



Planning Committee

Report of Head of Planning and Building Control on 09 March 2023

Plans List Item Number: 2

Reason for bringing to committee

Major Application

Application Details

Location: HORSE AND JOCKEY, 146, WALSALL ROAD, WALSALL WOOD, WALSALL, WS9 9AJ

Proposal: ERECTION OF A NEW DISCOUNT FOOD STORE (USE CLASS E) WITH ACCESS, CAR PARKING, LANDSCAPING, BIODIVERSITY IMPROVEMENTS AND OTHER ASSOCIATED WORKS

Application Number: 22/0548

Case Officer: Sally Wagstaff

Applicant: Lidl Great Britain Limited

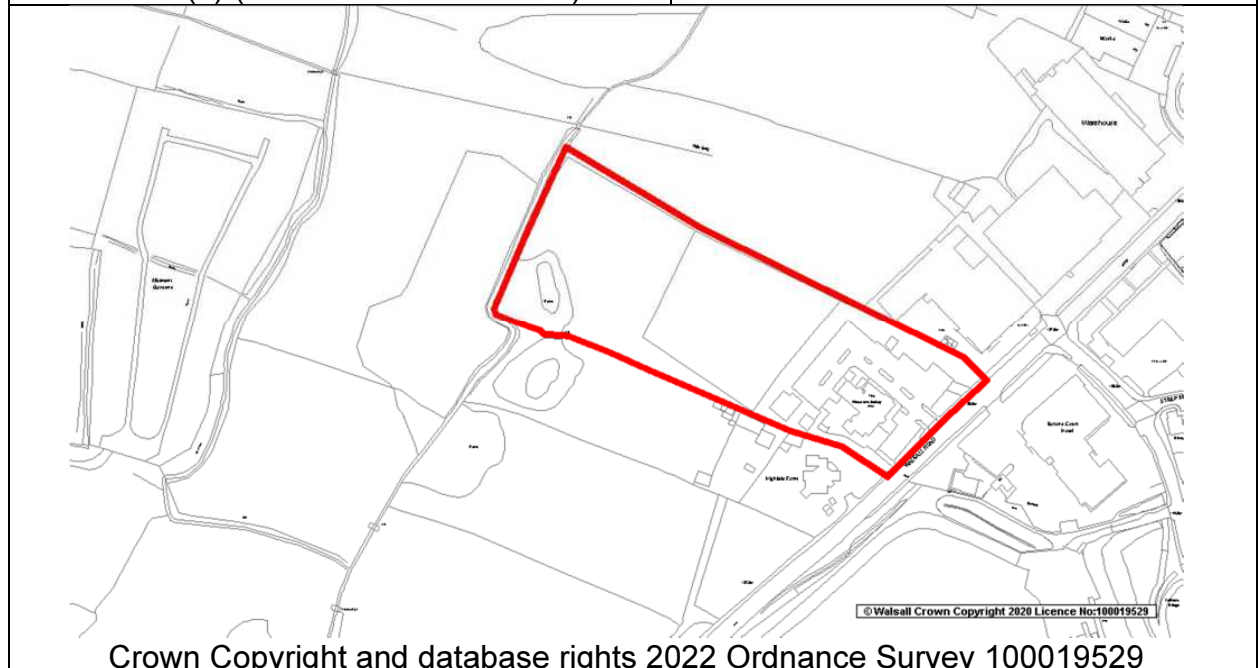
Ward: Aldridge North And Walsall Wood

Agent: Rapleys

Expired Date: 18-Aug-2022

Application Type: Full Application: Major Use Class E(b) (Sale of Food and Drink)

Time Extension Expiry:



Recommendation

Refuse

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, 125 car parking spaces including 7 disabled spaces, 9 parent and child spaces, 2 Electric Vehicle Charging spaces and 12 secure cycle parking spaces.

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 west of the site which is also accessed from Walsall Road. The existing Walsall Road access to the front of the site serving the current public house will be decommissioned.

Around 50 trees are to be removed on site with a new landscaping scheme proposed to the northern, eastern, southern and western boundaries of the store including a mixture of turf, shrubs, trees and hedge planting. A buffer mix of native trees are proposed to the north west of the site.

The proposed development includes the demolition of the Horse and Jockey Public House which is currently in use.

The proposed site area is approximately 2.06 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. 77 metres in width and approx. 33 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 site is located on Walsall Road in Walsall Wood approximately 350 from Walsall Wood District Centre. Most of the site has no allocation in the Site Allocations Document however the northern half of the site is within the Green Belt.

The site hosts a public house known as 'Horse and Jockey' with associated car parking and landscaping.

The land to the western side of the site is a 'Site of Local Importance for Nature Conservation' – Jockey Fields SLINC. The adjoining land to the north and south west of the site is a 'Site of Importance for Nature Conservation' – Jockey Fields SINC and the land adjoining the site to the west is Jockey Fields Site of Special Scientific interest SSSI.

The area to the north, west and south is Green Belt as well being designated as a mineral extraction site in the Site Allocations Document.

Immediately adjacent to the south of the site is a single storey residential property with ancillary storage yard to the rear. To the north are three industrial units and to the east is Baron's Court hotel which is a 'non-designated' heritage asset.

Relevant Planning History

22/0484 – Environmental Impact Assessment (EIA) screening opinion for proposed discount foodstore. Not yet determined.

