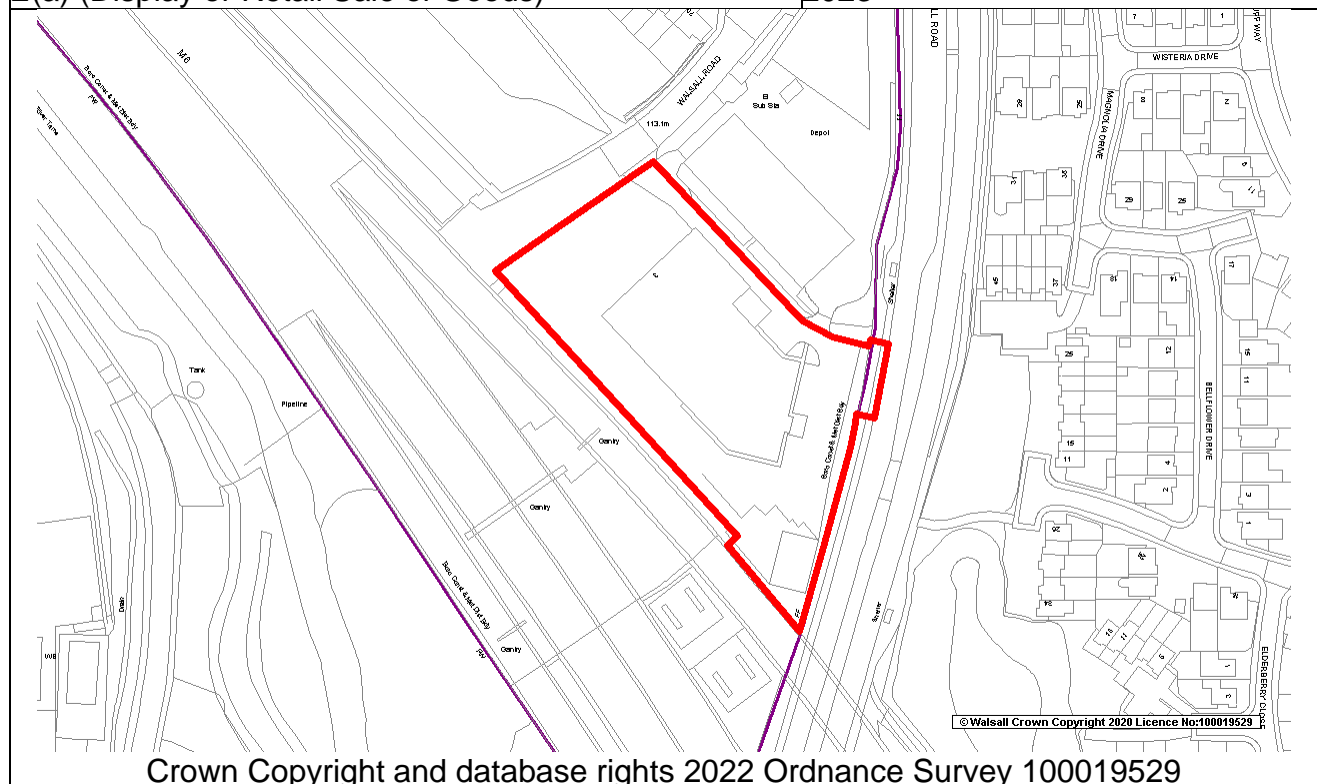




Planning Committee

Plans List Item Number: 1

Recommendation:

1.Planning Committee resolve to Delegate to the Head of Planning & Building Control to Grant Planning Permission Subject to Conditions and a Section 106 Agreement to secure a Travel Plan and subject to:

- The amendment and finalising of conditions
- Overcoming the outstanding concerns raised by Lead Local Flood Authority

Proposal

The proposal relates to the erection of a foodstore (Use Class E) with access, car parking, landscaping and other associated works.

The proposal includes a new vehicular access from Walsall Road, 100 car parking spaces including 6 disabled spaces, 8 parent and child spaces, 2 Electric Vehicle Charging spaces and 12 secure cycle parking spaces.

The proposed new vehicular access is within the borough of Sandwell. The applicant has submitted a planning application to the borough of Sandwell Council relating to the access. At the time of writing the application has not been determined, determination date is targeted for 8th May.

Pedestrian access would be provided from Walsall Road, it would take customers through the store car park to the store entrance which is on the eastern corner of the building.

The proposal also includes an area of servicing to the south-west of the site which is also accessed from Walsall Road. The existing Walsall Road access which runs to the rear of the site serving the units will not be in use for access to the Lidl site.

A small area of landscaping is proposed around the car parking perimeter to the west and to east of the site including a mixture of shrubs, trees, hedge planting and grass seeding.

The proposed development includes the demolition of the unit which is a two storey, primarily rectangular shaped building of cladding with a front elevation facing Walsall Road. It is understood the front of the building is currently in use by G.D Memorials, a memorials and stonework services showroom and Granite Worktops Ltd, a granite worktop showroom. The rear of the site is understood to be in use as a scaffolding contracting business known as Central Scaffold Hire.

The proposed site area is approximately 0.8 ha with the total store being 2,275 sqm gross internal floor space.

The proposed building is single storey and includes a sloping mono pitched roof. The height being approx. 7 metres at the highest point. The building is approx. 70 metres in width and approx. 39 metres in depth. The proposed design is modern with cladding and glazing as primary materials.

The proposed store opening times are 08:00-22:00 Monday to Saturday and 10:00-16:00 Sundays and bank holidays.

Site and Surroundings

The application site is located to the west of Walsall on Walsall Road approximately 3.0 km from Walsall Town Centre and 1.3 km to the south of Fullbrook local centre.

Currently the site hosts commercial units which are proposed to be demolished as described above. The site is the end of a row of commercial units which are set back from Walsall Road.

Majority of the site is allocated as retained local quality industry (IND3). The site-specific reference is IN204 (part of Walsall Road, The Delves, Walsall site).

To the east and west of the site are residential properties.

To the south of the site is the M6 motorway, the southern part of the site is located in the Green Belt. At present, this part of the site is hardstanding and stores paraphernalia related to the use of units including scaffold poles, pallet wood and tyres. There is also an area of car parking and a building.

