Authority consider them relevant.
- 8.8 Landscape Officer: The revised landscape proposals submitted are satisfactory and there are no objections to this application on landscape grounds subject to conditions to secure a landscape management plan and detailed landscape proposals.
- 8.9 Network Rail: No comments received.
- 8.10 Parks and Recreation: No comments received.
- 8.11 Transport Policy: No comments received.

## **9.0 Parish Council Response**

- 9.1 N/A

## **10.0 Representations from Notified Parties**

- 10.1 The application resulted in a number of notifications to interested third parties including neighbouring properties. The full text of all of the representations received is available to view on the Council's website. However, a summary of the material considerations is given below.
- 10.2 One objection has been received on behalf of ASDA Stores Limited on the following grounds:
- On the basis of the information submitted ASDA do not feel there is sufficient information for the Council to make an informed assessment of the impact of the proposed development in accordance with Chapter 7 (Ensuring the vitality of town centres) of the NPPF. The Planning and Retail Statement includes some commentary on impact, but a full impact assessment has not been undertaken due to the proposal falling just below the NPPF threshold and there being no local set threshold at present.

- A full Retail Impact Assessment should be required on the basis of this application and current application 171174 in order to consider the cumulative impact [Case Officer Note: the 171174 application was for new retail, gym, and food and drink units at Turner Rise Retail Park. The application has not however been determined and has been closed due to lack of progress].
- It is not agreed that Lidl's trading philosophy differs from traditional supermarkets by selling from a limited core range of mainly exclusive own labels; there has been a steady change towards that of a traditional supermarket when considering store size, ranges on offer, proportion of comparison goods, and labelled goods.
- The Planning and Retail Statement should be updated to assess a scenario to show a higher food turnover food retailer rather than rely on the benchmark Lidl turnovers. The Council need to be content that they are approving a certain level of food retail floorspace in units which could ultimately be occupied by any retailer.

## **11.0 Parking Provision**

11.1 Details of parking provision is set out in section 4.3 of this report. An assessment of car parking is detailed in the main body of this report.

## **12.0 Accessibility**

12.1 Please refer to section 5 of the submitted Design and Access Statement.

## **13.0 Open Space Provisions**

13.1 N/A

## **14.0 Air Quality**

14.1 The western edge of the site is approximately 25 metres from the East Street and Lower Ipswich Road Air Quality Management Area (AQMA). An assessment of impacts is included in the main body of this report.

## **15.0 Planning Obligations**

15.1 As a "Major" application, there was a requirement for this proposal to be considered by the Development Team. No planning obligations or contributions were considered to be necessary.



## 16.0 Report

16.1 The main issues in this case are:

- Principle of Development
- Highway Matters and Sustainability
- Design and Layout (including landscaping)
- Amenity (including Air Quality)
- Flood Risk and Drainage
- Ecology

### Principle of Development

16.2 The proposal is for a town centre use (retail) in an out-of-centre location. In terms of the principle of development and conformity with the development plan and NPPF, the key elements to consider are: whether the proposed development represents sustainable development, and whether it would have a detrimental impact on centres and employment. Core Strategy Policies SD1, UR1, CE1, CE2, CE3 and TA1 are relevant. These policies relate to the following:

- SD1 seeks to locate growth at the most accessible and sustainable locations in accordance with the settlement hierarchy (Colchester Town and Stanway being at the top of that hierarchy).
- UR1 is a commitment to regeneration in rundown areas, deprived communities and key centres, with the purpose of building successful and sustainable communities through developments that promote sustainable urban living, enhance the public realm, improve accessibility, and address social deprivation.
- CE1, CE2, and CE3 deal with centres and employment matters, promoting employment generating developments through the regeneration and intensification of previously developed land and through the allocation of land necessary to support employment growth at sustainable locations. Policy CE1a sets out the centres and employment classification hierarchy which includes the Town Centre at the top of the hierarchy extending down to Edge of Centre Locations, District Centres, and Local Centres.
- CE3 - The application site is an edge of centre location that is allocated as a Strategic Employment Zone. Policy CE3 seeks to deliver approximately 45,100sqm (gross) of industry and warehousing floor space, primarily within the North Colchester and Stanway Strategic Employment Zones. Existing office commitments will be supported, but further office development will be primarily directed towards the Town Centre. The policy further states that retail developments will not normally be supported in Employment Zones, except for small scale development that provide for the needs of the local workforce or are ancillary to an industrial use.
- TA1 seeks to improve accessibility and change travel behaviour as part of a comprehensive transport strategy for Colchester. A key aspect of this is the improvement of accessibility by enhancing sustainable transport links and encouraging development that reduces the need to travel. Developments that are car-dependent or promote unsustainable travel behaviour will not be supported.