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 9 – Promoting sustainable transport**
- **NPPF 11 – Making effective use of land**
- **NPPF 12 – Achieving well-designed places**
- **NPPF 13 – Protecting Green Belt land**
- **NPPF 14 – Meeting the challenge of climate change, flooding and coastal change**
- **NPPF 15 – Conserving and enhancing the natural environment**

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

- 3.2 to 3.5 The Countryside and Green Belt
- 3.6 to 3.8 Environmental Improvement
- 3.11 Forestry and Trees
- 3.13 to 3.15 Building Conservation & Archaeology

- GP2: Environmental Protection
- GP6: Disabled People
- ENV10: Pollution
- ENV17: New Planting
- ENV18: Existing Woodlands, Trees and Hedgerows
- ENV23: Nature Conservation and New Development
- ENV24: Wildlife Corridors
- ENV25: Archaeology
- ENV27: Buildings of Historic or Architectural Interest
- ENV32: Design and Development Proposals
- ENV33: Landscape Design
- ENV40: Conservation, Protection and Use of Water Resources
- Policy ENV35. Appearance of Commercial Buildings
- Policy T1. Helping People to Get Around
- Policy T7. Car Parking
- Policy T13. Parking Provision
- S7: Out-of-Centre and Edge-of-Centre Developments
- T7 - Car Parking
- T8 – Walking
- T9 – Cycling
- T10: Accessibility Standards
- T11: Access for Pedestrians, Cyclists and Wheelchair users
- T13: Parking Provision for Cars, Cycles and Taxis
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Black Country Core Strategy

- Vision, Sustainability Principles and Spatial Objectives
- CSP4: Place Making
- CEN7: Controlling out-of-Centre Development
- TRAN2 Managing Transport Implications of New Development
- TRAN4 Creating Coherent Networks for Cycling and for Walking
- ENV3 Design Quality
- ENV7 Renewable Energy
- EMP5 Improving Access to the Labour Market

Walsall Site Allocation Document 2019

GB1: Green Belt Boundary and Control of Development in the Green Belt
 EN1: Natural Environment Protection, Management and Enhancement
 EN3: Flood Risk
 M8: Brick and Clay Extraction- Other Areas
 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

Development with the potential to affect trees, woodlands and hedgerows

- NE7 - Impact Assessment
- NE8 – Retained Trees, Woodlands or Hedgerows
- NE9 – Replacement Planting
- NE10 – Tree Preservation Order

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
- 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

Archaeology

No objection subject to the imposition of a condition relating to a watching brief to ensure any remains impacted by the development are identified and recorded.

Canal and River Trust

No objection – suggestion for the Travel Plan to be amended to include the canal tow path as an optional travel method for customers and staff

Coal Authority

No comment – site is within a low risk coal area.

Conservation Officer

No objection – recommend the original building should be retained and not demolished.

Ecology Officer

Objection to grant of planning permission in respect to the impact on SSSI from drainage and the need to retain more existing trees on site

Environment Agency

No objection subject to a condition relating to a remediation strategy being required if contaminants not previously identified are discovered during development.

Environmental Protection

No objection subject to conditions within any permission to address Construction and Demolition management, construction and Demolition Management, contaminated land investigation and meeting requirements of the Air Quality SPD.

Fire Officer

No objection subject to meeting the requirements of approved document B.

Local Highways Authority

No objection subject to a revised travel plan to address the Transportation Emissions Mitigation Plan within the Travel Plan, or any mitigation proposed. This is to be secured by a S106 for Travel Plan monitoring.

Local Lead Flood Authority

Objection – Insufficient detail to fully demonstrate an acceptable drainage strategy

Natural England

Initial objection due to insufficient information enable Natural England to provide a substantive response. No further comments received in relation to additional information submitted in response to this concern.

Police Architectural Liaison Officer

No objection – secured by design principles recommended.

Public Lighting

No objection – noted no street lighting implications on the main road as an existing access is being utilised. Condition recommended in relation to details of the car parking lighting.

Severn Trent Water

No objection subject to a drainage scheme to address the disposal of foul and surface water run-off.

Strategic Planning Policy

Objection - It is considered the proposal would amount to inappropriate development in the Green Belt. The very special circumstances necessary to justify inappropriate development in the Green Belt do not exist.

Tree Preservation Officer

Objection due to the significant loss of existing trees which offer a high amount of amenity value to the locality and contribute significantly to the verdant character of the area.

Representations

One comment of concern has been received by a local resident with concerns regarding:

- Lack of a pedestrian crossing for pedestrians to access the site. Lack of a crossing facility will be safety hazard to those wishing to catch public transport into Walsall after visiting the store.
- The existing pedestrian crossing is located on High Street which would result in local residents having to walk to this crossing to safely cross the A461 Lichfield Road

One comment of support has been received by a local resident. They advise the new store would be good for the area.

Determining Issues

- Principle of Development
- Green Belt Assessment
- Heritage Assessment
- Design, Layout and Character
- Amenity of Neighbours and Amenity of Future Occupiers
- Highways
- Ecology
- Flood Risk / Drainage
- Trees / Protected Trees
- Ground Conditions and Environment

Assessment of the Proposal

Principle of Development

The proposal relates to the demolition of the existing public house in order for the erection of the food store. The loss of the public house is resisted in local UDP policy LC8.

The applicant advises in paragraphs 11.4-6 of the Planning and Retail Statement that this loss is not permitted under Policy LC8, unless certain conditions are satisfied including other facilities which could accommodate community activity displaced by the proposed development in an equally or more convenient location.

