



Planning Committee

Report of Head of Planning and Building Control on 15 January 2024

Plans List Item Number: 1

Reason for bringing to committee

Major Application

Application Details

Location: FORMER GALA BINGO, PARK LANE, DARLASTON, WEDNESBURY, WS10 9SB

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

Application Number: 23/0496

Case Officer: Sally Wagstaff

Applicant: Lidl Great Britain Limited

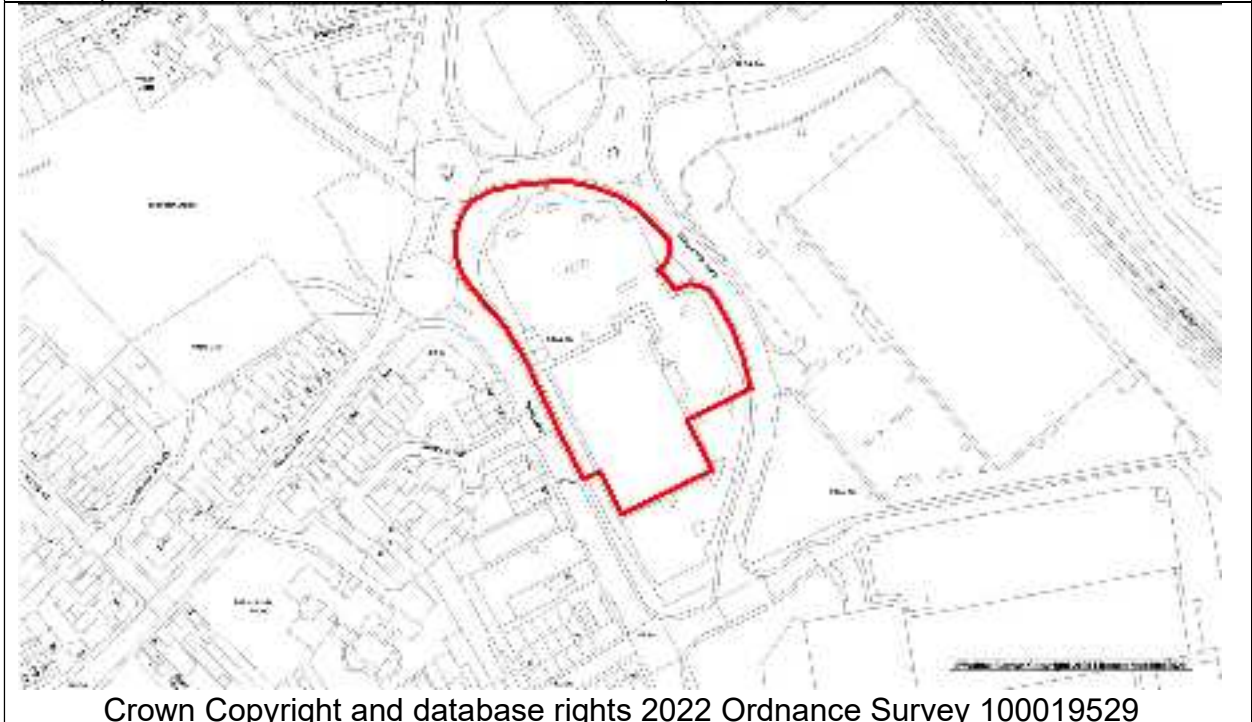
Ward: Bentley And Darlaston North

Agent: Rapleys LLP

Expired Date: 24-Jul-2023

Application Type: Full Application: Major Use Class E(a) (Display or Retail Sale of Goods)

Time Extension Expiry: 26-Jan-2024



Recommendation

Refuse

Proposal

This application is for a new discount foodstore with associated works on the site of the former Gala Bingo. This is a re-submission of application 22/0212 which was withdrawn prior to being considered by Planning Committee on 9th March 2023, where it was recommended for refusal. The changes within this current application include:

- The site area reduced, leaving a larger area to the south within the control of the applicant but outside the application boundary
- Alteration to the position of the vehicular access on Park Lane
- Car parking reconfiguration
- Internal store reconfiguration including pedestrian entrance doors re positioned on the front elevation
- Location of plant moved to the rear of the store
- Substation re located to the rear of the store

The redline boundary has altered since the submission of this application to include all of the existing building to be demolished. The area outlined in blue is within the control of the applicant, it is proposed to be hoarded off from the application site and disposed of for potential future development.