16.3 The Focused Review of the 2008 Core Strategy and 2010 Development Policies, the Inspector's report in connection with that review, and subsequent planning appeal decisions, provides the basis for assigning weight to policies in the adopted Local Plan. Appeal decisions concerning employment and retail applications in the Borough (with particular reference to applications at Stane Park in Stanway) have established the limitations on the extent to which the Council can rely on some of the adopted Centres and Employment policies as being up-to-date, given that they conflict with the NPPF on some points. Plan policies that are consistent with the NPPF accordingly should be given full weight. Other policies can be given weight commensurate with their compatibility with the NPPF. In terms of the relevant policies in this case, this approach translates into the following interpretations:

- SD1 and TA1 full weight to be applied;
- CE1, CE2, and CE3 out-of-date and consequently limited weight should be afforded.

16.4 In accordance with section 70(2) of the Town and Country Planning Act 1990 and section 38(6) of the Planning and Compulsory Purchase Act 2004, applications for planning permission must be determined in accordance with the development plan, unless there are material considerations that indicate otherwise. The fact that certain policies have been deemed to be out-of-date with the NPPF is a material planning consideration that needs to be taken into account in the weight to be applied to certain policies in decision making.

16.5 This interpretation of adopted planning policy means that consideration of sustainable development and accessibility needs to follow the provisions of Core Strategy Policies SD1 and TA1. Given the limited weight of the policies relating to centres and employment, the provisions of the NPPF will be relevant.

16.6 With regards to sustainability, the site is considered to be in an accessible location where travel to and from the site would not be limited to private car. As set out in the submitted Transport Assessment there are a number of bus stops in the vicinity of the site so that public transport can be utilised and the site is accessible by foot from the surrounding residential areas. The highway works currently taking place in the vicinity of the site include dedicated crossing points (zebra crossings and puffin crossings) that would improve pedestrian accessibility of the site. The proposal is considered to accord with the sustainability principles of Core Strategy policies SD1 and TA1.

16.7 In terms of centres and employment the NPPF forms the basis for consideration of sequential and impact issues. The need to consider the sequential and impact tests arise from paragraphs 86-90 of the NPPF.

16.8 With regards to sequential test, the NPPF states that:

*86. Local planning authorities should apply a sequential test to planning applications for main town centre uses which are neither in an existing centre nor in accordance with an up-to-date plan. Main town centre uses should be located in town centres, then in edge of centre locations; and only if suitable sites are not available (or expected to become available within a reasonable period) should out of centre sites be considered.*

*87. When considering edge of centre and out of centre proposals, preference should be given to accessible sites which are well connected to the town centre. Applicants and local planning authorities should demonstrate flexibility on issues such as format and scale, so that opportunities to utilise suitable town centre or edge of centre sites are fully explored.*

16.9 A sequential site assessment was submitted by the Applicant as part of their Planning and Retail Statement. The site selection was found to be limited to vacant sites near the Town Centre and excluded existing buildings and other Colchester centres. The Applicant was therefore required by the Local Planning Authority to widen the assessment of sequentially preferable sites, focusing primarily on the New Northern Growth Area Urban Expansion (Chesterwell Woods) Neighbourhood Centre which would accommodate a food store of approximately 2,500sqm. As background, the Neighbourhood Centre forms part of a residential development approved under planning permission 121272; condition 10 of that permission requires that work can start on the Neighbourhood Centre once at least 200 residential units have been constructed; this milestone has been reached so the delivery of the Neighbourhood Centre can take place in order to support the sustainable delivery of the area.

16.10 The Applicant's planning consultant Rapleys subsequently provided further information in respect of the sequential test in a letter dated 7<sup>th</sup> May 2019, setting out the following points:

1. Neighbourhood Centres fall below the definition of a Town Centre for the purposes of the NPPF assessment.
2. The Chesterwell Neighbourhood Centre is an allocation rather than an existing centre.
3. It follows that the site within the Northern Growth Area cannot be considered more sequentially preferable than the application site.

16.11 The Council's Spatial Policy team considered the submission and disagreed with these points as follows:

1. The Neighbourhood Centre proposed in Site Allocations Policy NGA2 and then further detailed in the adopted Masterplan makes it clear that the Neighbourhood Centre is a key part of the overall growth area and is in no way 'a small parade of shops of purely local significance.'

