

Planning application no.	21/00402/FUL	
Site	Former Quality Hotel Site, 126 Penn Road (including 42 Oaklands Road and Business Centre), Wolverhampton, WV3 0ER	
Proposal	Demolition of existing buildings and erection of a Class E limited assortment discount foodstore with associated car parking, access, landscaping and engineering works.	
Ward	Graiseley;	
Applicant	Lidl Great Britain Ltd	
Cabinet member with lead responsibility	Cabinet Member for City Economy	
Accountable Director	Richard Lawrence, Director of Regeneration	
Originating service	Planning	
Accountable employee	Andrew Johnson	Planning Officer
	Tel	01902 551123
	Email	andrewk.johnson@wolverhampton.gov.uk

1.0 Summary recommendation

1.1 Delegated authority to the Director of Regeneration to grant planning permission.

2.0 Site description

2.1 The area is mixed and includes both residential and commercial uses. The site is located off Penn Road (A449), a busy arterial route into/out of Wolverhampton.

2.2 The site currently comprises a hotel and associated facilities and detached buildings. The main building was formerly a large property that has been extensively extended, including linking it to others, to form the current hotel.

2.3 The main building on the site, which forms part of the hotel, is a non-designated heritage asset. There are a number of heritage assets in the immediate area, including statutory listed buildings and a conservation area.

- 2.4 There are currently three vehicle access points to the site from Penn Road, Oaklands Road and Lonsdale Road
- 2.5 The site incorporates higher land levels along the Penn Road frontage, with levels decreasing towards the rear of the site, along both Lonsdale Road and Oaklands Road. The site also includes mature trees and landscaping. There is a tree near the southern boundary, adjacent to Lonsdale Road, that is the subject of a Tree Preservation Order (No.06/00354/TPO).
- 2.6 The site is out-of-centre in retail policy terms.

3.0 Planning history

- 3.1 There is an extensive planning history for this site relating to the extension and alteration of the hotel facility. Nothing is recorded that would be directly related to this application.

4.0 Constraints

- Tree Preservation Order Point - 06/00354/TPO. The tree near the southern boundary of the site, adjacent to Lonsdale Road, is the subject of this Tree Preservation Order (TPO). The tree has the potential to be affected by a development of the nature proposed. The Tree Officer raises no objection to the application, subject to a condition which will require the Council's approval of a tree protection scheme prior to the commencement of development. The proposal is acceptable in light of this constraint.
- The site is in close proximity to Penn Road (Graiseley) Conservation Area. The boundary to the conservation area is south east of the site running along the opposite side of the Penn Road and south, beyond Claremont Road. The proposal will impact on the appearance of the streetscape, and therefore will create a change within the wider setting of the conservation area, but it is considered that this will not harm the significance of this designated heritage asset. This is explained in more detail in later sections of this report.
- The site is in close proximity to a statutory listed building: Claremont House, No.131 Penn Road. The Grade II listed building is located to the south east of the site, on the opposite side of Penn Road. The proposed development will create a change within the setting of this designated heritage asset, but it is considered that the proposed development will not harm the significance of the Grade II listed building. This is explained in more detail in later sections of this report.
- The site is in a Coal Mining Reporting Area. The Coal Mining Reporting Area outlines the known extent of coal mining activity. This constraint does not impact on the proposed development, though an informative is recommended requiring the applicant to report any coal mining feature encountered during the works to the Coal Authority.

5.0 Planning policy

Black Country Core Strategy (BCCS)

5.1 The BCCS was adopted in February 2011 and forms part of the Development Plan. The policies of relevance to the application are as follows:

- Policy CSP2 - Development Outside the Growth Network
- Policy CSP3 - Environmental Infrastructure
- Policy CSP4 - Placemaking
- Policy DEL1 - Infrastructure Provision
- Policy CE1 - The Importance of the Black Country Centres for the Regeneration Strategy
- Policy CEN2 - Hierarchy of Centres
- Policy CEN3 - Growth in Strategic Centres
- Policy CEN5 - District and Local Centres
- Policy CEN7 - Controlling Out-of-Centre Development
- Policy TRAN1 - Priorities for the Development of the Transport Network
- Policy TRAN2 - Managing Transport Impacts of New Development
- Policy TRAN4 - Creating Coherent Networks for Cycling and Walking
- Policy TRAN5 - Influencing the Demand for Travel and Travel Choices
- Policy ENV1 - Nature Conservation
- Policy ENV2 - Historic Character and Local Distinctiveness
- Policy ENV3 - Design Quality
- Policy ENV5 - Flood Risk, Sustainable Drainage Systems and Urban Heat Island
- Policy ENV7 - Renewable Energy
- Policy ENV8 - Air Quality

5.2 Wolverhampton City Centre Area Action Plan (AAP)

- Policy CC1 – Meeting Shopping Needs
- Policy CC2 – Offices
- Policy CC3 – Leisure, Visitor and Cultural Facilities
- Policy CA1 – Shopping Core
- Policy CA2 – Westside
- Policy CA3 – Interchange & Commercial Gateway
- Policy CA8 – St Peter’s Cultural Quarter

Wolverhampton Unitary Development Plan (UDP)

5.3 The UDP was adopted in June 2006. A number of UDP policies expired following the adoption of the BCCS in February 2011. The policies that were ‘saved’ form part of the Development Plan. The ‘saved’ policies of relevance to the application are as follows:

- Policy D3 - Urban Structure
- Policy D4 - Urban Grain
- Policy D6 - Townscape and Landscape
- Policy D7 - Scale - Height
- Policy D8 - Scale - Massing
- Policy D9 - Appearance
- Policy D10 - Community Safety (Part)

- Policy D11 - Access for People with Disabilities (Part)
- Policy D12 - Nature Conservation and Natural Features
- Policy D13 - Sustainable Development (Natural Resources and Energy Use)
- Policy D14 - The Provision of Public Art
- Policy EP1 - Pollution Control
- Policy EP4 - Light Pollution
- Policy EP5 - Noise Pollution
- Policy EP9 - Sustainable Drainage Arrangements for Development
- Policy HE1 - Preservation of Local Distinctiveness (Part 1)
- Policy HE4 - Proposals Affecting a Conservation Area
- Policy HE17 - Development Affecting the Setting of a Listed Building
- Policy N7 - Urban Forest Policy
- Policy N9 - Protection of Wildlife Species
- Policy AM12 - Parking and Servicing Provision
- Policy AM15 - Road Safety and Personal Security
- Policy B5 - Design Standards for Employment Sites

5.4 **National Planning Policy Framework (NPPF)**

The NPPF was updated on 26th July 2021. It is a material consideration and is afforded weight in the assessment of the application.

5.5 **National Planning Practice Guidance (NPPG)**

The NPPG is a material consideration and is afforded weight in the assessment of the application.