The proposal includes a new vehicular access from Park Lane, 133 car parking spaces including 8 accessible spaces, 9 parent and child spaces, 6 Electric Vehicle Charging spaces and 12 secure cycle parking spaces.

Pedestrian access would be provided from Park Lane via stairs and a pedestrian ramp which would take customers through the store car park to the store entrance which is on the southwestern corner of the building. Also, there is a pedestrian access to the North from Steelmans Road.

The proposal also includes an area of servicing to the southeast of the site which is also accessed from Park Lane. The existing access on Steelmans Road is proposed to be decommissioned.

Landscaping is proposed around the car parking areas to include a mixture of trees and shrubs.

The proposed development includes the demolition of the existing bingo centre which is a two-storey rectangular shaped building of brick and cladding with front elevation facing Steelmans Road. It is understood the building has been vacant since circa mid-2020.

The proposed site area is approximately 0.99 ha and other land being within occupants control approximately 0.38 ha with the total store being 1,895 sqm gross external floor space.

The proposed building is single storey and includes a sloping mono pitched roof. The height being approx. 56 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 09:00-22:00 Monday to Saturday and 10:00-16:00 Sundays and bank holidays.

This application is supported by a number of documents which has informed the LPAs assessment of this application and forms the basis of this report content.

Site and Surroundings

The site is located on Park Lane approximately 1.2 km from Darlaston District Centre in an 'out of centre' retail park.

The site hosts a former bingo centre with associated car parking and landscaping.

To the north of the site is 'Blakemore Food Services' distribution centre, to the east is 'Lonestar Fasteners Europe' which is an industrial use, 'Ikea' retail and warehouse to the south east and residential to the west.

The site is located in proximity to M6 Junction 9. Park Lane (B4200) to the south west of the site is a Classified District Distributor. The site is served by an existing access from the A4038 Classified Walsall Road and Darlaston Road, along its own service road Steelmans Road.

Relevant Planning History

22/0392 – EIA screening opinion for the erection of a discount foodstore with access, parking, landscaping and other associated work. Screening opinion EIA not required – 27th March 2023.

22/0212 - Erection of a new discount foodstore (Use Class E) with access, car parking, landscaping and other associated works. Withdrawn – 6th March 2023.

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 9 – Promoting sustainable transport**
- **NPPF 12 – Achieving well-designed and beautiful places**
- **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

- GP2: Environmental Protection
- 5.4 to 5.8. The sequential approach
- Policy S7. Out-of-centre and edge-of-centre developments
- Policy GP2 Environmental Protection
- Policy GP6. Disabled People
- Policy ENV11. Light pollution
- 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

- CEN5: District and Local Centres
- TRAN1: Priorities for the Development of the Transport Network
- 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
- ENV2: Historic Character and Local Distinctiveness
- ENV3: Design Quality
- ENV5: Flood Risk, Sustainable Drainage Systems and Urban Heat Island
- ENV7: Renewable Energy
- ENV8: Air Quality
- EMP5: Improving Access to the Labour Market

Walsall Site Allocation Document 2019

- RC1: The Regeneration Corridors
- T4: The Highway Network

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

Shop Front SPD

- SF1: Historic shop fronts

- SF2: Shop front proportions

- SF3: Materials in shop fronts

- SF4: Colour finishes

- SF5: Access to shops

- SF6: Advertisements

- SF7: Illumination

- SF8: Shop front security

Consultation Replies

The Coal Authority

No objection - Conditions recommended for intrusive site investigation works/remediation work to be undertaken.

Ecology Officer

Concerns raised – The habitat loss has not been replaced by a habitat of same value or greater. This issue can be resolved through the inclusion of native species in place of the ornamental planting proposed sought via condition.

Environmental Protection

No objection subject to conditions to address construction and demolition management and contaminated land.