The applicant is of the understanding the horse and jockey pub are seeking to vacate the premises due to financial pressures and completion in the local area. A list of local pubs has been provided within 1.5 km radius of the site.

The Planning and Retail Statement concludes that the applicant considers the policy requirement of LC8 are satisfied due to the number of other facilities which could accommodate community facilities in equally or more convenient location.

It is considered the applicant addresses this requirement and presents a satisfactory justification to accord with policy LC8 of UDP.

The site is located approximately 350 metres from Walsall Wood local Centre therefore a sequential test is required to accord with BCCS CEN7 (Controlling Out-of-Centre Development) and National Policy for an out-of-centre location. It is noted in

section 7 of the Planning and Retail Statement the applicant has applied a wider catchment of a 7-minute drive time from the site, taking in a number of local centres and Aldridge District Centre. This is in-line with Strategic Policy earlier recommendations and appears to be a satisfactory extent that recognises the semi-rural location of the proposal site and the limited existing provision of discounter stores in some parts of the borough, making a wider customer trade draw more likely from these areas, expanding the catchment.

The test shows sufficient flexibility and considers candidate sites, as such the applicant appears to have considered available sites and presents what we consider a satisfactory sequential test.

On balance, satisfactory justification has been presented regarding the loss of the public house in accordance with policy LC8 of UDP. A satisfactory the sequential test has been presented with an appropriate extent and scope displaying flexibility on behalf of the applicant in considering alternative sites. This is accompanied by a Retail Impact study showing no adverse economic impact and the potential wider economic benefit of the proposal is accepted. The principle of development is therefore acceptable subject notwithstanding the Green Belt Assessment which is detailed below.

Paragraphs 11.22-28 of the Planning and Retail Statement address the economic benefits of the proposal and intention to satisfy EMP5 through the recruitment and training of local people. The proposal does represent an opportunity to improve the economic activity of the area, while such a store may be expected to encourage linked trips to nearby centres and leisure uses.

Green Belt Assessment

As stated in the Planning and Retail Statement, 'Approximately one quarter (0.21 hectares) of the total discount food store development site area (0.84 hectares) will be located within the Green Belt. This element will compromise 26 car parking spaces in addition to approximately one fifth of the proposed foodstore building floorspace'.

As the application site is located within the Green Belt and 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.

Subject to a number of exceptions, as listed in Paragraphs 149 and 150, the Framework makes it clear that the construction of new buildings should be regarded

as inappropriate in the Green Belt. These paragraphs also list development types that are regarded as exceptions and are appropriate in the Green Belt.

The Green Belt loss and harm is addressed in paragraphs 11.7-13 within the Planning and Retail Statement. The applicant advises the proposal would include a landscape buffer to the west of the site to include native trees and mixed shrubs. The applicant considers this will create a *'clear defensible boundary between the remaining Green Belt and the development site helping shield the foodstore when viewed from the west'*. The applicant's considered that due to the small loss of Green Belt land and the landscape measures proposed the development would result in negligible harm to the openness and purpose of the Green Belt.

To add to this, the applicant considers that's the loss of the Green Belt is outweighed by the benefits from the proposed development including (as summarised):

- Enhancement of the shopping experience and choice for shoppers in Walsall Wood
- Design compliments to the visual character of the area
- Landscaping on site will provide a high level of visual amenity
- Employment opportunities – 40 (FTE) jobs
- Positive economic impact due to new jobs in local area

In response to this justification the Council advised that this was not a satisfactory justification for very special circumstances therefore the concern remains the proposal is inappropriate in the Green Belt.

The applicant has reiterated they consider the proposal would result in a small loss of Green Belt and biodiversity and ecology enhancements including the benefits above outweigh the harm to the Green Belt.

It should be noted that Paragraph 149 refers to loss of green belt in terms of inappropriateness of proposals *and* any other harm resulting from the proposal being clearly outweighed by other considerations. The applicants claim related to the 'other' harm being outweighed, which leaves the matter of inappropriateness unaddressed. Paragraph 149 explicitly states that the LA should consider new buildings in the green belt as inappropriate unless the proposal represents one of the exceptions presented. Around a ¼ of the store building and car park area will be built in the green belt. This proposal does not present very special circumstances, and so the issue of inappropriate use is unresolved. The policy does not make a distinction between a 'fraction' of green belt versus a larger portion, all is considered the same.

While impact on Green Belt openness is factored into satisfactory landscaping design and layout, the primary concern is specifically the lack of appropriateness and very special circumstances to justify the proposal on this portion of Green Belt land, which has not been satisfactorily addressed.

National policy in the NPPF sets out the five purposes of Green Belt and states that inappropriate development should not be approved except in very special circumstances. Nature conservation is not one of the five purposes. Provision of biodiversity gain, whilst welcome, could be provided on almost any site whether in the Green Belt or elsewhere. As such, it does not represent very special circumstances so cannot be used to justify the current proposal. If this was not the case, nearly all Green Belt would be at risk of encroachment from development on

The applicants also refer to the proposal enhancing the shopping experience in Walsall Wood, and providing additional employment. However, as with other food retail proposals, there is only a limited spending power available in any given area. The effect of new food retail development is to abstract trade from existing stores and potentially affect job levels. This is not a consideration for Green Belt purposes.