5.6 **Black Country Plan**

The Black Country Plan is an emerging development plan document. The draft version of the Plan was consulted on in 2021, and a publication version is expected to be published in 2022. Given the Plan's stage of preparation, no weight can be attributed to its policies.

5.7 **Environment Act (2021)**

The Environment Act is a material consideration.

5.8 **Highways Technical Guidance Note (dated July 2016)**

5.9 **Black Country Air Quality SPD (dated October 2016)**

6.0 **Publicity**

6.1 The application was originally publicised in accordance with Article 15, Part 3 of the Town and Country Planning (Development Management Procedure)(England) Order 2015. 73 individual neighbour responses and a petition with 105 signatures against the development were received and one response in support. The reasons for objection can be summarised as follows:

1. Highway safety, location is an accident 'black spot' including concerns about potential harmful impacts on the safety of local school children and deliveries

2. Increase in congestion, proposals may exacerbate existing issues with congestion, including when the new Tesco opens in the former Waitrose unit
 3. Fear proposals could exacerbate current issues with obstruction of highway/driveways (in particular during peak school dropping off/picking up times)
 4. Potential damage to vehicles parked on the highway
 5. Proposals may affect availability of on-street parking
 6. Traffic data and highway safety analysis may not be accurate or robust as data was collected during quieter lockdown period when less vehicles were on the roads
 7. Loss of trees and associated potential increase in pollution
 8. Fears over an increase in CO² emissions
 9. Harmful impacts on residential amenity and privacy
 10. Noise nuisance (including from HGV movements and deliveries). Loss of trees may exacerbate noise nuisance
 11. Light pollution
 12. Increase in litter
 13. Impact on health
 14. Fear of unsocial behaviour and associated evening nuisance
 15. Retail is out of character
 16. Poor design, design is out of character
 17. Harmful impact on/loss of local heritage
 18. Over-development of site
 19. Harmful impacts on local ecology and local wildlife
 20. Need for another supermarket in this area
 21. Loss of hotel facility in this area
 22. Loss of employment at hotel
 23. Inadequate supporting information
 24. Alternative uses for the site have been suggested, including residential conversion or new build residential.
 25. Loss of existing pool facilities
 26. Harmful impact on viability of local business and smaller scale retailers
 27. Harmful effect on property values
- 6.2 A representation was received from Martin Roberts Planning Practice (MRPP) (dated 14th January 2022), acting on behalf of Tesco Stores Limited. The representation states that the applicant's retail impact assessment is inadequate, and that there are deficiencies in the sequential assessment. The correspondence also stated that there had been an inadequate assessment of heritage matters. These matters are dealt with in detail later in the report.

7.0 Consultees

- 7.1 All statutory and relevant non-statutory consultees were consulted upon, as required, during the various rounds of consultation.
- 7.2 Conservation Officer - The original scheme generated a number of concerns from the Conservation Officer in relation to the built form and lack of active edge to Penn Road.

The Officer was consulted on the amended design now being considered, which is much improved, having addressed a number of the concerns.

- 7.3 The loss of the main building on the site, which forms part of the hotel and is a non-designated heritage asset, is considered by the Conservation Officer to be regrettable. The main building was the residence of John Rollings, Director of Star Cycles, Cars and Commercial Vehicles and Vice President and Benefactor of the Royal Wolverhampton School from 1894 to 1909. It is therefore considered to possess some historic, and also architectural, significance. In light of this, the Officer has confirmed that a balanced judgement will be required, having regard to the loss of the non-designated heritage asset and the significance of the heritage asset, in order to satisfy paragraph 203 of the NPPF. This is considered in the Appraisal section of this report.
- 7.4 The Conservation Officer agrees with the conclusion in the applicant's Heritage Statement regarding the proposal resulting in no harm to the significance of the Grade II Listed, Claremont House and Penn Road (Graiseley) Conservation Area. Though there will be a change to the streetscene, it is not considered that this will harm the significance of either designated heritage asset. This is considered in the Appraisal section of this report.
- 7.5 If permission is granted, the Conservation Officer has recommended conditions requiring the recording of the heritage significance of the main building, in accordance with paragraph 205 of the NPPF, and the installation of a heritage feature on the development site in tribute to the heritage significance of the main building. These conditions are necessary and are outlined in a later section of this report.
- 7.6 Tree Officer – The Tree Officer was consulted during all rounds of consultation. Initial concerns were expressed by the Officer regarding the proposal's impact on a street tree on Oaklands Road, however, the applicant has presented sufficient information to overcome the concerns (See Background Papers). The Officer raises no objection, subject to a condition which will require the Council's approval of a tree protection scheme prior to the commencement of development. This condition is considered necessary. The Tree Officer has also requested the submission of additional information to demonstrate that there will be sufficient soil volume for the proposed scheme of planting. This is considered necessary and the condition is outlined later in this report. It should be noted that neighbours have objected on arboricultural grounds.
- 7.7 Contaminated Land Team – No objection, subject to the implementation of recommendations in the applicant's Phase 1 and Phase 2 Land Contamination Reports. The Reports recommend a watching brief should be maintained for evidence of Asbestos Containing Materials (ACMs). If further evidence of asbestos is encountered in the soils, work should cease until the risk assessment and Plan of Work have been reviewed and any additional asbestos control measures have been agreed and put in place. This will be secured by planning condition. Refer to the conditions section in this report. The condition is considered necessary to make the development acceptable.

- 7.8 Severn Trent Water – no objection, subject to a recommended condition. Refer to the conditions section in this report. This condition is necessary to make the development acceptable.
- 7.9 Local Lead Flood Authority – LLFA no objection subject to a planning condition requiring a fully detailed surface water drainage scheme. Refer to the conditions section in this report. This condition is necessary to make the development acceptable.
- 7.10 Police – Following the review of additional information provided by the applicant, the Police’s Crime Reduction Officer raises no objection, subject to recommendations. Most of these recommendations will be secured by condition. Refer to the conditions section later in this report.
- 7.11 In addition to the conditioned security measures, the Police recommend a car park barrier be installed to prevent access to the site when not in use. In response to the Police’s comments the developer clarified that they operate over 900 stores in the UK; the majority of which do not have entrance gates to the car park. They consider the proposed car park will benefit from a good level of natural surveillance from Penn Road and Lonsdale Road, and CCTV coverage. These factors themselves will, in their opinion, significantly reduce the chances of the car park being abused out of hours and have suggested that the situation is monitored, and if anti-social behaviour in the car park was to become an issue out of hours, then appropriate measures to deter this could be implemented.
- 7.12 Notwithstanding the recommendation for a car park barrier, the conditioned security measures, including CCTV and security lighting, would be materially similar to other comparable developments in the city. On balance, these measures, the rationale given by the developer and their and reassurances that they would monitor the site, would be adequate in this instance to ensure that the development would contribute towards reducing both the risk of criminal activity and the fear of crime, in accordance with Policy D10 of the UDP.
- 7.13 Victorian Society – Object to the proposals. The Victorian Society is a non-statutory consultee.
- 7.14 The Victorian Society consider that the removal of the Victorian house (the main building comprising the hotel) will mean a loss of one of the last references to the historic streetscape in this part of the city. Whilst it is acknowledged that there is a condition to install a heritage feature on the development site, the Society still wish to see the Victorian house incorporated in any proposed redevelopment.
- 7.15 The proposed design of the foodstore and proposed layout of the site combined with the loss of the Victorian house is considered by the Society to have a negative impact on the character of Penn Road.
- 7.16 Transportation –Transportation was consulted during all three rounds of consultation. Transportation acknowledge that the proposed development will be generating more trips