Fire Officer

No objection subject to meeting the requirements of Approved Document B_Volume 2, Buildings other than Dwellings, 2019 edition incorporating 2020 amendments – for use in England.

Lead Local Flood Authority

No objection subject to a condition for the implementation of the agreed drainage scheme.

Local Highway Authority

Objection due to the introduction of a new access which would create an unacceptable impact on highway safety, specific consideration has not been given to the needs of each of the different users of the network, including pedestrians, cyclists, public transport, cars, and service vehicles and insufficient parking to serve the proposed development, insufficient land to deliver a sustainable level of parking.

National Highways

No objection – National Highways are satisfied that there is unlikely to be a material impact on the operation or free flow of the strategic road network.

Police Architectural Liaison Officer

No objection – secured by design principles recommended.

Public Lighting

No objection – question raised regarding the technical specification of the lighting.

Sandwell Council

No objection –No further information or changes that alter highways comments from the previous application 22/0212.

Severn Trent Water

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

Strategic Planning Policy

No objection – on balance a retail food store is acceptable in this location on policy grounds.

Tree Officer

Objection – loss of trees on site is excessive, insufficient replacement tree planting proposed.

Representations

Two comments of support received in relation to:

- New store near homes and local bus services

One objection has been received with concerns relating to:

- Proposal would lead to an increase in traffic

Determining Issues

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

Assessment of the Proposal

Principle of Development

The site itself has no allocation in the development plan except that SAD policy RC1 and the policies map shows it to lie in a regeneration corridor, to which BCCS policy CSP1 applies. The land immediately adjacent to the north, east and south is allocated by SAD policy IND1 as existing high quality employment land, site reference IN107.1.

BCCS policy CSP1 states that the network of Regeneration Corridors linking the Strategic Centres will [amongst other provisions] provide 1,564 ha of strategic high quality employment land concentrated within easy reach of the motorway network.

The site is 0.7 miles from Darlaston District Centre, 1.1 miles from Pleck Local Centre (by road) and 2 miles from Walsall Strategic Centre, so is out of centre for the purpose of retail policies.

NPPF paragraphs 91 and 92 state that local planning authorities should apply a sequential test to planning applications for main town centre uses which are neither in an existing centre nor in accordance with an up-to-date plan. Main town centre uses should be located in town centres, then in edge of centre locations; and only if suitable sites are not available (or expected to become available within a reasonable period) should out of centre sites be considered.

When considering edge of centre and out of centre proposals, preference should be given to accessible sites which are well connected to the town centre. Applicants and

local planning authorities should demonstrate flexibility on issues such as format and scale, so that opportunities to utilise suitable town centre or edge of centre sites are fully explored.

Development plan policies reflect this national policy. BCCS policy CEN7 states that there is a clear presumption in favour of focusing development in centres.

Proposals for out-of-centre development will have to demonstrate that development cannot be provided in-centre or at edge-of-centre locations of existing Centres appropriate to the hierarchy.

Saved UDP paragraphs 5.4 to 5.8, and policy S7, also provide tests for out of centre development, although some aspects of the latter are no longer compatible with national policy (policy S7 states that there must be evidence to demonstrate the need for the facility: need is not mentioned in the NPPF).

Planning Practice Guidance states that it is for the applicant to demonstrate compliance with the sequential test (and failure to undertake a sequential assessment could in itself constitute a reason for refusing permission).

NPPF paragraph 123 states that planning policies and decisions should promote an effective use of land in meeting the need for homes and other uses, while safeguarding and improving the environment and ensuring safe and healthy living conditions. Strategic policies should set out a clear strategy for accommodating objectively assessed needs, in a way that makes as much use as possible of previously-developed or 'brownfield' land.

The main strategic planning policy issues relevant to the proposal are the sequential test and whether the proposal represents effective use of the land in accordance with NPPF paragraph 123.

Sequential Test

The applicants provided a sequential test with the previous application and this demonstrated that there were no suitable sites available within nearby centres. Details have been resubmitted in the planning and retail statement provided with the current application.