*The northern neighbourhood centre should be located to respond to the opportunity to focus services and facilities in an accessible and commercially realistic way. The greatest likelihood of delivering a self-sustaining and commercially viable centre would be to combine both commercial and community facilities, including new educational facilities in a single coherent core; where this can be associated with a public transport hub and with passing trade. The highest degree of accessibility and footfall can also be delivered.*

The Chesterwell Neighbourhood Centre is therefore considered to qualify as a centre and to be sequentially preferable over a non-centre site such as the former Homepage site.

2. NPPF and NPPG requirements for the sequential test do not differentiate between existing and allocated sites. The extent to which a site is deliverable could affect its suitability, but its development status is not relevant in any other respect of applying the sequential test. In this instance, the Chesterwell Woods centre site is considered to be at a deliverable stage in the overall process of developing the Growth Area given steady progress being made in delivering the 1600 houses permitted for the scheme, with the Council's housing trajectory showing that 1200 houses should be completed by the end of the 5-year period in 2023. Rapley's argument about highway access not facilitating passing trade is not considered a strong one given the function of the centre as a local centre.

3. The conclusion is therefore that the Chesterwell Woods site is sequentially preferable to the former Homebase site. The sequential test, however, also includes consideration of the suitability and viability of alternative sites. 'Suitable' is defined here as consistent with the Tesco Stores Ltd V Dundee City Council (2012) appeal decision as meaning 'suitable for the development proposed by the applicant'. Rapleys have submitted information establishing that while its scale and format are acceptable, the Chesterwell site is not suitable for Lidl's purposes on the basis that it is outside the 5-minute catchment area for Colchester town centre. They note that they consider the North Colchester catchment area, which includes Chesterwell Woods, to be a separate catchment area for which they are actively seeking sites.

16.12 Having considered the sequential test in the round it is accepted that, whilst the Chesterwell Woods site is considered sequentially preferable, it can be discounted for the purposes of this application as not suitable for the development proposed by the applicant. It is considered to be unreasonable to insist that the Applicant pursue a site that this not suitable.

16.13 In terms of assessing retail impact, Paragraph 89 of the NPPF provides that, when assessing applications for retail and leisure development outside town centres, which are not in accordance with an up-to-date plan, Local Planning Authorities should require an impact assessment if the development is over a proportionate, locally set floorspace threshold (if there is no locally set threshold, the default threshold is 2,500m<sup>2</sup> of gross floorspace). This should include assessment of: a) the impact of the proposal on existing, committed and planned public and private investment in a centre or centres in the catchment area of the proposal; and b) the impact of the proposal on town centre vitality and viability, including local consumer choice and trade in the town centre and the wider retail catchment (as applicable to the scale and nature of the scheme).

- 16.14 The objection received on behalf of ASDA asserts that a full Retail Impact Assessment should be required as part of the application. The specifics of the proposal are, however, particularly relevant in respect of this. Whilst the proposed conversion would result in a retail floorspace of 2,930sqm, and therefore be over the NPPF threshold, a proportion of this (958sqm) would remain in the existing permitted use of restricted retail sales, with the 'new' retail use equating to 1,972sqm which is below the 2,500sqm gross floorspace threshold. A retail impact assessment is not, therefore, required. Nonetheless, the Applicant has submitted further information with which to assess the retail impact on Colchester Town Centre, Tollgate District Centre, Highwoods District Centre, Hythe Road-Greenstead Road, Peartree District Centre, and Turner Rise District Centre, with the conclusion that the proposal would not result in any significant adverse impact.
- 16.15 Given that it is agreed that the proposal falls below the retail impact threshold, it is considered that the proposal, which is small scale in the overall context of other centres, would not have a significant impact on existing, committed and planned public and private investment in Colchester centres or on town centre vitality and viability.
- 16.16 In conclusion, the sequential test is passed as sequentially preferable sites are satisfactorily discounted and a retail impact assessment is not required as the proposal is below the threshold for when such an assessment is required. In addition, the proposal is considered to be acceptable in terms of sustainability principles given its location and accessibility.

Highway Matters:

- 16.17 Core Strategy policy TA4 seeks to make the best use of the existing highway network and manage demand for road traffic. The policy makes it clear that new development will need to contribute towards transport infrastructure improvements to support the development itself and to enhance the broader network to mitigate impacts on existing communities. Development Plan policy DP17 requires all development to maintain the right and safe passage of all highways users. Development Plan policy DP19 relates to parking standards in association with the Vehicle Parking Standards SPD (see Section 11 of this report for details of parking requirements).
- 16.18 The application is accompanied by a Transport Assessment, as well as a Travel Plan. The Transport Assessment covers matters of accessibility, accident analysis, and trip generation and distribution. The Travel Plan identifies objectives to reduce staff and customer reliance upon private car and improving awareness and usage of alternative modes; promoting walking, cycling, public transport and car sharing; minimising the total travel distance of staff and customers; and promoting healthy and sustainable lifestyles.
- 16.21 In terms of parking, applying the policy requirements to the proposal results in the following:
- A maximum of 189 car parking spaces
  - A minimum of 16 cycle spaces