when compared to the previous hotel use. The NPPF states that “*developments should only be prevented or refused on highway grounds if there would be an unacceptable impact on highway safety*”. Transportation does not believe that the additional traffic will have such an impact on Oaklands Road or the wider highway network that it would trigger a recommendation for refusal. Transportation therefore raise no objection subject to legal agreements requiring:

- Improvements to the existing kerbline at the Oaklands Road / Penn Road junction to facilitate HGV movements associated with the development and;
- Modifications to the existing Traffic Regulation Order (TRO) on Oaklands Road to facilitate the necessary visibility splays.

7.17 These obligations are necessary to make the development acceptable.

7.18 Ecology – The Ecology Officer has reviewed the applicant’s Preliminary Ecological Appraisal, and also the Bat Roost Characterisation and Mitigation Report received by the Council on 30th September 2021. The Officer considers this to be satisfactory and no further ecological survey work is required before consideration is given to the determination of the application. No objection is raised and the recommendations contained in the Report should be followed (further bat surveys prior to demolition and the implementation of a scheme of bat boxes). These recommendations will be secured by condition (refer to the conditions section later in this report). The conditions are considered necessary.

8.0 Appraisal

8.1 The site is out-of-centre in retail policy terms, comprises a non-designated heritage asset (the main building of the hotel) and a number of trees, including a TPO. It is also located in an Air Quality Management Area (AQMA). The site is highly visible, off a busy arterial route into/out of Wolverhampton, and is in proximity to nearby houses and residents. Accordingly, there are a number planning issues to consider.

8.2 The main issues for consideration are:

- Principle of development
- Design, layout and heritage
- Trees
- Neighbour amenity
- Transportation considerations
- Drainage
- Air quality

Background

- 8.3 In response to consultee comments and neighbour representations, the application has been amended following its initial submission. This has included a revised design and layout, updated survey documents and additional technical information in support of the proposals.

Principle of development

- 8.4 There are no Development Plan policies which seek to protect the existing hotel use on the site. In light of there being no other material considerations which support the retention of the existing use, the loss of the hotel use is considered to be acceptable.

Retail Policy

- 8.5 Regarding the principle of retail development, the site is out-of-centre in retail policy terms.

Sequential Test

- 8.6 BCCS Policy CEN7 echoes the provisions of the NPPF which sets out the requirement for the sequential test. The centres are identified in BCCS Policy CEN2 and the Wolverhampton City Centre Area Action Plan (AAP, adopted 2016). NPPF para 87 states:

“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.”

- 8.7 NPPF para 88 states:

“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.”

- 8.8 NPPF para 91 states that when an application fails to satisfy the sequential test, it should be refused.

- 8.9 The applicant submitted a Planning and Retail Statement (PRS) (March 2021) containing their assessment of the availability and suitability of sequentially preferable sites in the proposal's core catchment area which, taking into account the pattern and distribution of convenience stores in Wolverhampton, was suggested by the applicant to be equivalent to around a 3-minute drive-time.

8.10 The AAP confirms that for the purpose of sequential testing, the defined Shopping Core (Policies CC1 and CA1) is equivalent to the City Centre's Primary Shopping Area (PSA). For retail purposes, a location that is edge-of-centre is well connected to and up to 300m from the PSA. The applicant initially considered the availability and suitability of the following alternative sites located in and on the edge of the City Centre Shopping Core:

Wolverhampton Civic Hall; Units 62 - 64, the former University of Wolverhampton Annexe, and 66 - 70 Lichfield Street; Site CA1A: 1a - Mander Centre (including the former Debenhams unit and Lower Ground Floor); and 1b(i), (ii) and (iii) - Southside 1, 2 and 3; 7 - 10 Wulfrun Centre; Former Beatties unit, Victoria Street; Other vacant units; Sites CA2A: 2a(i), (ii) and (iii) - Westside 1, 2 and 3; Sites CA3A: 3b – Blocks 9 and 10; and 3c – Pipers Row; Site CA8A: 8c – Express and Star Buildings; and Site CA9A: 9a – Former St George's Parade Store.

8.11 The applicant reviewed smaller centres within the core 3-minute drivetime catchment area, and included Dudley Road (Blakenhall), Upper Penn, Penn Fields, Parkfield and Bradmore Local Centres. As set out in BCCS Policies CEN5 and CEN7, and AAP Policy CC1 para 3.1.7, for local centres, edge-of-centre locations are those that immediately adjoin the centre boundaries.

8.12 Out-of-centre sites CA3A: 3a - Main Area; 3d – Banana Yard; and 3e – Blocks 6 and 7, which are considered accessible and well connected to the City Centre were also assessed for their availability and suitability.

8.13 Following the second round of consultation on the application, a representation of objection was received from MRPP (dated 14th January 2022 on behalf of Tesco Stores Limited stating there were deficiencies in the applicant's analysis of sequentially preferable sites, suggesting that the applicant's core three-minute drivetime catchment area inappropriately excluded a number of centres, and that the catchment should be more widely cast; a number of opportunities had not been robustly reviewed for their suitability and availability; and the applicant's sequential assessment did not consider other out-of-centre sites that are accessible and well connected to the City Centre.

8.14 The applicant was requested to revisit the suitability and availability of sequentially preferable opportunities and explore other opportunities, including out-of-centre sites that are accessible and well connected to centres, within a larger drivetime catchment area, consistent with NPPF para 88.

8.15 In reply, a Planning and Retail Statement (PRS) Addendum prepared by the applicant's agent, Walsingham Planning (WP) was submitted in March 2022) providing an updated analysis of previous and newly identified sequentially preferable sites within an extended five-minute (off-peak) drivetime catchment area. WP also identified a number of sequentially preferable sites that were not previously considered by the applicant in the initial search for sites: Wulfrun Centre - Various Units and former Next unit, 17 - 18 Dudley Street (within the PSA); and Site CA8A: 8a - St. Peter's Car Park; 8b - Broad Street Car Park; 8d - Birch Street; and other City Centre Units.