Relevant Planning History

22/0913 - Environmental Impact Assessment (EIA) Screening Opinion for a proposed erection of a new discount foodstore (Use Class E) with access, car parking, landscaping and other associated works - Screening Opinion EIA Not Required -13/03/2023.

16/1346 - screening opinion as to whether an environmental statement is required for waste processing/recovery/recycling facility. Screening Opinion EIA Not Required - 07/10/2016.

14/1311/FL - sub-division of existing unit into 3 smaller units. GSC 02/09/14.

11/1402/FL - Create new rear vehicle access from Walsall Road. GSC 15/02/2012.

10/1542/FL - Change of Use to Display & Sales of Conservatories, Kitchens and Bathrooms (at front) plus Change of Use to B2, B8 and Renting and Refurbishment of Scaffolding plus Insertion of 1 x Roller Shutter Door in proposed N/E elevation – GSC - 25/02/11

03/0403/FL/W3 - Proposed storage extension to existing factory and change of use of road – GSC 12/06/03.

02/0120/FL/W5 – Erection of new showroom and workshop – GSC 03/04/02.

Relevant Policies

National Planning Policy Framework (NPPF)

www.gov.uk/guidance/national-planning-policy-framework

The NPPF sets out the Government's position on the role of the planning system in both plan-making and decision-taking. It states that the purpose of the planning system is to contribute to the achievement of sustainable development, in economic, social and environmental terms, and it emphasises a *"presumption in favour of sustainable development"*.

Key provisions of the NPPF relevant in this case:

- **NPPF 2 – Achieving sustainable development**
- **NPPF 4 – Decision Making**
- **NPPF 6 – Building a strong, competitive economy**

- **NPPF 7 – Ensuring the vitality of town centres**
- **NPPF 8 – Promoting healthy and safe communities**
- **NPPF 12 – Achieving well-designed places**
- **NPPF 14 – Meeting the challenge of climate change, flooding and coastal change**

On **planning conditions** the NPPF (para 56) says:

Planning conditions should be kept to a minimum and only imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects. Agreeing conditions early is beneficial to all parties involved in the process and can speed up decision making. Conditions that are required to be discharged before development commences should be avoided, unless there is a clear justification.

On **decision-making** the NPPF sets out the view that local planning authorities should approach decisions in a positive and creative way. They should use the full range of planning tools available and work proactively with applications to secure developments that will improve the economic, social and environmental conditions of the area. Pre-application engagement is encouraged.

National Planning Policy Guidance

On **material planning consideration** the NPPG confirms- planning is concerned with land use in the public interest, so that the protection of purely private interests... could not be material considerations

Reducing Inequalities

The Equality Act 2010 (the '2010 Act ') sets out 9 protected characteristics which should be taken into account in all decision making. The **characteristics** that are protected by the Equality Act 2010 are:

- age
- disability
- gender reassignment
- marriage or civil partnership (in employment only)
- pregnancy and maternity
- race
- religion or belief
- sex
- sexual orientation

Of these protected characteristics, disability and age are perhaps where planning and development have the most impact.

In addition, the 2010 Act imposes a Public Sector Equality Duty "PSED" on public bodies to have due regard to the need to eliminate discrimination, harassment and victimisation, to advance equality and to foster good relations. This includes removing or minimising disadvantages, taking steps to meet needs and encouraging participation in public life. Section 149(6) of the 2010 Act confirms that compliance with the duties may involve treating some people more favourably than others. The word favourably does not mean 'preferentially'. For example, where a difference in ground levels exists, it may be perfectly sensible to install some steps. However, this would discriminate against those unable to climb steps due to a protected characteristic. We therefore look upon those with a disability more favourably, in that we take into account their circumstances more than those of a person without such a protected characteristic and we think about a ramp instead. They are

not treated preferentially, because the ramp does not give them an advantage; it merely puts them on a level playing field with someone without the protected characteristic. As such the decision makers should consider the needs of those with protected characteristics in each circumstance in order to ensure they are not disadvantaged by a scheme or proposal.

Development Plan

www.go.walsall.gov.uk/planning_policy

Saved Policies of Walsall Unitary Development Plan

- 5.4 to 5.8. The sequential approach
- Policy S7. Out-of-centre and edge-of-centre developments
- ENV10: Pollution
- Policy GP2. Environmental Protection
- Policy GP6. Disabled People
- Policy ENV10: Pollution
- Policy ENV11. Light pollution
- Policy ENV14: Development of Derelict and Previously-Developed Sites
- ENV17: New Planting
- Policy ENV32. Design and Development Proposals
- Policy ENV33. Landscape Design
- Policy ENV35. Appearance of Commercial Buildings
- Policy T1. Helping People to Get Around
- Policy T7. Car Parking
- Policy T13. Parking Provision

Black Country Core Strategy

- CSP4: Place Making
- CSP5: Transport Strategy
- EMP5: Improving Access to the Labour Market
- CEN7: Controlling Out-of-Centre Development
- TRAN2: Managing Transport Impacts of New Development
- TRAN4: Creating Coherent Networks for Cycling and for Walking
- TRAN5: Influencing the Demand for Travel and Travel Choices
- ENV1: Nature Conservation
- ENV2: Historic Character and Local Distinctiveness
- ENV3: Design Quality
- ENV5: Flood Risk, Sustainable Drainage Systems and Urban Heat Island
- ENV8: Air Quality

Walsall Site Allocation Document 2019

SLC1: Local Centres

SLC2: Local Centres Development Opportunities

EN1: Natural Environment Protection, Management and Enhancement

T4: The Highway Network

T5: Highway Improvements

Supplementary Planning Document

Conserving Walsall's Natural Environment

Development with the potential to affect species, habitats or earth heritage features

- NE1 – Impact Assessment
- NE2 – Protected and Important Species
- NE3 – Long Term Management of Mitigation and Compensatory Measures

Survey standards

- NE4 – Survey Standards

The natural environment and new development

- NE5 – Habitat Creation and Enhancement Measures
- NE6 – Compensatory Provision

Designing Walsall

- DW1 Sustainability
- DW2 Safe and Welcoming Places
- DW3 Character
- DW4 Continuity
- DW5 Ease of Movement
- DW6 Legibility
- DW7 Diversity
- DW8 Adaptability
- DW9 High Quality Public Realm
- DW9(a) Planning Obligations and Qualifying development
- DW10 Well Designed Sustainable Buildings

Air Quality SPD

- **Section 5 – Mitigation and Compensation:**
- Type 1 – Electric Vehicle Charging Points
- Type 2 - Practical Mitigation Measures
- Type 3 – Additional Measures
- 5.12 - Emissions from Construction Sites
- 5.13 – Use of Conditions, Obligations and CIL
- 5.22 - Viability

Consultation Replies

Ecology Officer

No objection subject to conditions

Environmental Health

No comment

Environment Agency

No objection subject to conditions relating to prevention of water pollution from contaminants.