A revised proposal that could fit within a reduced site plan that makes better use of the existing previously developed land (or neighbouring sites) and does not encroach on the neighbouring green belt could be supported. The applicant has been made aware of this; however amended plans have not been received.

Overall is considered the proposal would amount to inappropriate development in the Green Belt. The very special circumstances necessary to justify inappropriate development in the Green Belt do not exist. The proposal conflicts with Policies 3.2-3.5 and GP2 of the UDP and Policy GB1 of the SAD - limit development within the Green Belt. The proposal would also conflict with the Green Belt aims of Section 13 of the Framework, and in particular Paragraphs 147 to 149.

Heritage Assessment

The site housed the original Horse and Jockey public house, which was demolished, and a replicated public house built further into the site.

There are no listed buildings within the immediate or intermediate boundaries of the site. Barons Court Hotel, opposite the site on Lichfield Road is a non-designated heritage asset, however, it has been previously extended extensively and the ground floor flat roof extension detracts from its overall historic character and architectural design.

A Heritage Statement has been submitted with the application, which concludes 'the natural screening to the south of Barons Court Hotel, combined with its setback from the road, will limit inter-visibility between the new build and the non-designated heritage asset. Barons Court is more evident from the north western corner of the application site, the placement of the new build in the south western part of the site will lessen its prominence in this context. The siting and restrained scale of the new build will not adversely impact upon the setting of the non-designated heritage asset located to the northeast'.

It is considered on balance the proposed development would not have a detrimental impact upon Baron's Court non-designated heritage asset.

The existing development along this section of Lichfield Road/Walsall Road is characterised by a mixture of low level and two storey flat roof and pitched roof buildings.

The proposal seeks to demolish this existing building on site and to erect a large retail unit that would extend the whole length of the south and south eastern boundary of the site.

The Conservation officer does not object to the development however is of the opinion that the original building should be retained, its architectural interest adds to the character of the area and along the street scene. Whilst it is acknowledged that the existing building adds to character to this area of Lichfield Road it is considered on

balance that the loss of the existing building would not be unduly harmful to the character of the area as to warrant refusal for this reason.

There is potential for archaeological remains relating to the former Horse and Jockey public house, and unknown archaeological remains dating from the medieval period to be present within the site.

The former pub is adjacent to the road on the Walsall Tithe map (1843), and there are buildings shown in less detail on maps of 1775 and 1816. The site is immediately to the southwest of the historic medieval settlement of Walsall Wood as mapped on the Walsall Historic Environment Record.

In the area of the current building there is likely to be truncation, and the ground investigation report notes depths of more than 1m made-ground here, however landscaping and service trenches may impact remains closer to the road, should they be present. Any archaeology would likely be of local significance and would not form a constraint on development.

It is recommend a condition requiring a programme of archaeological monitoring (watching brief) on groundworks, landscaping and services, to ensure any remains impacted by the development are identified and recorded.

Design, Layout and Character

The application site comprises the Lidl Store set towards the west of the site and parking to the north and east of the site.

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

The proposed store sits in a mixed area with an industrial style single storey brick building to the north and single storey residential building to the south. The proposed store is low level however at approx. 7 metres it will be higher than the immediately adjacent buildings and the current pub building on site. The palette of materials shown in elevation plans indicate a modern approach which fit with the 'Lidl' design brief. It is acknowledged that the proposed design is not in keeping with the immediate vicinity however it is considered on balance due to the varied general street scene the proposal would not be significantly detrimental to the character of the area to warrant a refusal on design grounds in accordance with the UDP Policy ENV32.

The proposed facing materials to construct the proposed development are considered acceptable in context of the development 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, ground levels, heights and finishes will be sought by condition.

Amenity of Neighbours and Amenity of Future Occupiers

The nearest property no. 158 Walsall Road is located approximately 19 metres from the application 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 noise will be acceptable and of no impact during both day and night. The report considers the noise impact of the proposed plant to fall in the 'low observed adverse effect level of the NPSE and NPPG and achieves the 4 aims of the NPPF.

After assessment of the proposed deliveries to the store, the report concludes they are acceptable both day and night in terms of noise and achieve the aims of the NPPF.

Environmental Protection have not provided comments in relation to the findings of the noise assessment however it is considered noise impacts are unlikely to be significant however, details of external plant equipment will be required through condition to protect the amenity of local residents.

It is considered the scale, mass and design would have a limited impact upon neighbouring amenity due to the distance between the development and the immediately adjacent property no. 158 Walsall Road.

If members are minded to approve the application the resolution could allow for a condition to secure the hours of operation to ensure minimal impacts on neighbouring amenity in relation to noise and disturbance.

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

Highways

Following the submission of the application and subsequent revised drawings of the carriageway arrangements, the Highway Authority provides the following substantive response that supports the principle of the application but would require clarification of some elements of the scheme and submitted documents.

Vehicle Access

The proposed development was likely to result in significant queuing on the main A461 Lichfield Road southbound as vehicles looked to enter the store. The Highway Authority was concerned that no ghost right turn lane was proposed to mitigate so that right turning vehicles could sit clear of the main southbound running lane.

The submitted traffic flow data showed consistently around 800 vehicles southbound and the same northbound on Lichfield Road during peak traffic periods which equated to 13 per minute or 2 about every 10 seconds. Consequently, it was considered that right turning store traffic was likely to cause queuing to southbound traffic.