- A minimum of 7 motorcycle spaces
- A minimum of 10 disabled spaces

The proposed parking provision fully accords with the policy requirement:

- 153 car parking spaces
- 16 cycle spaces
- 12 motorcycle spaces
- 12 disabled spaces

- 16.22 The Transport Assessment has considered car parking accumulation, with forecasting data demonstrating that the proposed car parking provision would be sufficient to meet both weekday and weekend peak car parking demand; indeed the forecasting shows that the car parking provision exceeds peak demand by at least 90 spaces, thereby allowing a contingency.
- 16.23 In terms of trip generation, the Transport Assessment compares the trip rates associated with both the proposed (A1 non-food retail and A1 food retail) and existing (A1 restricted DIY and garden centre) uses in order to establish a projected net impact of trips. It is reasonably anticipated that the use will not solely generate dedicated trips and, as such, the assessment takes into account linked and passer-by trips. The net trip increase varies from negligible to 100 trips, the exception being an increase of 210 trips between 1600-1700 on a weekend.
- 16.24 Traffic flows have also been assessed, with the estimated traffic of the proposed development being expected to 'have minor impact on the operation of the Ipswich Road and Harwich Road roundabouts since the additional traffic represents less than 1% of the total traffic flows of the network'.
- 16.25 Swept path analysis has been submitted to demonstrate that a 16.5m articulated HGV can safely enter, manoeuvre within, and exit the site.
- 16.26 The accident analysis in the Transport Assessment covers the period 1<sup>st</sup> September 2013 to 31<sup>st</sup> August 2018 and shows that of the 62 accidents reports, 43 of them were at the Ipswich Road and Harwich Road double mini roundabouts, with the remaining 19 being along Harwich Road and East Street. None of the accidents are specifically associated with the use of the application site (i.e. no accidents are reported at the entrance and egress points).

- 16.27 The site is considered to be in an accessible location, with means of access via public transport, bike, and walking in addition to private car. The Highway Authority have confirmed that the proposal and details submitted are acceptable from a highway and transportation perspective subject to conditions and these are considered to be appropriate. An additional condition to agree cycle parking details and provision is also considered necessary. The Highway Authority have a number of queries on the submitted Travel Plan and have recommended a condition for a revised Travel Plan to be submitted and agreed via condition.
- 16.28 On the basis of the Highway Authority recommendation, the proposal is considered to be acceptable on highway grounds subject to conditions.

Design and Layout (including landscaping):

- 16.29 In considering the design and layout of the proposal, Core Strategy policy UR2 and Development Plan policy DP1 are relevant. These policies seek to secure high quality and inclusive design in all developments, respecting and enhancing the characteristics of the site, its context and surroundings, including its landscape setting.
- 16.30 The proposal is to convert an existing building so the overall scale and form of the building will remain largely unchanged, as would the site layout, albeit with parts of the building demolished (the 'garden centre' and entrance lobby). A notable change to the building, which is currently red brick in the main, would be the introduction of cladding and glazing. The building is currently lacking in visual interest, with a distinct lack of glazing, so the proposed alterations are considered to have some benefit in terms of the appearance of the building. A trolley store is shown on the submitted proposed layout and it is considered necessary to seek further details of its appearance via condition.
- 16.31 There are existing trees on and immediately adjacent to the site boundaries, with the trees along the northern boundary being more readily visible from public vantage points and therefore contributing to the street scene. A Tree Protection Plan has been submitted as part of the application that shows that these trees are to be retained. The Council Arboricultural Officer accepts the plan and the indicated root protection areas and therefore has no objection to the proposal subject to a scheme of supervision for the protection of retained trees to be submitted to and agreed by the Local Planning Authority prior to the commencement of works.
- 16.32 The landscaping of the site, which consists of planting along the boundaries (particularly at the corners) and at the access/egress point, have been considered to be acceptable by the Council Landscape Officer. The existing landscaping is somewhat bare so the landscape proposals are an improvement in terms of landscape setting. Detailed landscape proposals, as well as a landscape management plan, would be required by condition.
- 16.33 On the basis of the above, the proposal is considered to be acceptable with regards to policies UR2 and DP1.