Environmental Protection

No objection subject to conditions relating to a CEMP, Air Quality and Ground Contamination.

Fire Officer

Concerns raised as it appears the requirements of ADB Vol 2, 16.8 have not been met. The nearest hydrant appears to be in excess of 260m. A fire Hydrant should be position within 100 metres (*this would be dealt with at Building Regulations Stage*).

National Highways

No objection subject to a condition in relation to a 4m easement to allow for the ongoing inspection and maintenance of the M6/M5 off slip.

Local Highways Authority

No objection

Local Lead Flood Authority

Still some information required to fully demonstrate that an acceptable drainage strategy is proposed. Issues to be resolved prior to planning permission being granted.

Public Lighting

No objection - any alteration to the existing lighting installation to accommodate the new access with need to be discussed with Sandwell Council.

Sandwell Council

Highways have no objections to the proposed, agreed through Walsall MBC application a section 278 agreement will need to be entered into to complete the proposed works as previously discussed with applicant.

Police Architectural Liaison Officer

No objections. Secured by design principles a recommended in relation to security.

Severn Trent Water

No Objection subject to a condition relating to the disposal of foul and surface water flows

Strategic Planning Policy

No objection

Representations

One letter of support has been received by a resident living adjacent to the site. The support is in relation to the closeness of the site to the resident's property which will making shopping more convenient for their family.

One objection has been received by a local resident in relation to the following concerns (officer's comments are provided in italics):

- Existing industrial units create increased traffic to Walsall Road (*The additional impact on the road network due to the proposal is considered as part of the application*)
- HGVS relating to the existing industrial uses park overnight – noise from these vehicles can be heard from inside property (*this is not a material planning consideration in the determination of the application. Any noise concerns should be reported to Community Protection*)
- Existing units create noise early mornings and afternoon (*this is not a material planning consideration in the determination of the application. Any noise concerns should be reported to Community Protection*)
- Narcotics being dealt behind the property (*not a material consideration in the determination of this application. This is a police matter*)

- Proposal will increase noise levels, traffic, and pollution.

Determining Issues

- Principle of Development
- Impact on the Green Belt
- Design, Layout and Character
- Amenity of Neighbours
- Highways
- Ecology
- Flood Risk / Drainage
- Ground Conditions and Environment
- Planning Obligations/S106 Agreement

Assessment of the Proposal

Principle of Development

The Sequential Test

The isolated nature of the current site, surrounding non-employment uses and internal non-employment uses, means that the site can only be considered as local quality employment land. This is reflected in its scoring in the Black Country Employment Areas Review (BEAR) and its proposed allocation in the Draft Black Country Plan (BCP). However, it still forms part of the overall supply of employment land for which there is an emerging shortfall.

The proposal is below the 2,500sqm threshold for requiring a Retail Impact Assessment under UDP Policy S7.

The applicants claim that the expanded sequential test to Pleck, Park Hall and Caldmore finds only one candidate site which is not in fact within the identified Local Centre, while no other available or suitable sites are identified. We recognise that this Local Centre, and the others enveloped by the expanded sequential test, are likely to have limited space to accommodate a store of this size when compared with Tier 2 District Centres, none of which in the borough are taken in within the expanded catchment. In local policy, SAD Policy SLC2 identifies Development Opportunity LC10A in Pleck as acceptable for retail and an argument could be made to its inclusion in the test, though on a site area of only 0.24ha it would also fail on suitability grounds. Despite the lack of available sites being found, the expansion of the test by the agent in response to our assertion of a potentially wider catchment into those areas in which existing discounter store provision is limited is welcome. The LPA accept that the sequential test has been satisfied in this instance.

Employment

In terms of overall impact on employment, and loss of employment land, the applicants argue that existing food stores in the vicinity will have a greater selection than a limited assortment discounter, and typically will need to operate with a full complement of staff, otherwise they cannot operate normal operations. Therefore, this proposal will have little effect on job loss specifically. In addition, it is suggested that due to a portion of the existing unit being in retail use, this offsets the overall loss on the employment use.

A letter from the applicant seeks to assuage concerns over job losses with the promise of rehoming the current operators off-site in the event of permission being granted.

However, the applicants are not seeking a personal permission so there is no guarantee that they or any future operator will continue to provide the same number of jobs. No details have been provided about where the current occupier will be relocated to. Given the current

shortfall of available employment land and premises in Walsall, it is not certain that it will be possible to relocate them or that they will not simply displace another business elsewhere. Food retail in general employs more staff for a given floor area than class E1/B2 industry. However, unlike industry, retail does not create new jobs or boost the local economy. There is only limited spending power available in the area, so the opening of a new food store will displace spending and jobs from other existing retailers. Industry, in contrast, involves adding value to products which are sold outside the area thus bring in additional income. It is also unclear how intensive is the current employment use. Other E1/B2 occupiers could employ more staff. However, whilst the site forms part of a local quality employment area that is safeguarded both by the adopted Site Allocation Document and the emerging Black Country Plan, evidence prepared for the BCP the BEAR gives the site a relatively low scoring due to the somewhat isolated nature of the site, little critical mass of employment uses and nearby housing. As such, the loss of the site for employment use would not be itself sufficient to justify opposition to the current proposal.

Conclusion

The expanded sequential test satisfies the LPAs initial concerns over the extent of likely catchment for this proposal and the need to test the existence of potentially available sites in the identified Local Centres. While disagreement remains over the overall likely net loss or gain of jobs based on the current allocation for employment use, we consider on balance that strategic planning policy objections to the proposal have been addressed. On balance the principle of development is supported.