Effective Use of Land

Walsall has a significant and growing shortfall of land for housing and employment needs to the extent that the draft Black Country Plan proposed the allocation of significant areas of Green Belt to contribute to meeting these needs. Convenience retail does not contribute to growth as spending power is limited to that available to existing residents. 'Deep discounters' such as Lidl and Aldi compete by taking spend from other existing retailers and their greater efficiency means that they are likely to provide fewer jobs compared with other stores.

Given these other land use requirements, it would be preferable if this brownfield site was used for class B2 or B8 employment purposes. However, given that the site has no allocation in the current development plan, it is not possible to defend the loss of this potential alternative use.

Summary

Given these other land use requirements, it would be preferable if this brownfield site was used for class B2 or B8 employment purposes. However, given that the site has no allocation in the current development plan, it is not possible to defend the loss of this potential alternative use.

On balance the principle of development is considered acceptable in this location in accordance with NPPF paragraph 115.

Design, Layout and Character

The application site comprises the Lidl store set towards Steelmans Road with car parking fronting Park Lane. A new access is proposed from Park Lane.

The pedestrian entrance to the store is located on the corner of the building fronting Park Lane with pedestrian entrance to the site from Park Lane and Steelmans Road.

The proposed store sits in an area of 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.

Amenity of Neighbours and Amenity of Future Occupiers

There are residential properties are located opposite the site accessed from Park Lane. The properties are located approximately 28 metres from the application site.

A 'Noise Impact Assessment', by Acoustic Consultants Limited, Ref. 9524/JL, 21 April 2023 has been submitted. The acoustic assessment has considered noise impacts from deliveries, customer arrival/departures, and noise from fixed plant (refrigeration). The predicted noise levels have been compared against existing background levels and it has been determined that there will be minimal impacts upon nearby sensitive receptors. Environmental Protection have no concerns with the above report.

The development would be seen in context of the existing 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 in accordance with UDP Policy ENV32.

Highways

The proposal includes an access from Park Lane, the access has been repositioned within this application.

The principle of development is supported by Highways for the store building location, having existing safe and accessible highway links which serves the existing Former Gala Bingo Site. Lidl have not raised any concerns to the operation and use of these junctions.

Highways have been consistent and provided pre-application advice, and commented in relation to the proposed development and advised Lidl on the planning application requirement for firstly the removal of the proposal for direct access onto Park Lane, B4200 district distributor and secondly dealing with highways concerns associated with the operation and safe use of the proposed Lidl car park where currently there are issues with the conflict with the proposed access and the level of parking proposed.

The scp technical note dated 1 September 2022 submitted on behalf of the applicant did not address the highway authority concerns raised in the original highway comments and failed to address the planning refusal reasons.

Subsequent technical note TN03 dated 20 November 2023 ref: 210094/TN03 has again failed to answer the concerns raised by the highway authority. The subsequent technical note TN03 does not satisfy the issues raised by the highway authority. The highway authority has therefore submitted their original highway comments relating to application 23/0496 maintaining their objection to this proposal.

The Application fails to comply with the adopted development plan by the proposed introduction of a new access onto the B4200 Park Lane, a classified district distributor contrary to Unitary Development Plan Policy T4 and SAD Policy T4. There is no planning or highway reason for the justification of an unnecessary access onto a classified district distributor which the applicant puts forward for purely commercial advantage from passing trade.

The application also fails to meet national policy as the site is currently served by an existing purpose built and suitable access from the A4038 classified Walsall Road and Darlaston Road, off Steelmans Road that is designed to carry car and commercial traffic. The applicant proposes a new access onto Park Lane which would be contrary to NPPF paragraph 115 as it would create an unacceptable and unnecessary impact on highway safety.

The application has failed to meet the definition of the national design code for movement. Developments should create linked routes and connections for people and vehicles to go and move through places and spaces. Specific consideration has not been given to the needs of each of the different users of the network, including, pedestrians, cyclists, public transport, cars, and service vehicles.