The Applicant has provided a revised drawing to address this, including a right turn lane, and this will need to be supported by a Road Safety Audit.

The location of the store is fairly isolated from the main residential built-up areas. Para.4.2 to 4.4 of the TA shows that the majority of local residents are over 1600m to 2000m walking distance from the store. The UDP T11 Walking/Cycling Accessibility policy sets the maximum walking distance at 1000m. This is likely to result in customers and staff using other modes of transport, including the motor car, which, in turn will impact on predicted trip rates.

The applicant has included some measures to improve access to the store for walking, but it is likely, due to the location of the site that trips will be car based.

Travel Plan

NPPF Paragraph 113:

Para 113 states: *“All developments that will generate significant amounts of movement should be required to provide a Travel Plan, and the application should be supported by a transport statement or transport assessment so that the likely impacts of the proposal can be assessed”.*

A Travel Plan (TP) has been submitted but it is not considered to be acceptable and will require review and amendment.

As part of the application submission there is a “Transportation Emissions Mitigation Plan” which deals with the impact of Air Quality as a result of the new development. It states that the Damage Cost of the Air Quality associated with the development will be £30,865 and this is mitigated against by the Travel Plan, but there is no mention of the Transportation Emissions Mitigation Plan within the Travel Plan, or any mitigation proposed. This will need to be addressed by amendment of the Travel Plan, to reflect the information in both documents, and also be presented within a suitable format for it to be appended to a legal obligation as part of a S106 agreement for Travel Plan Monitoring.

Parking

The applicant has stated within the submission that the parking levels should accord with Walsall Council UDP standards using Gross Floor Area. From careful study of the submission, they have used their own calculation for parking on Retail Floor Area, increasing the perceived parking from 64% to 103%.

Lidl Store GFA 2277sqm - UDP = 162 spaces + 16 disabled = 178 Spaces equates to 64%

Lidl Proposed Retail Floor Area = 1414sqm = Proposed 115 Spaces which equates to 103%

Walsall Councils Unitary Development Plan states in UDP Policy T7 - Car Parking:

All development should satisfy the car parking standards set out in Policy T13. This will involve providing an adequate level of car parking to meet operational needs whilst not exceeding any maximum parking standards that are specified. Appropriate provision of parking for people with special needs must be included, as set out in Policy T13.

UDP Policy T13 - Parking Provision for Cars, Cycles and Taxis:

C. Retail Development Food and convenience goods shops 1 car park space per 14m² of gross floorspace. At least 1 bike stand for every 20 car park spaces, and absolute minimum of 2 bike stands Taxi facilities.

Car Parking Provision

All development within Walsall should comply with Walsall Local policies including Parking Standards. The applicant states in their submission, UDP standards are based on Car Gross Floor Area (GFA). The applicant has then calculated the parking provision on Retail Floor Area (RFA) which only requires half of the parking.

The car parking provision is not calculated to any formal standard and appears to be based on how much space is left once the store is introduced on the site and a route for articulated delivery HGV.

Although the parking levels are lower than the UDP Standards on this particular site, taking into account the isolated location in terms of sustainability, and accessibility, the nature of the passing traffic which is to a large degree commercial, it is considered in this particular location acceptable.

A local resident has expressed concern regarding the distance to the existing pedestrian crossing on High Street, Walsall Wood. The access plan submitted indicates a pedestrian crossing will be installed across Walsall Road adjacent to the site which will alleviate the need for pedestrians to walk a significant distance to the crossing on High Street.

On balance it is considered that the proposal would not result in an unacceptable impact upon the highway network in accordance with SAD policy T4. It is considered car parking provision is adequate to serve the development in accordance with UDP policy T7 and T8. If members were minded to approve the application the resolution could include receiving a revised Travel Plan which would then be tied into a Section 106 for travel plan monitoring.

Ecology

Jockey Fields Site of Special Scientific Interest (SSSI)

Jockey Fields SSSI, which lies adjacent to the proposed development, encompasses an area of low-lying fields in a stream valley consisting of well grazed damp pasture, neglected grassland, fen, mire and a network of well vegetated ditches. The site is of local interest for its wetland birds and rare plant species. Due to a previous water pollution incident, it is currently in unfavourable – declining condition as such it is at high risk from further water pollution.

The proposed development lies within the SSSI impact risk zone, which, should the rural non-residential development's footprint exceeds 0.2ha, there is potential for the development to result in a negative impact to the designated site. From a rough measurement, the development footprint is around 0.6ha putting the development within this threshold.

It is also highly likely the ditches and ponds within the biodiversity improvement zone of the proposed development will be directly linked to the SSSI, increasing the risk of a negative impact on the SSSI.

Jockey Fields Site of Local Importance to Nature Conservation (SLINC)

As the Preliminary Ecological Appraisal did not undertake a data search with EcoRecord for this application, the initial report has missed Jockey Fields SLINC, which covers the northern portion of the development, and as such was not evaluated, it should be noted that the onsite SLINC was identified by Walsall Council during the pre-application process undertaken previously by the developer.

The Jockey Fields SLINC is protected under Local Planning policy ENV1 of the Black Country Plan which states;

'Development within the Black Country will safeguard nature conservation, inside and outside its boundaries by ensuring that: Local designated nature conservation sites (Sites of Local Importance for Nature Conservation), important habitats and geological features are protected from development proposals which could negatively impact upon them; Adequate information must be submitted with planning applications for proposals which may affect any designated site or any important habitat, species or geological feature to ensure that the likely impacts of the proposal can be fully assessed. Without this there will be a presumption against granting permission.'