- 8.16 WP provided an updated assessment of sequentially preferable opportunities at the other centres in an extended catchment area equivalent to a five-minute off-peak drivetime, including Penn Manor Local Centre and a site at the northern end of Dudley Road (Blakenhall) Local Centre.
- 8.17 The previously identified out-of-centre sites were revisited by WP, together with a number of additional out-of-centre sites that are considered to be accessible and well connected to the City Centre Site CA4A: 4e - Stafford Road / Cannock Road and 4m - Former Stamping Works; Site CA7A: 7a - Former Peel House Site and 7b - Council Car Park / Former Wanderer Public House; Site CA10A: 10b - Former Sunbeam Factory; and Site CA11A: 11a - Royal Hospital Development Area.
- 8.18 The applicant's PRS and Addendum suggests that none of the sequentially preferable sites that have been assessed within the city centre PSA, Local Centres, edge-of-centre locations and well connected out-of-centre locations are available, suitable or viable for the proposal, taking account of reasonable flexibility in scale and format, and the applicant's operational requirements.
- 8.19 Following the requested further information and analysis, the five-minute off-peak drivetime catchment applied by the applicant is appropriate, given the scale and nature of the proposal and the location of other stores, particularly as locations just beyond the catchment boundary have been assessed (such as Parkfield Local Centre). The applicant has provided a sequential assessment of an extensive number of locations and sites, with the key locations being considered below:

In-centre locations:

- 8.20 *City Centre Shopping Core (Primary Shopping Area - PSA).* There are a number of vacant units in the PSA, including the Mander Centre, as indicated by the latest Experian GOAD report referenced by the applicant and informing the Wolverhampton City Centre healthcheck in the Black Country Centres Study Update 2021 (Lambert Smith Hampton – LSH). However, none meet the sequential test requirements to accommodate the proposal, particularly due to their size and configuration. The Southside sites are also unable to accommodate the proposal as they now include the City Centre's Outdoor Market, a casino and a church.
- 8.21 *Local Centres.* There are a number of Local Centres within the catchment area of the proposal. There are no suitable or available sequentially preferable vacant units or sites within centre boundaries, particularly as these centres are relatively small, compact and with unit sizes that do not present any opportunities of a sufficient nature and size to accommodate the proposed foodstore, even when applying flexibility in format and scale. Within the City Centre AAP area Chapel Ash Local Centre includes AAP site CA5A 5a – Former Eye Infirmary. Whilst the AAP identifies this development opportunity as having a potential for a retail element (citing up to 600sqm), constraints, particularly as there are locally listed buildings on the site, make a comprehensive single-occupier retail scheme at the site unacceptable. The Council are currently working proactively with the owner to bring forward the sympathetic regeneration of the site, and the emerging scheme does

not include a retail element. The site is identified for 70 homes in the Strategic Housing Land Availability Assessment (SHLAA 2021). Given these factors, this site is not available or suitable to accommodate the proposal.

Edge-of-centre locations

City Centre

- 8.22 *Westside*. This Character Area comprising sites CA2A: 2a(i), (ii) and (iii) - Westside 1, 2 and 3; is identified as the location for the City Centre's Leisure quarter, with comprehensive public realm enhancement and excellent linkages, which will enhance the city centre's evening economy. This area is classed as 'in centre' for Leisure proposals (AAP Policy CC3). It is fundamental to the AAP's spatial strategy for the City Centre to deliver complementary uses with the retail focus in the consolidated Shopping Core, supported by regeneration that includes being: office-led (at the Interchange); education-led (in the University & Canalside Quarters), residential-led (across the City Centre and particularly in the Canalside Quarter); and leisure-led at Westside. All three Westside development sites are identified for Leisure-led development in AAP Policy CA2 and whilst potential other uses, including residential, office and retail, are noted as part of a possible mix of uses, these uses are to be ancillary, in order to support the Leisure-led function of the area. The Council, with extensive land holdings, is working to bring forward the comprehensive and complex leisure-led regeneration of Westside. Consequently, these sites are not suitable or available to incorporate the proposal.
- 8.23 *St George's Parade*. Site CA9A - 9a comprises a former Sainsbury foodstore site and includes part of the statutorily (Grade II) listed former St George's Church. The site's unit size (with former net sales area estimated as 2,429sqm) is much larger even when applying reasonable flexibility to Lidl's minimum 1,325sqm net floorspace requirement (PRS para 5.12) meaning that re-occupancy of the building would be unsuitable for the proposal. The site is under the ownership of the Council who are working to bring forward the regeneration of the site. Redevelopment of the site which retains the listed building and enhances the site's frontages is complex, requiring a sensitive and comprehensive solution. Consequently the site, and the possible reoccupancy of the former St George's Parade Store by a convenience operator (AAP Policy CC1), is not currently or likely to become available within a reasonable period of time.
- 8.24 *Local Centres*. Assessing the applicant's and any other. There are no suitable or available sites adjoining local centres within the proposal's catchment area. AAP Site CA5A 5c St Mark's Road adjoins the boundary of Chapel Ash Local Centre and is therefore classed as edge-of-centre. This site was part of the Sainsbury's Raglan Street (St Mark's) scheme, which included proposed elements of residential and landscaping. The site is allocated for housing and is identified for 24 residential units in the Strategic Housing Land Availability Assessment (SHLAA 2021). The site is divided into two parts by a Co-operative Funeralcare building. Consequently, the site is not suitable or available for the proposal.

- 8.25 *Out-of-centre locations* that are well-connected to centres were assessed, such within the City Centre's Interchange & Commercial Gateway Character Area. This area is focussed on the city centre's public transport hub and office-led development (being in-centre for Office proposals – AAP Policies CC2 and CA3). None of the sites are suitable or available for the proposal.
- 8.26 *Sequential Test Conclusion.* Having assessed the locations and sites within centres (including within the City Centre PSA and Local Centres), edge-of-centre and well-connected out-of-centre locations in the applicant's PRS and the further information and analysis requested in the Addendum, together with any relevant additional considerations, the application of the sequential test is proportionate and appropriate for the given proposal, in line with the NPPF and NPPG. Even when taking into account reasonable flexibility (including in scale and format), it is concluded that there are no suitable or available sites to accommodate the proposal within its catchment area. The sequential test points raised by MRPP's representation (para 8.15) are satisfied.
- 8.27 The "availability" element of the sequential test regarding whether sites are available (or expected to become available within a reasonable period), has been applied realistically, taking on board that large projects in particular (such as including Westside and St George's Parade) take time to come forward, especially in the challenging economic climate over recent years and, consistent with the NPPG, being realistic and flexible in terms of any potential scheme viability. This is in the context of the City Centre AAP area (which this proposal adjoins and covers most of its catchment area) having seen a net loss of the number of different named main convenience foodstore operators since the AAP was prepared (see para 8.55), and the AAP's convenience retail target has not yet been met (12,000sqm (gross) net additional convenience floorspace before commitments by 2026 - Policy CC1). Consistent with "need" being relevant for plan making purposes (albeit not for planning decision making purposes) the AAP identifies capacity "mainly as a result of over-trading, and therefore a pressing need for further convenience provision to serve the city centre" (para 3.1.5). Whilst recent emerging evidence from the LSH Study suggests that there is no benchmark retail capacity, evidence from the applicant suggests there are elements of overtrading in, and in close proximity to, the City Centre (as considered in the impact section below).
- 8.28 The application meets the requirements of the sequential test in accordance with BCCS Policy CEN7 and the NPPF.