Impact on the Green Belt

As part of application site is located within the Green Belt therefore the main considerations are:

- Whether the proposal would be inappropriate development in the Green Belt;
- The effect of the proposal on the openness of the Green Belt and,
- Whether any harm by reason of inappropriateness, and any other harm, would be clearly outweighed by other considerations, so as to amount to the very special circumstances required to justify the proposal

The revised National Planning Policy Framework in section 13 and paragraphs 147 to 150 states inappropriate development is harmful to the Green Belt and would not be approved except in very special circumstances. These very special circumstances will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations.

The Green Belt area covering a portion of the site can be considered as previously developed land, which is an exception highlighted within the NPPF as appropriate in the Green Belt subject to the impact on openness. The proposed use represents a continuation of the existing use of most of the area (as a car park) and would have no greater impact on openness. The proposal would therefore be acceptable under national and local policy in terms of impact on the Green Belt.

Design, Layout and Character

The application site comprises the Lidl Store set within the middle of the site with car parking to southwest of the site fronting Walsall Road and to the east of the site including bicycle storage and electric vehicle charging points. A new access is proposed from Walsall Road.

The pedestrian entrance to the store is located on the corner of the building fronting Walsall Road with pedestrian entrance to the site directly from Walsall Road.

Servicing and deliveries are to the western elevation adjacent to the M6 Slip Road.

The proposed store will sit as the start of a row of warehouse/industrial style single and double storey buildings. The proposed store is low level to reflect the height of surroundings units. The palette of materials shown in elevation plans indicate a modern approach which fit with the 'Lidl' design brief. The proposed facing materials to construct the proposed development are considered acceptable, however further details regarding these materials and finishes will be sought by way of planning condition.

The glazing in the elevations provides an active frontage around the site as well as providing visual surveillance of the site and adjacent surrounding areas.

Submitted drawings include details of boundary treatments as part of the proposed development. Further details regarding the boundary treatments, heights and finishes will be sought by condition.

The Landscape Strategy provided gives details of soft and hard landscaping including replacement planting proposals. The strategy is considered acceptable in relation to the design of the site however the Ecology Officer requests minor amendments to include native planting and wildflower rich grassland to be incorporated into the landscape planting.

Amenity of Neighbours

There are residential properties located on the opposite side of Walsall Road accessed from Greenside Way leading to Woodruff Way. The properties are located approximately 104 metres from the application site. There are also residential properties to the east of the site on Segundo Road which is approximately 37 metres from the site.

A Noise Impact Assessment has been submitted in support of the application. The report provides an assessment of activities associated with the foodstore, specifically plant and delivery noise in relation to the residential properties around the site. The report concludes the plant is considered acceptable during the day and night and deliveries proposed are acceptable 24 hours a day, 7 days a week.

It is considered noise impacts are unlikely to be significant however, details of external plant equipment to the northwest of the site, and the parapet wall to the equipment, will be required through condition to protect the amenity of local residents.

The development would be seen in context of the existing retail/ industrial development in the area. It is considered the scale, mass and design would have a limited impact upon neighbouring amenity.

On balance, it is considered the proposed development would not unduly harm the amenities of the neighbouring occupiers.

Highways

National Highways have been consulted on this application due to proximity to the M6 southbound motorway to the application site which forms part of the Strategic Road Network. No objection was received, but conditions are recommended in relation to an easement to allow for continued inspections of the M5/M6 Slip Road, and further details to be submitted should there be works undertaken to the southwest boundary of the M6. These conditions are to ensure the continued safe and efficient operation of the M6/M5 off slip and structural integrity of the existing carriageway retaining wall.

The development proposes a new access directly from the A4031 Walsall Road. The access works fall outside Walsall Borough boundary and is in Sandwell Borough, and also onto a section of A4031 Walsall Road for which Sandwell Council are the Local Highway Authority therefore Walsall Highways are not able to comment on access. In terms of on-site parking, the applicant has provided predicted parking accumulation data that demonstrates that the 100 parking spaces proposed is sufficient for their operational needs. The Local Highway Authority considered the proposed parking provision is acceptable.

The applicant has provided a Travel Plan and Transport Assessment as part of the application. Any comments from The Local Highway Authority in relation to these documents will be submitted as part of the supplementary paper accompanying this report. A S106 will be required in relation to the Travel Plan due to monitoring.

Access into the site

The access into the site is located within the borough of Sandwell. A planning application has been submitted to Sandwell Council. Their Local Highway Authority have advised *'Highways have no objections to the proposed, agreed through Walsall MBC application a section 278 agreement will need to be entered into to complete the proposed works as previously discussed with applicant'*. The planning application is yet to be determined by Sandwell Council, determination date is 8th May 2023. A Grampian condition will be necessary to ensure that the highway works to be carried out within the Borough of Sandwell are completed prior to the implementation of the rest of the scheme.

Ecology

The applicant submitted an Ecological Impact Assessment dated January 2022 which identified that building B1 was found to hold low bat roosting potential during the preliminary roost assessment for bats as such as per Bat Trust Conservation Trust (BCT) Good Practice Guidelines a minimum of one dusk emergence / dawn re-entry survey to determine presence or likely absence of a bat roost was required.

The Ecological Impact Assessment also stated Production of the DEFRA Metric Biodiversity Net Gain Calculations to minimise impacts on biodiversity and provide net gains in biodiversity was necessary.

The applicant has subsequently submitted a Bat Nocturnal Survey report dated May 2022 and Biodiversity Net Gain Metric spreadsheet and condition assessment sheet dated February 2023 to read in conjunction with an update Ecological Impact Assessment dated May 2022.

The Council's Ecologist has indicated that the findings of the Ecological reports satisfactory are, with no further surveys required. Conditions are required as per the recommendation with the Ecological Impact Assessment.

The development achieves 'net gain' as per NPPF para 174 and 180. Whilst it was recommended by the Council's Ecologist that further native planting and wildflower species rich grassland was to be incorporated into the landscape planting, after correspondence between the planning agent and the Council's Ecologist, it is confirmed this will not be necessary as this type of planting would not be appropriate in customer facing areas of the store. This is because native plating does not require the same level of management as other types of planting which can lead to visual amenity concerns, die back in the winter;

and the potential for pedestrians to walk across the panting undermining the purpose of the planting and harming the visual amenity of the site.

Flood Risk/Drainage

The site is located within Flood Zone 1, the Environment Agency identifies the land having between 1 in 100 and 1 in 1,000 annual probability of river flooding within Flood Zone 1.