As such a full assessment and details of the impact to the SLINC and provision of mitigation to ensure no negative impact on the designated site is necessary, prior to any approval of the development.

The Jockey Fields SLINC was last surveyed in 2005, where it was endorsed to hold its current status, however, since this time significant changes have occurred including the area to north within Jockey fields being designated as Site of Importance to Nature Conservation (SINC) in 2019. Due to land use changes, the age of the previous survey and the SLINC site being located between a SSSI and SINC, making it part of important corridor, it was recommended that alongside a revision of the ecological report to include an assessment of the impact on the SLINC and mitigation outlined, a full Local Site assessment should be undertaken to assess whether the site still meets the criteria of the Local Site status as per the Birmingham and the Black Country Local Site Assessment criteria.

Habitats

From the Preliminary ecological appraisal, it was unclear what habitat creation and enhancement would be put in place to mitigate for the proposed development. The report identifies that the northern portion of the site will be a biodiversity improvement area and further opportunities could be used on site. However, no details were provided. It was considered necessary to ask for further information on the mitigation to be provided as part of the development is required to ensure that habitat loss / degradation is fully mitigated for as per Para 180 in the National Planning Policy Framework prior to determination. This could take the form of an Ecological Assessment report and a detailed landscape strategy.

Great Crested Newt Survey

From a review of data records, provided by EcoRecord, two records of Great Crested Newts (GCN) can be found to the north and south of the proposed development within the Jockey Fields habitat belt, respectively. As the development lies centrally within this section, there is a likelihood of GCN to be present within the development site.

The Ecologist advised If the aquatic habitat, either ponds or wet ditches, or suitable terrestrial habitat are to be directly or indirectly impacted, GCN surveys of the onsite

ponds and wet ditches should be undertaken to determine whether GCN will be impacted by the development and detailed mitigation provided, if necessary.

The applicant submitted the following documents in response to concerns raised by the Ecologist in relation to insufficient detail to support the application:

- Operational Ecological Management Plan – September 2022
- Habitat Management Plan – September 2022
- Designated Sites Impact Assessment – September 2022
- Construction and Environmental Management Plan – September 2022
- Biodiversity Net Gain Report – July 2022
- Appendix A Biodiversity Metric – July 2022
- Flood Risk Assessment and Drainage Strategy Report – October 2022

The Ecologist was consulted on this information and provided an additional response on assessment of the above documents.

Jockey Fields Site of Special Scientific Interest (SSSI)

From a review of the drainage strategy, the Ecologist has expressed concern in relation to the potential risk of water pollution from the development impacting the SSSI. These concerns relate to the drainage strategy making little reference to the SSSI, while the proposed surface runoff will drain into the ditch adjacent to the SSSI. While it is understood from the reports, the existing quality of the water that will result from runoff is proposed to be raised. No specifics to the SSSI are mentioned. Further details are required to satisfy concerns raised.

Habitats:

Additional information has now been provided on the habitat creation and enhancement that will be put in place to mitigate for the proposed development. The Ecologist is supportive of the level of native species used within the main proposal site and achieving the biodiversity net gain. Although, greater retention of the existing onsite trees is sought.

In relation to the management within the biodiversity improvement zone, the Ecologist recommends a condition to ensure that the 30-year management plan is taken forward for the duration and each action is undertaken.

Great Crested Newt (GCN) Survey:

In the comments above in relation to GCN it is noted the presence of GCN within the locality and the presence of suitable aquatic and terrestrial habitat within the application site. As such it is considered necessary for GCN surveys of the onsite ponds and wet ditches to be undertaken, If the aquatic habitat, either ponds or wet ditches, or suitable terrestrial habitat are to be directly or indirectly impacted.

From review of the proposal, it has stated through works and the loss of 30m of wet ditch, there is potential for GCN to be impacted. As such GCN surveys would be required for the development.

At the time of previous comments, no surveys for GCN have been undertaken of the waterbody on site. However, within the Construction and Environmental Method Statement dated September 2022, it states that eDNA surveys were undertaken which came back with a negative result.

On the 23rd January 2023, the applicant submitted eDNA survey summary letter detailing that a GCN eDNA survey was undertaken on the onsite pond on the 12th April 2022. This alleviates concerns raised regarding this GCN surveys and no further GCN Surveys are considered necessary.

Further information was submitted by the applicant on 22nd Feb 2023 in relation to the outstanding issue with the potential for drainage pollutants in the SSSI as raised in the Ecologist's previous responses. The applicant considers it can be concluded the proposed water quality systems will mitigate and further reduce the anticipated pollutants from the development. They consider with the mitigation measures there will be no impact on the SSSI. This information has been sent to the Ecologist for review, at the time of writing the report a response has not been received therefore there is an outstanding objection to the grant of planning permission in respect to the impact on SSSI from drainage and the need to retain more existing trees on site. The Ecologist's final comments will be added into the supplementary paper once received.

Natural England have been consulted on the application. Natural England advised in their initial response of 22nd June 2022 that there was insufficient information submitted to make a substantive response. They requested further information be submitted in relation to the potential impacts the proposal will have on the Jockey Fields SSSI, this included a Flood Risk Assessment and Drainage Strategy which takes into account the adjacent SSSI and includes a drainage strategy which is designed to prevent damage/ destruction of the SSSI, a Habitat Management Plan, a Construction Environmental Management Plan and Operational Environmental Management Plan.