Retail Impact

- 8.29 Paragraph 90 of the NPPF states:

"When assessing applications for retail and leisure development outside town centres, which are not in accordance with an up-to-date plan, local planning authorities should require an impact assessment if the development is over a proportionate, locally set floorspace threshold (if there is no locally set threshold, the default threshold is 2,500m² of gross floorspace). This should include assessment of:

a) the impact of the proposal on existing, committed and planned public and private investment in a centre or centres in the catchment area of the proposal; and

b) the impact of the proposal on town centre vitality and viability, including local consumer choice and trade in the town centre and the wider retail catchment (as applicable to the scale and nature of the scheme)."

- 8.30 BCCS Policy CEN7 states that "[a]ny proposal for a town centre use in an out of centre location ... will only be considered favourably if the impact assessments contained in the most recent national guidance are satisfied" and therefore an assessment of impact is required for this retail proposal (confirmed by the LSH Study 2020 paras 2.32 and 2.35-6).
- 8.31 NPPF para 91 explains that where an application is likely to have a "*significant adverse impact*" on one or more of the considerations in paragraph 90, then it should be refused.
- 8.32 Following the application's second round of consultation, a representation of objection was received from MRPP (dated 14th January 2022) on behalf of Tesco Stores Limited, raising concerns regarding: taking account of the LSH study, centre healthchecks, trade draw assumptions and the contribution of retailers to the City Centre's health that lie just beyond the Shopping Core. Following requests for further information, the applicant's agents Walsingham Planning (WP) provided additional evidence, including a Planning & Retail Statement Addendum (March 2022). These issues are addressed in the considerations below.

Impact on Investment

- 8.33 In terms of NPPF para 90 part a) the applicant notes they are unaware of any planned or committed investment projects, with the exception of the redevelopment scheme at Dudley Road Local Centre which has been built-out. As noted in the sequential test considerations above, Character Areas in the City Centre, such as at the Interchange and Westside, and specific sites such as St George's Parade and the Former Eye Infirmary, are either unavailable, are identified to be led by non-retail centre uses, or have emerging schemes that do not have a retail element.
- 8.34 City Centre AAP Policy CC1 (a) sets out the investment priorities for the Shopping Core (Primary Shopping Area), which "include the early refurbishment and enhancement of the retail offer, including the reconfiguration of the Mander Centre, and providing new retail floorspace later in the plan period in Southside." AAP para 3.1.7 notes "where impact testing is required, particular emphasis will be placed on assessing the impact on the planned investment identified in Policy CC1 (a)". Whilst this application is outwith the AAP area enhancement and refurbishment took place in the Mander Centre, with the former Debenhams Store is now occupied by Frasers, together with the relocation of the Outdoor Market to Southside, and other priorities identified in AAP Policy CA1, such as public realm improvements, are being delivered.

- 8.35 Together with the considerations of retail impact below, particularly on the City Centre, the proposed Lidl store will not have a significant adverse impact on existing, committed and planned public and private investment in a centre or centres in the catchment area of the proposal.

Impact on Vitality and Viability of Centres

- 8.36 In terms of NPPF para 90 part a), the Black Country Centres Study (2020) and Update (2021) by Lambert Smith Hampton (LSH) were published in summer 2021 and include retail capacity modelling based on a comprehensive 2019 Household Survey of the Black Country's catchment area, together with healthchecks of key centres, providing valuable findings to assist with assessing this proposal.
- 8.37 The applicant submitted a Planning and Retail Statement (PRS, March 2021) which was informed by a more recent household survey of local shopping patterns commissioned by the applicant, and following requests for further clarification, is proportionate for the nature of the proposal and scope of the assessment, particularly as it augments the findings of the LSH study.
- 8.38 The PRS contains an assessment of retail impact arising from the proposal on surrounding centres and retail destinations. In accordance with the NPPG, the applicant assessed the nature of current shopping patterns and the health of centres in the proposal's catchment, including Wolverhampton City Centre and the Local Centres of Dudley Road, Penn Fields, Upper Penn, Bradmore and Parkfield. The quantitative convenience goods retail impact assessment has a base year of 2021 and a design year of 2026 and was based on a consideration of survey-derived turnovers and trade diversion estimates, consistent with the NPPG and having regard to the principles of 'like effects like' and 'distance', with an estimated convenience goods turnover of the proposal of £9.5m at 2026. Limited Assortment / Discount (LAD) retailers such as Lidl have a modest element and offer of comparison goods sales area (236sqm net for this proposal) and is therefore not likely to have a material impact on any retail destination. It is recommended that a planning condition defines the maximum amount of floorspace that can be used for the sale of comparison goods.
- 8.39 The Black Country Centres Study LSH), which assumes that existing centres and stores are broadly trading in line with 'benchmark' turnover, suggests that, after taking account of planning commitments since the 2019 Household Survey, there would be negative convenience capacity for Wolverhampton City Centre of between 71 and 127sqm net (depending on format) and across Wolverhampton's District & Local Centres of between 225 and 402sqm net (depending on format) by 2029 (LSH 2021 Table 5.1). Within this context, assessing the proposal's level of impact is assisted by the evidence provided by the applicant (particularly informed by the applicant's household survey that was undertaken more recently than the LSH study) and requested further information, including relating to estimated levels of over/ under trading.