The Flood Risk Assessment confirms the site is not at risk of Sea (Tidal) Flooding and low risk of River (Fluvial Flooding). The report also concludes the site is not at risk of other sources of flooding including surface water, ground water and artificial sources of flooding. The applicant has provided a Flood Risk Assessment, Drainage Strategy and a number of revisions/additional information to satisfy the Lead Local Flood Authority (LLFA) in relation to flood risk on site. The latest information was submitted to the Council by the applicant on 14th April 2023, following comments from the LLFA that there was still some information required to demonstrate an acceptable drainage Strategy. This information is considered to relate to the finite detail of the scheme which can be finalised and agreed prior to determination of the application. The recommendation above reflects this.

Ground Contamination and Environment

The application site is currently and has historically been used for industrial/commercial activities. The applicant has provided a contaminated land investigation – ‘Geo-Environmental Investigation Report’, Ref: 21-1501-P-R2, April 2022, by Obsidian Geo-Consulting Limited.

The investigation identifies that while there is some contamination present within the ground, given that the intention is for a commercial development, the levels are not excessive, and no treatment will be required.

The investigation has identified the presence of elevated ground gas levels, albeit with very little flow. Based on the levels and the guidance provided by contaminated land guidance documents, CIRIA 665, the consultants are advising that the building foundation design needs to incorporate ground gas protection measures. Environmental Protection agrees with this recommendation.

Given that part of the site is still occupied and will require investigation, a condition is recommended in relation to further site investigations and an agreed remediation statement to be implemented.

The Environment Agency have advised, *‘the development site is located on the Coalbrookdale Mudstone formation, which are designated a Secondary B Aquifer by the Environment Agency. Superficial River Terrace deposits, designated a Secondary A Aquifer, are also indicated to be present. These deposits may be in hydraulic connectivity with the River Tame, which is located in proximity to the site. The site is not within a groundwater Source Protection Zone.*

We have reviewed the information submitted in support of this application: ‘Geo-environmental Investigation Report – Land to the west of Walsall Road, Walsall WS5 4AN’ Obsidian Geo-consulting (April 2022). A site investigation scheme has been carried, involving sampling and analysis of soils against an appropriate contamination suite. Significant concentrations of contaminants were not identified during the investigation and concentrations of hazardous contaminants were predominantly below laboratory limits of detection. It should be noted that groundwater was not identified or sampled during the site

investigation, and therefore the information submitted to date can be considered limited in its assessment of risk to controlled waters.

Given the historical uses of the site, the Environment Agency recommend that a condition be included on any planning permission granted in order to deal with any unsuspected contamination subsequently identified during the re-development of this site. This is to ensure that any contamination identified during re-development that may represent a risk to controlled waters is appropriately dealt with'. A condition will be attached which covers both the request of Environmental Protection and the Environment Agency is relation to ground contamination investigations.

Air Quality

The Applicant has submitted an updated air quality survey, 'Air Quality Assessment', by NALO, Tetra Tech, Ref. 784-B031433, 21st June 2022. The report confirms that the predicted contributions from the use of the store is only going to have a minor contribution to air quality levels. Given the proposed store is located very near to the M6 motorway, as expected that the main contribution in this area will continue to be vehicles using the M6 motorway.

The Assessment considers the tighter air quality limits prescribed within the Environment Act 2021, which is recommended by Environmental Protection for all air quality assessments. The Assessment has however not considered the World Health Organisation Global Air Quality Guidelines 2021.

The application site is below/close-by to the M6 motorway, therefore levels of air pollution and noise are already at high levels. Having reviewed the environmental reports submitted with the application, Environmental Protection are of the opinion that the proposed store will not significantly add to the existing air quality and noise pollution levels.

The Black Country Air Quality Supplementary Planning Document (SPD) remains relevant. The SPD sets out guidance on minimising air quality impacts, in particular the requirements for promotion of alternative travel choices.

Section 5.6 of the SPD advises 5% of parking provision will be sought with charging points to comply with EN 62196-2 (J1772) Type 2, Mode 3, 7 pin, 32 amp, 7kw. Appropriate cable provision shall be in place for a further 5% to meet any future increase in demand. From the application, the Site Plan indicates that the proposed car park will include 2 charging points. This is short of the SPD requirements of 5%, for the proposed 100 spaces, i.e. a minimum of 5 Charging Points will be required. Environmental Protection are of the opinion that the Applicant needs to increase the number of Charging Points and provide provision (infrastructure) for further Charging Points which will be secured via condition.

The Applicant has submitted a Travel Plan with their Application, 'Travel Plan', Proposed Lidl Food Store Land west of Walsall Road, by SCP, February 2022, Doc Ref: SCP/190922/TP/00, which includes an Action Plan that meets the requirements of the Air Quality SPD.

Noise

The applicant has included a 'Noise Impact Statement', by Acoustic Consultants Ltd, Reference: 9523/FD, February 2022. This indicates that based on the current locality, there should not be any significant noise impacts. Environmental Protection agrees with the assessment and do not require any further assessment or restrictions.

Planning Obligations/S106 Agreement

A Travel Plan has been submitted in support of the application. The Travel Plan includes details of a monitoring programme. Due to the inclusion of monitoring the Travel Plan will be secured by legal obligation through a S106 agreement.

Conclusions and Reasons for Decision

The proposal in principle is considered acceptable.

The design of the proposed development is considered acceptable.

The proposed development would not unduly harm the amenities of neighbouring residents.

The proposed access and car parking is considered acceptable.

The proposal complies with the NPPF, Policies CSP4, CSP5, CEN7, TRAN2, TRAN4, TRAN5, ENV3, ENV5 of the BCCS, saved policies GP2, ENV10, ENV11, ENV14, ENV32, ENV33, ENV35, ENV40 of the UDP, policies NE4 to NE6 of Conserving Walsall's Natural Environment, Policies DW1 to DW10 of Designing Walsall SPD and the Air Quality SPD.

Taking into account the above factors it is considered that the application should be recommended for approval subject to addressing outstanding matters as set out.

Positive and Proactive Working with the Applicant

Officers have spoken with the applicant's agent and in response to concerns raised regarding requiring a planning application being made to Sandwell Council due to the access being within their borough, an application has been submitted in which their Local Highway Authority has confirmed support.