Impact on Amenity and Air Quality:

- 16.34 Development Plan policy DP1 requires all development to be designed to a high standard that protects existing public and residential amenity, particularly with regard to privacy, overlooking, security, noise and disturbance, and daylight and sunlight. In terms of air quality, Core Strategy Policy TA4 states that the demand for car travel will be managed to prevent adverse impacts on sustainable transportation, air quality, local amenity and built character.
- 16.35 The submitted noise survey demonstrates that noise from external plant would have a very low impact at the closest residential properties ('receptors'). Noise from deliveries is also demonstrated as being low, with noise from customer vehicles being very low. The application documents detail that deliveries are typically twice per day, with company policy being that vehicle engines are switched off to avoid noise and disturbance. New stores, such as the one proposed, feature graded ramps in the delivery bay and manual dock levellers (negating the need for noises scissor or tail lifts) and total unloading time is typically 15 minutes. Environmental Protection have considered the application submission and have concluded that delivery hours should be controlled as follows:
- Monday to Saturday 06.00 – 00.00 hours.  
Sunday and Bank Holidays 09.00 – 18.00 hours.
- 16.36 An Air Quality Assessment was submitted with the application and has been assessed by Environmental Protection. The submitted assessment provided details to show that the impact of the proposed development would have an insignificant effect on local air quality, concluding that no mitigation is required. Environmental Protection have queried the data reported in the assessment, but have confirmed that mitigation would be required in the form of electric car charging points in any case. Further mitigation is not required provided that the development is completed to a high BREEAM rating. Both of these requirements can be conditioned.
- 16.37 Matters of overlooking and overshadowing are not relevant in this case given that the proposal does not increase the height or footprint of the building, as well as the degree of separation and orientation between the site and nearby residential development.
- 16.38 The proposal is not considered to have an adverse impact on amenity or air quality, subject to necessary conditions.



## Flood Risk and Drainage

- 16.39 Core Strategy Policy SD1 and Development Plan Policy DP20 require proposals to promote sustainability by minimising and/or mitigating pressure on (inter alia) areas at risk of flooding. Policy DP20 also requires all development proposals to incorporate measures for the conservation and sustainable use of water, including the appropriate use of SUDs for managing surface water runoff.
- 16.40 The site is located within Flood Zone 1 which means that there is low probability of flooding (less than 0.1%). The development itself is, therefore, unlikely to be susceptible to flooding. It is still important, however, to assess whether/how the development could affect flood risk elsewhere.
- 16.41 A Flood Risk Assessment, Surface Water Strategy and Sustainable Drainage Systems Assessment has been submitted to support the application. The submitted assessment details that there is a low risk of surface water flooding at the site which would be addressed by the proposed drainage system. Given that the ground conditions are unsuitable for infiltration techniques (such as soakaways) the surface water is proposed to be discharged to sewer, although the flow would be controlled, and excess water would be temporarily stored on site. An improvement to surface water drainage is that the permeable area of the site is slightly increased from the existing (with additional landscaping).
- 16.42 Following the receipt of comments from Essex County Council, as Lead Local Flood Authority, further information on flood risk was submitted. This information provided a justification for the surface water drainage strategy having underground water storage tanks (as the only viable option for the site), as well as additional justification as to why the impermeable areas cannot be increased (it would require the replacement of large areas of car park) bearing in mind a 50% reduction in surface water outflow is proposed as part of the development.
- 16.43 The proposal is accepted by Essex County Council and conditions have been suggested should the Local Planning Authority consider them to be relevant. Of the suggested conditions, it is considered reasonable and necessary to condition that the drainage scheme (as set out in the flood risk assessment) be fully implemented prior to first occupation of the building and thereafter retained. The suggestion for a detailed drainage scheme to ensure that run-off from the site is limited to greenfield rates for a storm event that has a 100% chance of occurring each year ( 1 in 1 event) and that the development is able to manage water on site for 1 in 100 year events plus 40% climate change allowance is not considered necessary as the submitted drainage scheme already confirms these requirements.
- 16.44 Subject to securing that the surface water drainage scheme is fully implemented, the proposal is not considered to have an adverse impact in terms of flooding in accordance with policies SD1 and DP20.