- 8.40 *City Centre.* The applicant estimates trade diversion of £0.05m from stores in Wolverhampton City Centre. This level of trade diversion reflects the relatively few convenience operators (the 2021 LSH study healthcheck identifies convenience provision in Wolverhampton City Centre is below the national average in terms of number of units and floorspace) and the applicant's survey data indicating that the City Centre convenience stores have a low market share across the southern parts of the City. Further requested information from the applicant suggests that the Iceland store is overtrading, and whilst it is suggested that Marks & Spencer (M&S) is experiencing a degree of under-trading, under the principle of 'like effects like' as Lidl and M&S focus on distinctive aspects of convenience provision, the proposal is unlikely to cause a significant impact on the city centre as a whole as a result of any impact upon M&S, and the degree of undertrading by M&S may be cushioned to a certain extent as Waitrose no longer has a presence in the City.
- 8.41 The applicant's information and the latest LSH healthchecks of Wolverhampton City Centre suggests that whilst it appears to be performing well when considered against viability and vitality indicators, vacancy levels are high in the City Centre, reflecting the challenging economic environment facing centres over recent years. However, between the 2019 and 2020 Experian GOAD surveys the number and floorspace of convenience shops remained effectively the same, with the increase in vacancies being the result of a reduction in the number and floorspace of non-food (comparison) goods shops (LSH 2021 Vol 2 App 1 Tables 3-6). Vacant units are mainly small in size and dispersed across the City Centre. Given the proposal's small trade diversion from city centre convenience stores, it would also mean the impact of any reduction in associated linked trips to other city centre destinations, is likely to be small and dispersed across the city centre as a whole.
- 8.42 *Local Centres.* The local centres within the proposal's catchment area provide a number of main town centre uses including convenience retail provision which serve the day-to-day needs of local residents, with the applicant's survey data indicating that the convenience stores in the local centres provide mainly a top-up shopping role.
- 8.43 The applicant estimates trade diversion of £0.001m each from Penn Fields, Dudley Road (Blakenhall), Upper Penn, Penn Manor (Tesco Express) and Merry Hill Local Centres; £0.003m from Bradmore Local Centre; £0.008m from Warstones Local Centre; £0.6m from Finchfield Local Centre (Lidl), and £1.2m from Parkfield Local Centre (Aldi).
- 8.44 Analysis by the applicant suggests that a number of local destinations are trading well. The Tesco Express at Penn Manor Local Centre and Co-op at Warstones Local Centre are estimated to be overtrading. The Aldi at Goldthorn Hill at Parkfield Local Centre, being a Limited Assortment / Discount (LAD) operator, has a similar retail offer to the Lidl proposal and a reasonable proportion of its convenience goods turnover is likely to be drawn (estimated £1.2m at 2026). The applicant identifies the Aldi to be trading at nearly three times its benchmark, with a survey-derived convenience goods turnover estimated at around £24m (at 2021 levels). The suggested good market share and trading performance means it is a popular main food shopping destination serving the southern parts of Wolverhampton. This is evidenced by the recent building-out of an extension to

the Aldi (this commitment influenced the LSH retail capacity figures for Local Centres cited in para 8.39 above). There is also likely to be a degree of trade diversion to the proposal from the out-of-centre Aldi at Howard Street, which too is estimated to be overtrading.

- 8.45 The Lidl at Finchfield Hill, which is edge-of-centre (adjoining Finchfield Local Centre), is also estimated to be overtrading, and is a popular destination serving the west of the City. This store has the same operator as the proposal, the original store has been extended, and the estimated trade draw level to the proposal is modest. The LSH 2020 study provides an overview of Local Centres (Vol 2 App 23) which identifies Finchfield as a vital and viable Local Centre which is performing well with a diversity of uses, making a valuable contribution to serving the local community. The Lidl is an anchor store being well connected to the Local Centre, encouraging linked trips.
- 8.46 As these stores anchor their Local Centres, are performing well, and would continue do so after the small estimated trade diversion, it would also mean the impact of trade diversion from individual retailers and groups of shops particularly from any reduction in associated linked trips, is likely to be very small. Whilst the Tesco Express, which is on the edge of Bradmore Local Centre, is suggested to be experiencing undertrading, the applicant's estimated level of trade diversion (£0.003m) is very low, and given that the store has a degree of physical separation from the shopping elements of the local centre, the proposal is very unlikely to cause any significant adverse impacts on Bradmore Local Centre. Since the grocery retail offer of Local Centres has a focus on day-to-day top-up shopping, the proposed Lidl's function would include predominantly an important main-food shopping element. As the levels of trade loss for the local centres are identified as low and Centres are overall performing well, the proposal will not cause a significant adverse impact on the future viability and the health of Local Centres as a whole.
- 8.47 *Out-of-centre foodstores.* Whilst the estimated total trade diversion from stores in the city centre and local centres would be c.15% (c. £1.4m) of the proposal's estimated convenience goods turnover at 2026, it is noted by the applicant that c.85% (c. £8.1m) of the proposal's estimated turnover from convenience goods sales will be diverted from larger foodstores which are located outside centres in the central and southern parts of Wolverhampton.
- 8.48 Main foodstore provision in the proposal's catchment area is principally the out-of-centre stores: Tesco on Penn Road, directly opposite the site; Sainsbury's on Raglan Street (the applicant's analysis identifies it as a popular destination serving particularly the City's southern areas); and Asda on Molineux Way. It is assumed that £2.4m, £1.7m and £1m will be diverted from these stores respectively. Requested further information from the applicant suggests that Sainsbury's and Asda are trading slightly below benchmark sales. As these stores are out-of-centre, they do not benefit from any policy protection from retail impact. It is recognised the extent to which stores that lie just beyond centre boundaries contribute to the health of centres should be considered (such as analysed for Finchfield and Bradmore Local Centres in paras 8.47-8 above). These out-of-centre stores are likely to continue to provide an important shopping function given the modest level of direct convenience trade diversion to the proposal, and the impact of trade

diversion from individual retailers and groups of shops from any reduction in associated linked trips, is likely to be very small, given the distance of these stores particularly from the City Centre's Shopping Core.

- 8.49 *Cumulative Impact.* The applicant has presented a cumulative retail impact assessment estimating the trade impacts of Tesco on Penn Road, in accordance with the NPPG principles of 'like effects like' and 'distance' (since at the time of the assessment the store had not commenced trading), followed by the impacts provided by the Lidl proposal.
- 8.50 The applicant identifies cumulative retail impacts on centre turnover from convenience goods trade at 2026 of 0.6% or under for Wolverhampton City Centre and Local Centres in the catchment, with the exception of Parkfield Local Centre (Aldi) at 14.6%. The edge-of-centre Finchfield Lidl is identified as experiencing a cumulative impact of 20.8%. The Penn Road site is not a new foodstore destination, but has been a well-established retail location, with the previous occupier Waitrose operating the store until the end of 2020. Consequently, centres and foodstores in the catchment have performed in recent years with the presence of a foodstore at the Penn Road site. Whilst trade diversions to the re-opened store by Tesco may be slightly different to Waitrose, the marginal difference between the two operators at the site is likely to be small. Given the analysis in paras 8.44-5 above including their healthy performance of the Aldi and Lidl stores and the associated Parkfield and Finchfield Local Centres, this modelling of cumulative impact would not cause significantly adverse impacts on centres.
- 8.51 A number of neighbours have raised concerns about the impact of the proposed foodstore on local retailers. According to the Development Plan and the NPPF, individual retailers are not afforded policy protection from retail impact, with such protection only being given to designated centres as a whole. The consideration of the applicant's retail impact assessment and requested further information, together with evidence such as the LSH study, provides satisfactory evidence demonstrating the proposal will not have a "*significant adverse impact*" on any centre, including Local Centres, where individual retailers may be located. In particular, the proposal will perform a predominantly main foodstore shopping function, which is distinct to the day-to-day top-up shopping focus provided by local retailers and Local Centres.
- 8.52 Neighbours have objected to the application on the basis that there is no need for another supermarket in the area. Retail need is not a material planning consideration in the decision-making process.
- 8.53 In terms of local consumer choice, although the proposal is not within, but its catchment covers much of, the City Centre AAP area, it is noted that since the preparation of the AAP, there has been a net loss of the number of different named main foodstore operators in the AAP area with Waitrose no longer having a presence in the City and the main sources of potential convenience floorspace identified in AAP Policy CC1 have not come forward. A large foodstore has not been delivered at the former Peel Centre ('The Food Warehouse by Iceland' does operate there, which is in addition to Iceland stores operating in the Wulfrun Centre and at Howard Street); the Penn Road store is a re-introduction of Tesco's presence in the AAP area, following the operator vacating their