National design guide M2 active travel M282 states; Prioritising pedestrians and cyclists mean creating routes that are safe, direct, convenient, and accessible for people of all abilities. The applicant looks to introduce conflict between non-motorised users from the residential side of Park Lane with customer car movements and hgv delivery

vehicles contrary to NPPF paragraph 116(c). This is considered wholly unnecessary given the existence of an existing purpose built access in Steelmans Road that meets the planning and highway requirements.

National design guide M3 states; well-considered parking, servicing, and utilities infrastructure for all users. The applicant has failed to demonstrate there is sufficient parking to meet its own needs and introduces service deliveries that creates unnecessary conflict.

National design guide M179 states; people move around in attractive streets and other public spaces. Wider, more generous spaces are well-suited to busier streets, including streets served by public transport. They have enough space to create an attractive place for all users.

The proposal for an access from Park Lane would be detrimental to the safe use of the highway and users of the proposed store. There is no planning requirement or justification for the closure of the existing access and the creation of a new one to serve the site. The applicant has raised no concerns in any respect to the safe use or operation of the existing Steelmans Road access.

National design guide M384 - How parking is arranged has a fundamental effect on the quality of a place or development. It must be safe and meets the needs of different users including occupants, visitors, and people with disabilities. The current proposal creates conflict and insufficient parking will be likely to cause queuing and restrict the free movement of traffic out onto the A4200 Park Lane, a district distributor.

There is insufficient parking to serve the proposed development, insufficient land to deliver a sustainable level of parking, and insufficient information to support the application.

UDP Policy T7 - Car Parking states; 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.

The applicant has failed to meet the policy and demonstrate that an appropriate level of parking has been provided. It is not acceptable for the applicant to state that if they are providing less than the maximum provision that is sufficient.

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. The applicant has failed to provide sufficient parking, and information to justify the proposed under-provision. Parking has been calculated to meet retail floor area which is not in accordance with local policy and delivers unacceptable parking provision.

Road safety audit: the applicant has conducted a stage 1 road safety audit which has identified 7 road safety concerns because of the proposed access. The Highway Authority disagrees with the designer's responses on all the recommendations proposed from the problems raised. The applicant suggests that these concerns can be dealt with at detailed design which infers this would be after planning permission is granted. This is considered unacceptable and merely demonstrates the unsuitability of the new access onto Park Lane to attract passing trade.

There is no objection in principle to the development of this site and the proposed introduction of a discount food store. However, a number of revisions would be required to overcome the highway authority objections.

Sandwell Council were consulted on the application due to the sites proximity to the boundary with the authority. They confirm no objections however advise their comments remain as per the 22/2012 application which are as follows, no junction analysis has been completed at the Axletree Way/ Park Lane traffic Island therefore they cannot confirm if the proposals would have a significant impact on its highway. It is advised the applicant to consider any mitigation measures necessary to ensure that the impact of the development offers a nil detriment to congestion/queue lights.

National highways who operate and maintain England's motorways and strategic road network were consulted on the application due to the proximity to the M6 motorway. They consider that there is unlikely to be a material impact on the operation or free flow of the strategic road network.

On balance it is considered the introduction of a new access onto the B4200 Park Lane classified district distributor would create conflict, with likely queuing on the highway which would be contrary to highway safety, and contrary to the safe use of the highway by others. The creation of a new access is contrary to the Councils' Site Allocation Document Policy T4 (The Highway Network) and NPPF Paragraphs 115 and 116c.

In addition, the proposal does not meet the required levels of car parking as set out in UDP Transport Policy T13 and insufficient parking to serve the proposed development. The proposal is contrary to the Council's UDP Unitary Development Plan Policy T13 (Parking Provision for Cars, Cycles and Taxis).

Ecology

The Council's Ecologist has reviewed the submitted Landscape Management Plan, Ecological Impact Assessment, and associated documents.

In relation to protected species, the existing building was found to be of low potential for bats however an Emergence Survey confirmed the likely absence of bats within the building B1.

To cover the additional mitigation measures outlined within the Ecological Impact Assessment report a planning condition would be required for an updated site visit and building inspection should work not commence prior to May 2024 to ensure conservation of local bat populations.

Should planning permission be granted a construction environmental management plan would need to include measures to preserve and enhance the natural environment and to safeguard any protected species.