Natural England were consulted on the additional information submitted by the applicant however they considered that their previous advice was still relevant to the development. After contacting Natural England, they advised they had not seen this information when making this comment. The Council sent the documents directly to Natural England and are waiting for a response at the time of writing. Any additional comments received by Natural England will be added into the supplementary paper.

Flood Risk / Drainage

The site is located within Flood Zone one.

A Flood Risk Assessment and Drainage Strategy has been submitted in support of the application. Overall, the flood Risk Assessment concludes there is no risk of flooding to the development itself. Mitigation measures are considered necessary to ensure surface water run-off from the development will not adversely impact areas downstream.

The Local Lead Flood Authority have been consulted on a number of occasions in relation to drainage information submitted and amendments to this information. The LLFA's latest comments advice that the drainage strategy produced dated October '22 is not satisfactory therefore planning permission should not be granted. The Lead Local Flood Authority are a statutory consultee consequently due to an insufficient drainage strategy being submitted to ensure that the proposed development would minimise flood risk, their objection is a reason for refusal of the application.

If members are minded to recommend the application for approval, it would be necessary for the resolution to allow for overcoming the LLFA objection.

Severn Trent Water state no objection to the proposals subject to the inclusion of a condition relating to drainage plans for disposal of foul and surface water flows. This is to ensure that the development is provided with a satisfactory means of drainage as well as to prevent or to avoid exacerbating any flooding issues and to minimise the risk of pollution.

Trees / Protected Trees

The Tree Report submitted in support of the application indicates that 47 individual trees and 5 groups of trees (mostly 'C' class with ref to BS5837) will be removed to make way for the development. At least 11 of the trees proposed for removal are category 'B' trees, which are trees of moderate quality with an estimated life expectancy of at least 20 years.

There are also 12 individual trees identified as 'U' class (trees that have a serious, irremediable, structural defect, such that their loss is expected due to collapse/ trees that are dead/ trees infected with pathogens of significance to health and/or safety). The Tree Data Tables submitted indicate most of these trees do not fit into this category so should be categorised as 'C' class at the very least.

The Tree Report, in the Tree Data Tables, has assessed the trees as individuals. This appears to contradict the comments at section 3.2 where it states "trees have been surveyed as groups where they can be considered as forming a group as they form cohesive features either aerodynamically/culturally or visually. It is clear the trees form a cohesive visual feature and should therefore be assessed as groups.

The Tree Officer considers classifying groups/woodland trees individually unfairly downgrade the trees due to their unusual shape and form, which is only as a result of the trees having grown so close to each other. The British Standard classification allows for trees grown in groups and it is estimated the vast majority of the trees should have been classified as B2 not C2.

The 5 groups of trees to be removed amount to at least 50 trees. Therefore, the total amount of trees to be removed is at least 97. However, the Report states that "... *some replacement planting will be undertaken ...*". Whilst the Landscape details (drawing R/2591/1B) show some tree and scrub planting along the south and west boundaries, this is considered insufficient to account for the loss of the existing trees and the detriment to the amenity and landscape value of the locality.

With reference to the 'Rebuttal to Tree Comments' dated 5 January 2023 submitted by Rapleys, the Tree officer advises:

The Rebuttal states a total of 2581 plants, trees and hedgerows will be planted as part of the proposal. Of this, 34 are individual trees, the remainder being hedge and shrub material. It claims this will provide significant enhancements to the landscape and ecological value of the site.

The 34 trees will be located to the west and south of the site, in the area that is currently a Site of Local Importance for Nature Conservation (SLINC). Aside from the impact on the SLINC through planting trees in a marshy grassland area (with the prospect of the trees drying out the land and altering the marshy character), the trees will not have any visual amenity due to being located behind the proposed building. It is disagreed that this provides significant enhancements to the landscape due to the hidden location.

The Rebuttal indicates the proposed development will result in significant biodiversity net gain. Whilst the information submitted appears to show this, it is considered the BNG figures are slightly skewed due to the amount of hedgerow planting proposed. Whilst the planting of hedgerows is welcomed, they do not act as sufficient replacements for the existing trees either in terms of biodiversity, amenity value or landscape character.

“New ornamental shrub planting and trees along the front will create a visually appealing soft boundary between the site and Walsall Road ...” It is agreed that the Landscape Details indicate this will be an improvement on the current situation, although it is expected additional tree planting along the frontage to add to the verdant character of the locality.

There are no details of existing and proposed level changes, which can have a greater impact on the amount of tree to be removed and suitable space for replanting.

On balance it is considered that the proposed planting is insufficient to justify the removal of virtually all trees on site. The trees on the south and west boundaries will be largely hidden from general view so offer no visual amenity at all. There is also no space either within the site or around the site boundary for tree planting of any note. Therefore, the application should be recommended for refusal on the grounds above.

To summarise, it is considered that the loss of these trees would be of detriment to the landscape character of the area. Consequently, in its current form it would be difficult to support the proposals due to significant loss of what are moderate quality trees.

Ground Conditions and Environment

The proposal is within 150 metres of the Queen Street access point to the Daw End Branch Canal. Whilst this is principally outside the Canal and River Trust consultation buffer zone the Canal and River Trust advise it is recommended the Travel Plan is amended to include the tow path as an off road active transport route as an option for staff and customers travelling to and from the proposed store.