Conditions and Reasons

1. The development hereby permitted shall be begun not later than 3 years from the date of this permission.

Reason: To ensure the satisfactory commencement of the development in accordance with the requirements of Section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004

2. The development hereby permitted shall not be carried out otherwise than in accordance with the following approved plans details and documents:

- Location Plan PL-01 Rev A submitted 07/02/23
- Proposed site plan drawing PL-03 Rev M submitted 17/03/23
- Proposed Building Plan PL-04 Rev B submitted 17/03/23
- Proposed Roof Plan PL-05 Rev B submitted 17/03/23
- Proposed Elevations PL-06 Rev A submitted 07/02/23
- Proposed levels Strategy 105 Rev P3 submitted 03/11/22
- Proposed Drainage Strategy Plan 104 Rev P4 submitted 03/02/23
- Noise Assessment submitted 14/02/23
- Luminare schedule and Proposed lighting layout submitted 17/03/23
- Lighting Calculations submitted 17/03/23

- Landscape strategy Rev B submitted 14/02/23
- Flood Risk Assessment Report submitted 17/03/23
- Suds Maintenance Plan submitted 03/02/23
- Drainage Design Report submitted 03/02/23
- Transport Assessment submitted 17/03/23
- Travel Plan submitted 17/03/23
- Arboricultural Impact Assessment 17/03/23
- Air Quality Assessment submitted 14/02/23
- Ecological Impact Assessment submitted 21/12/22
- Geo Environmental Investigation Report submitted 30/08/22
- Biodiversity Metric 3.1 Calculation Tool submitted 03/02/23
- Biodiversity Metric 3.1 Habitat Condition Assessment Sheets with Instructions submitted 03/02/23

otherwise than in accordance with the terms of the application on the basis of which planning permission is granted, (except in so far as other conditions may so require).

3. No development shall take place until the site access shown on the Proposed Site Plan, drawing no. PL-03 Revision M has been completed. The site access shall thereafter be retained for the lifetime of the development.

Reason: To improve accessibility to the site in accordance with saved UDP Policies GP2, T8 and T10.

4a. Prior to demolition and removal of any buildings and/or structures hereby permitted a site survey to identify any potentially hazardous materials including asbestos shall be carried out and a Method Statement shall be submitted to the local planning authority and agreed in writing detailing actions and time scale to be taken to prevent localised contamination, including how and where the hazardous materials will be removed from site and to where it will be removed too.

4b. Following demolition and removal of any buildings and/or structures a validation report shall be submitted to the Local Authority to demonstrate that no ground contamination has occurred as a result of the removal of any hazardous materials therein. Including any mitigation measures put in place to control risks to future occupiers

Reason: To ensure safe development of the site and to protect human health and the environment in accordance with saved policies GP2 and ENV18.

5 Prior the commencement of development hereby permitted, a site investigation, ground contamination survey and assessment of ground gas having regard to current best practice shall be undertaken. (see Note for Applicant CL1)

- i) Prior to the commencement of development hereby permitted, a copy of the findings of the site investigation, ground contamination survey and ground gas assessment, together with an assessment of identified and/or potential hazards arising from any land contamination and/or ground gas shall be forwarded to the Local Planning Authority. (see Note for Applicant CL2)
- ii) Prior to the commencement of development hereby permitted a 'Remediation Statement' setting out details of remedial measures to deal with the identified and potential hazards of any land contamination and/or ground gas present on the site and a timetable for their implementation shall be submitted in writing to and agreed in writing by the Local Planning Authority. (see Note for Applicant CL2)

- iii) The remedial measures as set out in the 'Remediation Statement' required by part iii) of this condition shall be implemented in accordance with the agreed timetable.
- iv) If during the undertaking of the approved remedial works or during the construction of the approved development unexpected ground contamination not identified by the site investigation required by part i) of this condition is encountered, development shall cease until the 'Remediation Statement' required by part iii) of this condition has been amended to address any additional remedial or mitigation works required and has been submitted in writing to and agreed in writing by the Local Planning Authority.
- v) A validation report setting out and confirming the details of the remedial measures implemented, cross referencing those measures with the approved Remediation Statement, together with substantiating information and justification of any changes from the agreed remedial arrangements shall be submitted in writing to and agreed in writing by the Local Planning Authority prior to the development being brought into use. (see Note for Applicant CL3)
- vi) The development shall not be carried out otherwise than in accordance with the approved Remediation Statement.
Reason: To ensure safe development of the site and to protect human health and the environment. In addition, to meet the requirements of the National Planning Policy Framework (2019) 170 and 178.

6a. Prior to the commencement of development hereby permitted drainage plans for the discharge of surface water and disposal of foul sewerage and all existing and proposed underground services and sewers shall be submitted in writing to and approved in writing by the Local Planning Authority.

6b. The development shall not be carried out otherwise than in accordance with the approved details and the approved drainage shall thereafter be retained as installed for the lifetime of the development.

6c. The development hereby permitted shall not be occupied until the approved drainage has been installed in accordance with the approved plans.

Reason: To ensure the development is provided with a satisfactory means of drainage and/or to reduce the risk of creating or exacerbating a flooding problem and/or to minimise the risk of pollution and/or to safeguard water quality from fuels, oils and other chemicals from the site in accordance with NPPF10, BCCS Policy ENV5 and saved Walsall's Unitary Development Plan policy GP2 and ENV40.

7a. Prior to the commencement of development a Construction Environmental Management Statement shall be submitted in writing to and approved in writing by the Local Planning Authority. The Construction Environmental Management Statement shall include:

1. Construction working hours
2. Parking and turning facilities for vehicles of site operatives and visitors
3. Loading and unloading of materials
4. Storage of plant and materials used in constructing the development
5. A scheme for recycling/disposing of waste resulting from construction works
6. Temporary portacabins and welfare facilities for site operatives
7. Site security arrangements including hoardings

8. Wheel washing facilities and/or other measures to prevent mud or other material emanating from the application site reaching the highway
9. Measures to prevent flying debris
10. Dust mitigation measures (particularly as the contaminated land investigation has indicated that land is contaminated)
11. Measures to prevent site drag-out (including need for wheel cleaning and use of a road-sweeper)
12. Noise and vibration (if piling and/or ground stabilisation is to be conducted) mitigation measures

7b. The development hereby permitted shall not be carried out otherwise than in accordance with the approved Construction Environmental Management Statement and the approved Construction Environmental Management Statement shall be maintained throughout the construction period.