The proposal looks replace the mixed native scrub with ornamental shrub planting. Whilst biodiversity net gain on the site has been achieved the habitat loss has not been replaced by a habitat of same value or greater which is why the submission shows the DEFRA metric trading rules in relation to biodiversity net gain on site have not been met. It is considered that this can be resolved through the inclusion of native species in place of the ornamental planting proposed which would need to be secured

via condition for a revised landscape plan, to incorporate further native planting, and revised biodiversity net gain metric to be submitted in writing to and approved in writing by the Local Planning Authority to ensure the proposal complies with UDP policy ENV23 (Nature Conservation and New Development) and paragraphs 180 and 186 of the National Planning Policy Framework.

Public lighting has reviewed the proposed lighting scheme. No objection has been raised however it is requested that clarification is required in relation to the correlated colour temperature (CCTs). It is considered the further details of the external lighting scheme could be sought via condition.

Flood Risk / Drainage

The site is located within Flood Zone 1. A Flood Risk Assessment and Drainage Strategy has been submitted in support of the application. The Lead Local Flood Authority have confirmed the documents are satisfactory. A condition is recommended to ensure that the drainage scheme is implemented and maintained in accordance with the approved documents.

Severn Trent Water advise 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

The applicant has submitted Landscape details drawing R/2571/1J along with an Arboricultural Impact Assessment Ref: P.1587.2. Rev C. The landscape details have incorporated the following as additions to the plan:

- Four (4) *Tilia cordata* (Small-Leaved Lime) in the area to the south of the Plant Slab.
- Two *Acer campestre* (Field Maple) adjacent to the relocated sub-station towards the south-east of the site
- Two *Betula albosinensis* 'Fascination' (Chinese Red Birch) adjacent the disable parking spaces towards the northeast corner.

It must be noted that there are no additional tree plantings along the west side of the site (the site frontage).

The frontage area has three *Carpinus betulus* 'Frans Fontaine' (Upright Hornbeam) and one *Betula albosinensis* 'Fascination' (Chinese Red Birch). It also shows the retention of two existing trees on the south side of the proposed access.

The existing trees are highly unlikely to survive in the long-term as the juxtaposition of the proposed parking area will sever a significant amount of root material leading to premature decline, death or instability. The proposal to retain them is simplistic but unattainable.

The proposed trees are cultivated varieties which tend to be more architectural in nature with less benefits than non-cultivated varieties of a native nature. The Tree officer considers there should be a greater number of trees planted along the frontage, and

those more of a native nature that would provide a greater level of amenity value, as well as being more beneficial to the local biodiversity.

The tree officer considers the concerns raised in the previous application in relation to the loss of the trees to the site frontage remain unaltered. There are a significant amount of trees located along this frontage. The proposal will result in the removal of all trees along this frontage.

The landscaping plan indicates a soft landscaped area approximately 2.3m in width along this frontage although this is insufficient for replacement planting of trees of any meaningful and eventual stature.

On balance, it is considered the removal of the trees within the site is excessive with little scope for replacement planting. This will have a detrimental effect on the amenity, aesthetic and landscape value of the locality and would fail to achieve a beautiful environment. This is contrary to saved policy ENV18 of the Walsall UDP, NE8 and NE9 of the Conserving Walsall's Natural Environment SPD and paragraph 135b of the NPPF.

Ground Conditions and Environment

Coal

The application site falls within the defined development high risk area; therefore within the site and surrounding area there are coal mining features and hazards which need to be considered in relation to the determination of this planning application. More specifically, the Coal Authority's information indicates that the site lies in an area where historic unrecorded coal mining activity is likely to have taken place at shallow protecting the public and the environment in mining areas 2 depth. Voids and broken ground associated with such workings can pose a risk of ground instability and may give rise to the emission of mine gases.

The planning application is accompanied by a geo-environmental desk study report (17 February 2022, prepared by obsidian geo-consulting). Based on a review of coal mining and geological information, the submitted report identifies at Section 5.3 that there exists the potential for shallow, unrecorded, worked coal seams to be present beneath the site. Accordingly, Section 5.4 of the report goes on to recommend the carrying out of intrusive ground investigations, in the form of the drilling of boreholes to depths of c.30m deep, in order to investigate the potential presence of shallow, worked seams and to inform any necessary remedial measures.