Metro Store in the Mander Centre and a large foodstore not being built-out at the former Royal Hospital; Sainsbury's relocated to Raglan Street from the St George's Parade Store which has not itself been re-occupied; and the Aldi at Broad Gauge Way is in addition to a store at Howard Street. Whilst the delivery of more/ larger foodstores by operators who already have/ recently had a presence in the City Centre AAP area has extended local consumer choice to a certain extent, the proposed Lidl would introduce a new named main foodstore operator in close proximity to the City Centre and qualitatively enhance local consumer choice in the wider retail catchment. Given the quantitative analysis of trade diversion, the proposal would not cause a significant adverse impact on centre vitality and viability, including local consumer choice and trade in centres.

- 8.54 The considerations in this section address concerns raised by MRPP on behalf of Tesco Stores (para 8.32), and neighbours and local retailers (paras 8.51-2).
- 8.55 It is concluded that there will not be a significant adverse impact of the proposal in terms of NPPF para 90 b.

Retail Policy Conclusion

- 8.56 The sequential test considerations has involved an assessment of an extensive range of potential sites, within, on the edge of centres and accessible and well-connected sites in out-of-centre locations. It is concluded that there are no sequentially preferable suitable or available sites within the catchment area to accommodate the proposal.
- 8.57 The analysis and review above draws on evidence contained in the LSH study (2020 & 2021), including findings from the household survey regarding benchmark retail capacity and on the latest published health of the City Centre and Finchfield Local Centre; together with the evidence provided by the applicant and further requested information (which is informed by a more recent household survey). This is sufficient to conclude on the acceptability of the proposal, consistent with the NPPF's emphasis on applicability to the scale and nature of the scheme, and it would not be proportionate to request a further centre healthcheck updates, particularly as the City Centre shops have a very low market share in the parts of the City where the proposal is expected to draw most of its trade from, and the identified level of trade draw and impact on centres is low.
- 8.58 The analysis of local market shares from the applicant's household survey results and the assumed levels of trade diversion to the proposed Lidl store (including from the City Centre) appear appropriate and realistic estimates, noting the NPPG principles of 'like effects like' and 'distance'. A number of stores and centres are identified as overtrading, and where there is a suggested degree of undertrading, the trade draw from the proposal would not cause significant adverse impacts, including taking account of any reduction of associated linked trips.
- 8.59 The methodology used by the applicant for the cumulative retail impact assessment is acceptable, and the level of impact on centres would not be significantly adverse, particularly as the Tesco Penn Road store is a reoccupation of an existing established retail destination formerly operated by Waitrose.

- 8.60 Accordingly, the proposal satisfies the sequential and impact tests in accordance with the provisions of the NPPF with BCCS Policy CEN7 and NPPF. Conditions should be included to clearly define the proposal's E(a) use, maximum total sales area (1,179 sqm net); maximum sales area for the display of comparison goods (236 sqm net), and ensure there is no future sub-division (including the installation of mezzanine floors).

Design, layout and heritage

- 8.61 The application site is located adjacent to the Penn Road (Graiseley) Conservation Area and diagonally opposite the Grade II Listed Claremont House.
- 8.62 The main building on the site, which forms part of the hotel, has some merit as a building of historic and architectural interest (built in the late 1800s) and is located in a significant location along a main route into the City Centre. Extensions and additions have somewhat subsumed the main building and much of its architectural character has been harmed or lost. It was the former residence of John Rollings, Director of Star Cycles, Cars and Commercial Vehicles and Vice President and Benefactor of the Royal Wolverhampton School from 1894 to 1909. A blue plaque mounted on the building includes details of this. The building is regarded as a non-designated heritage asset.
- 8.63 The relevant parts of Policy ENV2 of the BCCS state:

“All development should aim to protect and promote the special qualities, historic character and local distinctiveness of the Black Country in order to help maintain its cultural identity and strong sense of place. Development proposals will be required to preserve and, where appropriate, enhance local character and those aspects of the historic environment together with their settings which are recognised as being of special historic, archaeological, architectural, landscape or townscape quality...”

- 8.64 The relevant parts of Policy HE4 of the UDP state:

“Where a proposal for development may affect a conservation area or its setting, a full planning application should be submitted, giving sufficient detail, within the plans and the design statement accompanying the application, to fully assess the impact of the proposal on the special architectural or historic character of the conservation area and its setting.

Such proposals should pay particular attention to, and precisely define the impact of the development on the scale, proportions, character, materials and detailing of the conservation area and its setting....”

- 8.65 Policy HE17 of the UDP states:

“Development affecting the setting of a listed building will only be permitted if it respects and enhances the special architectural and historic interest of the listed building, paying special regard to scale, materials, colour and design.”

8.66 Paragraph 197 of the NPPF states:

“In determining applications, local planning authorities should take account of:

- a) the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation;*
- b) the positive contribution that conservation of heritage assets can make to sustainable communities including their economic vitality; and*
- c) the desirability of new development making a positive contribution to local character and distinctiveness.”*

8.67 Paragraph 203 of the NPPF states:

“The effect of an application on the significance of a non-designated heritage asset should be taken into account in determining the application. In weighing applications that directly or indirectly affect non-designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset.”

8.68 Paragraph 205 of the NPPF explains that local planning authorities should require developers to record and advance understanding of the significance of any heritage assets to be lost (wholly or in part) in a manner proportionate to their importance and the impact.