Reason: To ensure that no works commence on the site until a scheme is in place to safeguard the amenities of the area and the occupiers of the neighbouring properties and to control the environmental impacts of the development in accordance with saved policies GP2 and ENV32 of Walsall's Unitary Development Plan.

8. Prior to the commencement of development (including vegetation / site clearance) until an Ecological Management Plan has been submitted to and approved in writing by the Local Planning Authority. The approved Plan shall be implemented in full according to the specified timescales, unless otherwise agreed in writing by the Walsall Council. The plan should include:

- i. Tree protection plan;
- ii. Vegetation removal outside bird nesting season (Sept to Feb);
- iii. Sensitive Lighting scheme to avoid light spill to protect bats, detailing the provision of lighting across the site, in accordance with guidance outlined in Note 08/18 bats and artificial lighting in the UK, Bats and the Built Environment Series, BCT, 2018;
- iv. Precautionary working practices in respect to badgers, bats, nesting birds and hedgehogs.

9. Prior to the commencement of development a Landscape and Ecological Management Plan shall be submitted to and approved in writing by the Local Planning Authority prior to commencement of the development. The content of the LEMP should include the recommendations for habitats and species outlined within the Ecological Impact Assessment dated May 2022 and the management proposals for the green infrastructure onsite. This should include:

- i. Retained trees and shrubs and tree and shrub planting incorporated within the design.
- ii. Provision of two bird boxes (25mm and 32mm entrance hole box or similar) attached to or integrated within new building or retained trees on site; and
- iii. Provision of two bat boxes attached to or integrated within new building or retained trees on site.

Reason: To preserve and enhance the natural environment and safeguard any protected species in accordance with Black Country Plan policy ENV1, saved Unitary Development policy ENV23 and Supplementary Planning Document Conserving Walsall's Natural Environment.

10. Notwithstanding the submitted information, If bat/s or evidence of bats are found during the demolition of the building:

- i. The works should halt until Natural England or the ecologist for this project is consulted.
- ii. The bat/s should not be handled or touched, and the vicinity of the roost shall be immediately reinstated.
- iii. No further destructive works shall be carried out to the building until the need for Natural England licence has been established.
- iv. Within one week of finding bats or evidence of bats, a written report by the ecologist shall be submitted for the approval in writing of the Local Planning Authority, recording what was found, and proposing appropriate mitigation measures, including a timetable for their implementation
- v. Work on the building shall only continue in accordance with the approved mitigation measures and on the approved timetable and/or in accordance with the terms of any Natural England licence issued.
- vi.

Reason: to conserve local bat populations and to be in accordance with National legislation; wildlife and Countryside Act 1981 (as amended) and the Conservation (Natural habitats, & c.) Regulations 1994.

11a. Prior to the commencement of building operations above damp-proof course of the development hereby permitted details of the proposed boundary treatment of the site, including heights, positions and extents, materials and finishes of all walls, fences, gates or other means of enclosure, shall be submitted in writing to and approved in writing by the Local Planning Authority. The submitted details shall include all internal site divisions in addition to the perimeter boundary treatments and all gates shall be designed and installed so they cannot open outwards onto a highway.

11b. The development shall not be carried out otherwise than in accordance with the approved schedule and the boundary treatments shall thereafter be retained for the lifetime of the development.

11c. The development hereby permitted shall not be occupied until all boundary treatments have been erected in accordance with the approved schedule.

Reason: To ensure the satisfactory appearance and functioning of the development in accordance with the saved policies GP2 and ENV32 of the Walsall Unitary Development Plan and in the interest of highway and pedestrian safety in accordance with the saved UDP policies T7 and T13 of the Walsall Unitary Development Plan.

12a. Prior to the occupation of any part of the development hereby permitted, details of the proposed covered and illuminated cycle shelters including their locations within the site, shall be submitted in writing to and approved in writing by the Local Planning Authority.

12b. The development hereby permitted shall not be carried out otherwise than in accordance with the approved details and the approved details shall thereafter be retained for the lifetime of the development and used for no other purpose.

Reason: To encourage sustainable modes of travel and in accordance with UDP policy T13 and Black Country Core Strategy TRAN4.

13. Provision of a 4-metre easement is required to allow for the ongoing inspection and maintenance of the M6/M5 off slip.

Reason: To ensure the continued safe and efficient operation of the M6/M5 off slip and structural integrity of the existing carriageway retaining wall.

14. Should the assessment of existing retaining structures by a structural engineer identify the requirement for installation of new retaining structures, removal and replacement with structured, compacted fill material along the South West boundary with the M6, as identified in the submitted Geo-Environmental Desk Study Report dated February 2022, details of the proposed design, materials, and construction methodology for fill materials and retaining structures shall be submitted to the Council and approved in consultation with National Highways in writing prior to their construction.

Reason: To ensure the continued safe and efficient operation of the M6/M5 off slip and structural integrity of the existing carriageway retaining wall.

15. Notwithstanding the submitted information, 5 Electric Vehicle Charging points will be required, specification to be met Building Regulations Approved Document S.

Reason: To meet the requirement of part 5.6 of Walsall Council Air Quality SPD.

Notes for Applicant

Environment Agency

The applicant should note that in accordance with Government policy detailed in the National Planning Policy Framework (paragraph 183), *'where a site is affected by contamination or land stability issues, responsibility for securing a safe development rests with the developer and/or landowner'*. Therefore, should any significant contamination subsequently become apparent then responsibility will remain with these parties.

Notes for Applicant – Contaminated Land

CL1

Ground investigation surveys should have regard to current 'Best Practice' and the advice and guidance contained in the National Planning Policy Framework 2018; British Standard BS10175: 2011 +A2:2017 'Investigation of potentially contaminated sites – Code of Practice'; British Standard BS5930: 1999 'Code of practice for site investigations'; Construction Industry Research and Information Association 'Assessing risks posed by hazardous ground gasses to buildings (Revised)' (CIRIA C665); Land contamination risk management (LCRM) or any relevant successors of such guidance. You are strongly advised to consult with the Local Planning Authority on the construction, location and potential retention of any boreholes installed for the purposes of ground gas and or groundwater before installation of same.