The Environment Agency state, *‘Reference to the 1:50,000 scale geological map indicates the site is located on the Alveley Member Formation (mudstone and sandstone), designated as a Secondary A Aquifer by the Environment Agency. Superficial deposits in the form of Glacial till, designated as a Secondary Undifferentiated Aquifer are also indicated to be present. The site is not within a groundwater Source Protection Zone. The site is located in proximity to an authorised landfill (Highfields South)’.*

The Environment Agency have reviewed the ‘Report on Ground Investigation at Horse and Jockey Walsall Road, Walsall Wood’ *Applied Geology* (April 2022).

The above referenced report summarizes a site investigation involving sampling and analysis of soils against an appropriate contamination suite. It is noted that the investigation was limited in its assessment of risk to controlled waters as whilst groundwater was identified during the investigation, assessment of contamination was not conducted. Significant contamination was not identified during the investigation and the risk posed to controlled waters from this re-development appears to be low.

Based on the information presented to the Environment Agency, it is agreed that further investigation or remediation works do not currently appear warranted for controlled waters receptors. However, given the potential for contamination to be present due to the active landfill in proximity to the site and the limited investigation in respect to controlled waters a condition is recommended to 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 to represent a risk to controlled waters is appropriately dealt with.

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, and 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.

The Applicant has undertaken a ground investigation, (Report on Ground Investigation at Horse & Jockey, Walsall Road, Walsall Wood. Report Number: AG3344-21-AN68 Date: April 2022) that includes recommendations for the safe development of the site. Conditions are recommended in relation to remediation of ground contamination 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.

The Construction Management Plan and any engineering works will need to consider the presence of asbestos within made grounds and any additional precautions that will be required.

The proposed development has the potential to increase concentrations of pollutants from road transport emissions. Consequently, due to the recently published (September 2021) revision to the World Health Organisation's Global Air Quality Guidelines it is now necessary for the applicant to conduct an air quality appraisal with respect to nitrogen dioxide, and particulate matter (PM2.5 and PM10) to determine if the proposal will adversely impact local neighbouring residents, and to inform of any mitigation that may be required.

An air quality report (Tetra Tech Report784-B031433 has been submitted in support of the application. The assessment entails a detailed dispersion model of pollutants associated with the additional road traffic generated by the proposal with an operational year of 2023. The long-term (annual) concentrations of nitrogen dioxide, PM10, and PM2.5 have been determined with and without the scheme, and the effect of the proposed development is determined to be 'negligible' as described in EPUK and IAQM guidance at all identified existing sensitive receptor locations.

Environmental Protection has no adverse comments regarding the assessment but requested for completeness, no. 158 Walsall Road (Highfield Farm), Walsall Wood was also included as a relevant receptor as this is a residential property directly adjacent to the development site. The Air Quality Assessment was updated to include no. 158 Walsall Road as a receptor. The inclusion of this additional receptor has not changed the conclusion of the assessment, and therefore Environmental Protection has no adverse comments to make regarding the report.

A roof plan shows solar panels proposed to be fitted along the roof. This alongside other in-store methods accord with the requirements to incorporate renewable energy under BCC Policy ENV7.

The adjacent land is identified as a dormant mineral site under MP9 Highfields North within SAD Policy M8 with the potential to be used for brick clay extraction, the development on this site does not appear to surpass the site boundary, which forms the edge of this identified land, and much of the north west portion of the site is otherwise proposed to be left to 1.22 hectares of biodiversity improvement area'. While this surrounding area is safeguarded for the potential of future extraction the risk of mineral sterilisation from this adjacent proposal appears to be low

Conclusions and Reasons for Decision

On balance weighing up the merits of the scheme the proposal cannot be supported in relation to the development being inappropriate within the Green Belt in addition to the loss of a significant amount of trees which add amenity value to the locality and contribute to the character of the area. It is concluded that this application is contrary to the adopted Development Plan and NPPF.

Given that there are no material planning considerations in support of the proposals it is concluded that this application should be recommended for refusal.

Recommendation

Refuse

Reasons for Refusal

1. The proposal for the erection of a foodstore (Use Class E) with access, car parking, landscaping and other associated works and associated landscaping and parking in the Green Belt is inappropriate development for which there are no very special circumstances to outweigh Green Belt Policy. The proposal is contrary to The National Planning Policy Framework, policy ENV1 of the Black Country Core Strategy, Saved Policies 3.2 to 3.5, GP2, and ENV7 of the Walsall UDP, Policies GB1 and EN1 of the Walsall Site Allocation Document.
2. The proposal will result in the loss of a significant number of existing trees that offer a high amount of amenity value to the locality and contribute significantly to the verdant character of the area. The trees are easily seen from the main A461 Walsall Road from the properties on both the north and south sides, and from the limited users of Jockey Fields. The proposal does not accord with NPPF Chapter 12 (Achieving well designed spaces): paragraphs 130 (design), 131 (tree lined streets), and Chapter 15 (Conserving and Enhancing the Natural Environment), paragraph 174 (character of area, BNG). The proposal does not accord with Saved policy ENV18 of the Walsall UDP (Existing Trees, Woodlands and Hedgerows), and policies NE8 and NE9 of the Supplementary Planning Document, Conserving Walsall's Natural Environment.

END OF OFFICERS REPORT