## Ecology

- 16.45 Section 40 of the Natural Environment and rural Communities Act 2006 places a duty on all public authorities in England and Wales to have regard, in the exercise of their functions, to the purpose of conserving biodiversity and a core principle of the NPPF is that planning should contribute to conserving and enhancing the natural environment. Development Plan policy DP21 seeks to conserve or enhance biodiversity and geodiversity in the Borough. New developments are required to be supported by ecological surveys where appropriate, minimise the fragmentation of habitats, and maximise opportunities for the restoration, enhancement and connection of natural habitats.
- 16.46 The site was until recently used as a DIY and garden centre with associated car park and there is limited natural habitat on site. This is confirmed in the Preliminary Ecological Appraisal submitted with the application. The appraisal confirms that the site is of low ecological value, with the existing building having low potential for bat roosts. Enhancement measures, such as replacing the existing ornamental shrubs with native Broadland trees and wildflower species to increase invertebrate species and enhance the attractiveness of the site for birds, bats and their fauna has been recommended as part of the appraisal and has been incorporated into the submitted landscape proposals. An informative can be included to emphasise the requirement for the landscape scheme (details of which are required by condition) to include these features.
- 16.47 The proposal would not have an adverse impact on biodiversity and is considered to provide for some ecological enhancement in accordance with the NPPF and policy DP21.

## Other Matters

- 16.48 Matters of heritage have been considered as part of the application. The application site is not in close proximity to any listed buildings or designated conservation areas so the proposal would not have any impact on built heritage. The Council's Archaeological Adviser has considered archaeology implications and has confirmed that the proposal would not have any material harm on below-ground archaeological remains and there is no requirement for archaeological investigation.
- 16.49 The objection submitted on behalf of ASDA has been considered as part of the assessment of the application. The points of objection are considered to have been addressed in this report, but for clarity the Local Planning Authority comments are as follows:
- A full Retail Impact Assessment is not required for this application as the 'new' retail element of the proposal is below the NPPF threshold;
  - The submitted retail impact assessment does not need to include an assessment of the cumulative impact of this proposal with application 171174 as this application has not been determined and has been closed due to lack of progress; and

- Lidl is considered to differ from other supermarket offerings. Detail as to how Lidl operates is set out in paragraphs 4.4 and 4.5 of this report as well as in the submitted Planning and Retail Assessment.

16.50 Additional benefits of the proposal have also been considered as part of the Case Officer assessment. It is recognised that the proposal would generate employment opportunities, both during the conversion works and once the units are in operation. The application states that the proposed Lidl store would employ up to 40 staff in store, with Lidl having a policy to employ local people. Career paths include management and administrative positions, as well as store assistants and cashiers. Management development and training programmes are also offered. This benefit weighs in favour of the application.

## **17.0 Conclusion**

17.1 The proposal is considered to satisfactorily meet the requirements of relevant national and local planning policy and would result in additional benefits in terms of reducing surface water flooding, providing ecological enhancement, and providing employment opportunities.

## **18.0 Recommendation to the Committee**

18.1 The Officer recommendation to the Committee is for:

- Delegated authority to negotiate, and amend as necessary, the pre-commencement conditions with the Applicant/Agent in accordance with the Town and Country Planning (Pre-commencement Conditions) Regulation 2018; and subsequently
- APPROVE planning permission subject to the following conditions:

### **1. ZAA Time Limit for Full Permissions**

The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

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

### **2. ZAM - Approved Plans/Drawings**

The development hereby permitted shall be carried out in accordance with the details shown on the submitted Drawing Numbers:

Proposed Site Plan	7534L-35 Revision B
Proposed Floor Plan	7534L-36
Proposed Elevations	7534L-37
Tree Protection Plan	18-053-03 Revision A

Reason: For the avoidance of doubt as to the scope of this permission and in the interests of proper planning.

### **3. Non Standard Condition - Materials**

The materials used in the external alterations hereby approved shall be as those set out in paragraph 4.38 of the Rapleys 'Design and Access Statement' dated December 2018, unless otherwise agreed by the Local Planning Authority.

Reason: For the avoidance of doubt as to what has been approved and in the interests of visual amenity.

### **4. Non Standard Condition - Delivery Hours**

Deliveries of goods to the store shall not be permitted outside the following times:

Monday to Saturday 06.00 – 00.00 hours.

Sunday and Bank Holidays – 09.00 – 18.00 hours.

Reason: In the interests of preventing noise and disturbance to the residents of nearby dwellings.

### **5. Non Standard Condition - Opening Hours**

The development hereby approved shall not be open to the public outside the following times:

0800-2200 Monday to Saturday

1000-1600 Sundays

Reason: As this is the basis that the application has been assessed and any alteration to these opening hours would require further assessment in terms of resulting impacts in terms of public amenity and highway matters.

### **6. Non Standard Condition - Restriction in Sale of Goods for Sublet Unit**

The unit identified as 'Sublet Retail Unit' shown on drawing 7534L-35 Revision B shall not exceed 958sqm gross internal floorspace and shall only be used for the sale of furniture, carpets, electrical goods, home improvement products, and DIY goods and materials and for no other purpose (including any other purpose in Class A1 of the Schedule of the Town and Country Planning (Use Classes) Order 1987 and Schedule 2, Part 3, Class C, D, G, J, M of the Town and Country Planning (General Permitted Development) Order 2015, or in any provision equivalent to these Classes in any Statutory Instrument revoking and re-enacting that Order with or without modification).