This recommendation is also included in Section 8 recommendations contained within the geo-environmental investigation report (April 2022, again prepared by obsidian geoconsulting) which has also been submitted in support of the application.

The Coal Authority concurs with the conclusions of the Geo-Environmental Desk Study Report; that coal mining legacy potentially poses a risk to the proposed development and that investigations are required, along with possible remedial measures, in order to ensure the safety and stability of the proposed development. A condition would be necessary to secure the above should planning permission be granted.

Ground Gas

The Applicant has undertaken an intrusive ground investigation to inform about geo-technical issues and contaminated land, 'geo-environmental investigation report', by obsidian geo-consulting limited, April 2022, ref. 21-1557-P-R2.

The report indicates that the development site will require ground stabilisation works, piling. The investigatory work has determined some asbestos within the ground. This needs to be brought to the attention of any demolition and groundworkers and need to be incorporated into any environmental construction management plan that may be produced.

Given the proposed end use, no significant contaminated land has been identified. The ground gas investigation has determined that elevated carbon dioxide levels are present, with the consultant advising the site needs to be treated as a characteristic 2 type of site, needing ground gas mitigation measures incorporating into the foundation design.

A planning condition would be required for the applicant to agree what ground gas mitigation measures are to be installed with the local planning authority, and thereafter implementing the agreed measures, and finally validating that the measures have been installed.

Asbestos

The age of the building to be demolished has not been confirmed. As a safeguard, the applicant will need to undertake an asbestos survey of the building prior to the demolition. If asbestos is identified within the building, then it needs to be removed and disposed in accordance with national legislation.

A construction environmental management plan would also be required, secured via condition due to the size of the development to minimise impacts upon the environment. As indicated above, the plan will need to include measures to control potential asbestos materials.

Air Quality

The applicant has submitted an air quality survey, 'air quality assessment', by NALO, tetra tech, Ref. 784-B042431 20 April 2023 to consider impacts that will result following the store operating. The consultants have determined that there will be negligible impacts upon nearby sensitive receptors because of the store, nonetheless, a travel plan is to be adopted, with responsibility to a person to monitor it on an on-going basis.

Conclusions and Reasons for Decision

On balance weighing up the merits of the scheme the proposal cannot be supported in relation to highway safety due to the introduction of a new access on Park Lane and inadequate car parking to serve the development. In addition, the proposal would result in an excessive loss of trees on site with limited scope for replacement planting. It is concluded that this application should be recommended for refusal.

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

Positive and Proactive Working with the Applicant

Refuse

Officers have spoken with the applicant's agent and in this instance are unable to support the proposal.

Recommendation

Refuse

Reasons for Refusal

1. The introduction of a new access onto the B4200 Park Lane classified district distributor would create conflict, with likely queuing on the highway which would be contrary to highway safety, and contrary to the safe use of the highway by others. The creation of a new access is contrary to the council's Site Allocation Document Policy T4 (The Highway Network) and National Planning Policy Framework Paragraphs 115 (Unacceptable impact on highway safety) and 116c (Conflict between highway users).
2. The proposal fails to provide the required levels of car parking and there is insufficient parking to serve the proposed development. The proposal is contrary to saved Unitary Development Plan Policy T13 (Parking Provision for Cars, Cycles and Taxis).
3. The removal of a significant number of existing trees within the site and limited scope for necessary replacement planting would have a detrimental effect on the amenity, aesthetic, and landscape value of the locality and would fail to achieve a beautiful environment. The proposal is contrary to saved Unitary Development Plan Policy ENV18 (Existing Woodlands, Trees and Hedgerows), NE8 (Retained Trees, Woodlands or Hedgerows), NE9 (Replacement Planting) of the Conserving Walsall's Natural Environment Supplementary Planning Document and paragraph 135b (appropriate and effective landscaping) of the National Planning Policy Framework.

END OF OFFICERS REPORT