CL2

When making assessments of any contaminants identified as being present upon and within the land considering their potential to affect the proposed land use and deciding appropriate remediation targets regard should be had to the advice given in CLR 11 'Model Procedures for the Management of Land Contamination', The Contaminated Land Exposure Assessment (CLEA) model (Latest Version), Science Report – SC050021/SR3 'Updated technical background to the CLEA model' and Science Report – SC050021/SR2 'Human health toxicological assessment of contaminants in soil' or any relevant successors of such guidance. This list is not exhaustive. Assessment should also be made of the potential for contaminants contained in, on or under the land to impact upon ground water. Advice on this aspect can be obtained from the Environment Agency.

CL3

Validation reports will need to contain details of the 'as installed' remediation or mitigation works agreed with the Local Planning Authority. For example, photographs of earth works, capping systems, ground gas membranes, and structure details should be provided. Copies of laboratory analysis reports for imported 'clean cover' materials, manufacturer's specification sheets for any materials or systems employed together with certification of their successful installation should also be submitted. Where appropriate, records and results of any post remediation ground gas testing should be included in validation reports. This note is not prescriptive and any validation report must be relevant to specific remedial measures agreed with the Local Planning Authority.

Note to Applicant Air Quality SPD

The applicant is to provide at least 5 electric vehicle charging points and infrastructure for additional charging points should there be sufficient

The Air Quality SPD (Section 5.6) advises the following about Electric Vehicle Charging Points:

The electric vehicle charging point parking provision for commercial premises is **5%** of points to comply with EN 62196-2 (J1772) Type 2, Mode 3, 7 pin, 32 amp, 7kw, with appropriate cable provision in place for a further 5% to meet any future increase in demand.

Wherever possible the power supply and charging point should both be phase 3 compatible. Where only single-phase power supply is available the charging unit should be capable of handling 3-phase power if supply is subsequently upgraded.

The charging unit is to be supplied by its own independent radial circuit.

Fire Officer

Comments as per previous response on 21/04/22. Objection raised as it appears the requirements of ADB Vol 2, 16.8 have not been met. The nearest hydrant appears to be in excess of 260m.

Approved Document B, Volume 2, Buildings other than Dwellings, 2019.

Requirement B5: Access and facilities for the fire service

Section 15: Vehicle access

Buildings not fitted with fire mains

15.1 For small buildings (up to 2000m², with a top occupied storey that is a maximum of 11m above ground level), vehicle access for a pump appliance should be provided to whichever is the less onerous of the following.

a. 15% of the perimeter.

b. Within 45m of every point of the footprint of the building (see Diagram 15.1).

15.2 For all other buildings, provide vehicle access in accordance with Table 15.1.

15.3 Every elevation to which vehicle access is provided should have a door, a minimum of 750mm wide, to give access into the building. The maximum distance between doors, or between a door and the end of the elevation, is 60m (e.g. a 150m elevation would need a minimum of two doors)

Design of access routes and hard-standings

15.7 Access routes and hard-standings should comply with the guidance in Table 15.2.

Requirements can only apply to the site of the works. It may not be reasonable to upgrade the route across a site to a small building. The building control body, in consultation with the fire and rescue service, should consider options from doing no work to upgrading certain features, such as sharp bends.

15.8 Where access to an elevation is provided in accordance with Table 15.1, the following requirements should be met, depending on the building height. a. Buildings up to 11m, excluding small buildings (paragraph 15.1): pump appliance access should be provided adjacent to the building for the specified percentage of the total perimeter. b. Buildings over 11m: access routes should comply with the guidance in Diagram 15.2.

15.9 Where access is provided for high reach appliances in accordance with Table 15.1, overhead obstructions (such as cables and branches) should be avoided in the zone shown in Diagram 15.2.

15.10 Dead-end access routes longer than 20m require turning facilities, as in Diagram 15.3. Turning facilities should comply with the guidance in Table 15.2.

Overall

Access routes should have a minimum width of 3.7m between kerbs, noting that WMFS appliances require a minimum height clearance of 4.1m and a minimum carrying capacity of 15 tonnes (ADB Vol 2, Table 15.2)

Section 16: Fire mains and hydrants

Provision of private hydrants

16.8 A building requires additional fire hydrants if both of the following apply.

- a. It has a compartment with an area more than 280m².
- b. It is being erected more than 100m from an existing fire hydrant.

16.9 If additional hydrants are required, these should be provided in accordance with the following.

- a. For buildings provided with fire mains – within 90m of dry fire main inlets.
- b. For buildings not provided with fire mains – hydrants should be both of the following.
 - i. Within 90m of an entrance to the building.
 - ii. A maximum of 90m apart.

16.10 Each fire hydrant should be clearly indicated by a plate, fixed nearby in a conspicuous position, in accordance with BS 3251.

16.11 Guidance on aspects of provision and siting of private fire hydrants is given in BS 9990.

Water

Water supplies for firefighting should be in accordance with ADB Vol 2, Sec 16 and “National Guidance Document on the Provision for Fire Fighting” published by Local Government Association and WaterUK:

<https://www.water.org.uk/wp-content/uploads/2018/11/national-guidance-document-on-water-for-ffg-final.pdf>

For further information please contact the WMFS Water Office at the address given above or by email on Water.Officer@wmfs.net

The approval of Building Control will be required to Part B of the Building Regulations 2010

Early liaison should be held with this Authority in relation to fixed firefighting facilities, early fire suppression and access (ADB Vol 2, Section 8)

The external access provisions for a building should be planned to complement the internal access requirements for a fire attack plan. (CIBSE Guide E, Fire Safety Engineering 2010, p. 13-14)

Secured By Design

Consider construction security.

https://www.securedbydesign.com/images/CONSTRUCTION_SITE_SECURITY_GUIDE_A4_8pp.pdf

Alarm and cctv installers should be approved by NSI, SSAIB or both

See <https://www.nsi.org.uk/> and <https://ssaib.org/>

I would recommend security using the principles of Secured By Design.

Below is a link to secured by design guides, including Commercial, police approved crime reduction information.

<https://www.securedbydesign.com/guidance/design-guides>

Below is a link to secured by design commercial, police approved crime reduction information guidance.

https://www.securedbydesign.com/images/downloads/SBD_Commercial_2015_V2.pdf

Secured By Design security standards are explained.

Please see: <https://www.securedbydesign.com/guidance/standards-explained>

END OF OFFICERS REPORT