Reason: As this is the basis on which the proposal was assessed and any changes would require further assessment as to the impacts of the development.

### **7. Non Standard Condition - Restriction for Food Retail Unit**

The unit identified as 'Lidl Store' shown on drawing 7534L-35 Revision B shall not exceed 1,972sqm gross internal floorspace and shall only be used as A1 food retail only, with ancillary non-food sales not exceeding 20% of the permitted floorspace, and for no other purpose (including any other purpose in Class A1 of the Schedule of the Town and Country Planning (Use Classes) Order 1987 and Schedule 2, Part 3, Class C, D, G, J, M of the Town and Country Planning (General Permitted Development) Order 2015, or in any provision equivalent to these Classes in any Statutory Instrument revoking and re-enacting that Order with or without modification).

Reason: As this is the basis on which the proposal was assessed and any changes would require further assessment as to the impacts of the development.

#### **8. Non Standard Condition - Permitted Development Removal**

Notwithstanding the provisions of Schedule 2, Part 7 of the Town and Country Planning (General Permitted Development) Order 2015 (or any Order revoking and re-enacting that Order with or without modification), no enlargement or extension to the building shall be erected or carried out, nor shall any shop trolley stores, click and collect facilities, or modification of shop loading bays take place.

Reason: In order to allow further consideration to the impacts that such a development may cause on this site, at the time that any a proposal comes forward as part of a formal planning application.

#### **9. Non Standard Condition - Construction Traffic Management Plan**

No works shall commence until a construction traffic management plan, to include but not be limited to details of vehicle/wheel cleaning facilities within the site and adjacent to the egress onto the highway, has been submitted to and approved in writing by the Local Planning Authority. The development shall then be constructed and undertaken in accordance with the agreed plan.

Reason: To protect highway efficiency of movement and safety.

#### **10. Non Standard Condition - Scheme of Supervision for Arboricultural Protection Measures**

No works or development shall take place until a scheme of supervision for arboricultural protection measures has been approved in writing by the local planning authority. This scheme will be appropriate to the scale and duration of the works and will include details of:

- a. Induction and personnel awareness of arboricultural matters
- b. Identification of individual responsibilities and key personnel
- c. Statement of delegated powers
- d. Timing and methods of site visiting and record keeping, including updates
- e. Procedures for dealing with variations and incidents.
- f. The scheme of supervision shall be carried out as agreed.
- g. The scheme of supervision will be administered by a qualified arboriculturist instructed by the applicant and approved by the local planning authority.

Reason: In the interests of safeguarding trees that contribute to visual amenity.

#### **11. Non Standard Condition - Non-Residential BREEAM (Part 1 of 2)**

No works shall take place until evidence that the development is registered with a BREEAM certification body and a pre-assessment report (or design stage certificate with interim rating if available) has been submitted indicating that the development can achieve a final BREEAM rating level of at least Very Good.

Reason: To ensure that the completed development is sustainable and makes efficient use of energy, water and materials.

#### **12. Non Standard Condition - Trolley Store Details**

The trolley store shown on drawing 7534L-35 Rev B shall not be constructed or installed until elevations (at scale 1:100) have been submitted to and agreed in writing by the Local Planning Authority. The trolley store shall then be constructed and installed as agreed.

Reason: In the absence of details submitted with the application and in the interests of visual amenity.

### **13. Non Standard Condition - Landscape Management Plan**

Prior to the first occupation of the development, a landscape management plan including long term design objectives, management responsibilities and maintenance schedules for all landscape areas other than small, privately owned, domestic gardens shall be submitted to and agreed, in writing, by the Local Planning Authority. The landscape management plan shall thereafter be carried out as approved at all times.

Reason: To ensure the proper management and maintenance of the approved landscaping in the interests of amenity and the character and appearance of the area.

### **14. Non Standard Condition - Detailed Landscape Scheme**

No part of the development shall be occupied until full details of all landscape works have been submitted to and agreed, in writing, by the Local Planning Authority and the works shall be carried out prior to the occupation of any part of the development unless an alternative implementation programme is subsequently agreed, in writing, by the Local Planning Authority. The submitted landscape details shall include:

- Proposed finished levels or contours.
- Means of enclosure.
- Car parking layouts.
- Other vehicle and pedestrian access and circulation areas;
- Hard surfacing materials.
- Minor artefacts and structures (e.g. furniture, play equipment, refuse or other storage units, signs, lighting etc.).
- Planting plans.
- Written specifications (including cultivation and other operations associated with plant and grass establishment).
- Schedules of plants, noting species, plant sizes and proposed numbers/densities where appropriate.
- Implementation timetables and monitoring programs.

Reason: To ensure that there is a suitable landscape proposal to be implemented at the site for the enjoyment of future users and also to satisfactorily integrate the development within its surrounding context in the interest of visual amenity.

### **15. Non Standard condition - Cycle Parking Details**

Prior to the development hereby permitted coming in to use, details of the number, location and design of cycle parking facilities shall be submitted to and approved, in writing, by the Local Planning Authority. The approved facility shall be secure, convenient and covered and shall be provided prior to occupation and retained for that purpose at all times thereafter.

Reason: To ensure appropriate cycle parking is provided in the interest of highway safety and to encourage sustainable modes of transport.

### **16. Non Standard Condition - Bus Stop Upgrades**

The development hereby approved shall not be brought into use until the two bus stops located in Ipswich Road south of the proposal site have been upgraded to current Essex County Council specification, with details first being submitted to and approved in writing by the Local Planning Authority.

Reason: To ensure that the development is accessible by more sustainable modes of transport such as public transport, cycling and walking.

### **17. Non Standard Condition - Travel Plan**

Notwithstanding the submitted details. The development hereby approved shall not be brought into use until a Travel Plan (in accordance with Essex County Council guidance) has been submitted to and agreed in writing by the Local Planning Authority. The Travel Plan shall thereafter be implemented as agreed.

Reason: To ensure that the development is accessible by more sustainable modes of transport such as public transport, cycling and walking.

### **18. Non Standard Condition - Electric Charging**

The development hereby permitted shall not be brought into operational use until at least 1 no. triple standard AC/DC rapid charging point has been provided and made available for use within the customer car park. The charging point(s) shall thereafter be retained.

Reason: In the interests of sustainability and air quality by encouraging the use of ultra-low emission vehicles.

### **19. Non Standard Condition - Surface Water Drainage**

The drainage strategy measures set out in the CSG Consulting Engineers 'Flood Risk Assessment, Surface Water Strategy and Sustainable Drainage Systems Assessment' dated December 2018 and the CSG Consulting Engineers 'Addendum Flood Risk Information' dated March 2019 shall be fully implemented prior to the first occupation of the development hereby approved and retained as such thereafter.

Reason: In the interests of reducing flood risk as a result of the development.

### **20. Non Standard Condition - Non-Residential BREEAM (Part 2 of 2)**

Within 6 months of the occupation of the development, a final Certificate shall have been submitted to the Local Planning Authority certifying that BREEAM rating Very Good has been achieved for this development.

Reason: To ensure that the completed development is sustainable and makes efficient use of energy, water and materials.

## **19.0 Informatives**

19.1 The following informatives are also recommended:

### **1. Advisory Note on Construction & Demolition**

The developer is referred to the attached advisory note *Advisory Notes for the Control of Pollution during Construction & Demolition Works* for the avoidance of pollution during the demolition and construction works. Should the applicant require any further guidance they should contact Environmental Control prior to the commencement of the works.

### **2. Informative on Conditions Stating Prior to Commencement/Occupation**

PLEASE NOTE that this permission contains a condition precedent that requires details to be agreed and/or activity to be undertaken either **before you commence the development or before you occupy the development**. This is of critical importance. If you do not comply with the condition precedent you may invalidate this permission and be investigated by our enforcement team. Please pay particular attention to these requirements. To discharge the conditions and lawfully comply with your conditions you should make an application online via [www.colchester.gov.uk/planning](http://www.colchester.gov.uk/planning) or by using the application form entitled 'Application

for approval of details reserved by a condition following full permission or listed building consent' (currently form 12 on the planning application forms section of our website). A fee is also payable, with the relevant fees set out on our website.

### **3. Informative on Any Application With a Site Notice**

PLEASE NOTE that a site notice was erected in a publicly visible location at the site. Colchester Borough Council would appreciate your co-operation in taking the site notice down and disposing of it properly, in the interests of the environment.

### **4. Landscape Informative**

'Detailed landscape proposals, if/when submitted in order to discharge landscape conditions should first be cross-checked against the Council's Landscape Guidance Note LIS/C (this available on this CBC landscape [webpage](#) under Landscape Consultancy by clicking the 'read our guidance' link).'

The detailed landscape scheme should include native Broadland trees and wildflower species in order to increase invertebrate species and to enhance the attractive net of the site for birds, bats and other fauna in the interests of ecological enhancement.