8.69 The Planning (Listed Building and Conservation Areas) Act (1990) sets out that *“special regard”* should be had to the *“desirability of preserving the building or its setting”* (Section 66 of the Planning (Listed Building and Conservation Areas) Act (1990)). In respect of Conservation Areas *“special attention shall be paid to the desirability of preserving or enhancing the character of that area”* (Section 72 of the Planning (Listed Building and Conservation Areas) Act (1990)).

8.70 The application is supported by a detailed Heritage Statement which has informed the design and assessment of the scheme and an assessment into the significance of the heritage assets.

8.71 The Heritage Statement concludes that the proposed development will result in no harm to the significance of the Grade II Listed, Claremont House. According to the Statement, this is because:

- The significance of the asset derives principally from its built fabric and form, and the proposed development will not affect these features.
- The application site is not a feature within the setting of Claremont House which positively adds to its appreciation of its special interest, and;

- Views between the site and the asset are significantly curtailed by evergreen trees which conceal the listed building.
- 8.72 The Conservation Officer is in agreement with the conclusions of the Heritage Statement in relation to the impact of the proposed development on the Grade II Listed Claremont House, citing that the mature vegetation, which almost completely shelters the building from view from the Penn Road, re-enforces the building's localised setting and that its significance is not derived from an surface level car park across four lanes of highway on the opposite side of the Penn Road. The proposal will preserve the setting and the significance of this heritage asset.
- 8.73 The Heritage Statement identifies that the proposed development will result in no harm to the Penn Road (Graiseley) Conservation Area, alleging that the site is not a feature of the Conservation Area and that the more valued features of the conservation area will be unaffected by the development proposal. The Conservation Officer agrees with this conclusion, and though there will be a change to the streetscene on the approach to the conservation area, this will not harm the significance of the conservation area.
- 8.74 Regarding the main building on the site, which is a non-designated heritage asset, the applicant's Heritage Statement concludes that the building no longer operates as a private residence having been substantially altered and extended to form a hotel in the late 20th Century. This physical change has resulted in the considerable dilution of the original aesthetic intention and status with the original building encased by modern additions. The significance of the building has been assessed in the Statement as being low, with its interests negatively affected by the previous extensions and alterations.
- 8.75 The NPPF (paragraph 203) also explains that when considering applications that affect non-designated heritage assets - in this case, the main building on the site - a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the asset.
- 8.76 A letter received by the Council from WP (dated 6th December 2021) on behalf of the applicant explains that the proposed development, which has been the subject of amendment, is of a high-quality design and will provide a positive contribution to the streetscene whilst improving the appearance of the site. The design of the proposal now being considered has been amended through the planning application process, in response to the comments of Officers, who are in general agreement with the applicant's comments.
- 8.77 The proposed building is of a modern design that has avoided a pastiche copy of nearby heritage assets, whilst also picking up local design elements, including introducing a gable roof into the main elevation. Depth and visual interest on important elevations have been created by using different materials and stepping façade elements. Windows have also been introduced into key elevations where possible to create additional visual interest and active frontages. This includes the Penn Road frontage. The proposed layout is appropriate and responds to the site's varied constraints and levels, and a heritage

feature on the development is proposed to be installed in tribute to the heritage significance of the main building (non-designated heritage asset).

- 8.78 The letter received by the Council from WP (dated 6th December 2021) summarises a number of public benefits associated with the proposed development. In addition to the design merits of the proposal, it is agreed by Officers that the benefits listed in WP's letter should be considered as part of the planning balance that must be applied in accordance with paragraphs 03 of the NPPF. The public benefits can be summarised as follows:
- The regeneration of a previously developed site in a prominent location, bringing it into more intensive economic use;
 - An enhancement to local convenience retail provision, thus widening consumer choice;
 - The creation of 40 full-time and part-time retail jobs on the site;
 - The provision of four electric vehicle charging spaces on the site;
 - An improvement to the appearance and visual amenity of the site;
 - The development of a retail unit that could potentially derive 100% of its consumable energy from photovoltaic panels on its roof; and
 - A high-quality development that incorporates sustainable urban drainage systems (soakaway).
- 8.79 A balancing exercise has been undertaken and it is considered that the benefits of the proposed development (including providing a heritage installation to communicate the significance of this location), noted above, outweigh the loss of the main building (non-designated heritage asset) and its associated historic and diminished architectural significance. Officers consider the application to have satisfied the policy tests outlined at paragraph 203 of the NPPF.
- 8.80 Since the loss of the main building is unfortunate, it is considered appropriate to impose a condition requiring the recording of the heritage significance of the building. This accords with provisions of paragraph 205 of the NPPF. The installation of a heritage feature on the development site in tribute to the heritage significance of the main building will also be secured by planning condition, with details to be agreed in writing by the Council prior to demolition work taking place. These two conditions are considered necessary.
- 8.81 The development is of a high-quality design that will preserve the setting of the Grade II Listed Claremont House and enhance the setting of the Penn Road (Graiseley) Conservation Area. The building is also of an appropriate height, massing and appearance. Accordingly, the proposal is considered to comply with Policies CSP4, ENV2 and ENV3 of the BCCS, Policies D3, D4, D6, D7 and D8 of the UDP and the NPPF.

Trees

- 8.82 Paragraph 131 of the NPPF states:

“Trees make an important contribution to the character and quality of urban environments, and can also help mitigate and adapt to climate change. Planning policies and decisions should ensure that new streets are tree-lined, that opportunities are taken to incorporate trees elsewhere in developments (such as parks and community orchards), that appropriate measures are in place to secure the long-term maintenance of newly-planted trees, and that existing trees are retained wherever possible. Applicants and local planning authorities should work with highways officers and tree officers to ensure that the right trees are planted in the right places, and solutions are found that are compatible with highways standards and the needs of different users.”

- 8.83 The application is supported by an Arboricultural Impact Assessment which assessed 38 individual trees and 11 tree groups, which is in accordance with BS 5837 (clauses 4.4.2.2 – 4.4.2.4). The assessment states that 32 of the 38 individually assessed trees were of moderate, low quality to poor condition and that overall, the majority of trees were recorded as having various structural issues.
- 8.84 The development would result in the removal of 28 individually assessed trees, plus the removal of 11 groups of trees, which for the purpose of the impact assessment, included conifer and laurel hedges, however, eight trees will be retained, including a mature protected Beech tree, the subject of a TPO, located adjacent on Lonsdale Road. Subject to a condition requiring the submission and approval of details of tree protection measures across the site, the impact of the proposal on the retained Beech tree and other retained trees is acceptable. This condition is necessary.
- 8.85 The proposals include a replacement tree planting scheme of 29 new trees alongside shrubs and hedges. Two trees will be planted in the store car park, and 7 trees will be planted along the frontage of the site to Penn Road. The scheme of replacement of tree planting is acceptable and will mitigate for the loss of the 28 trees on the site. In accordance with the NPPF (paragraph 131), a condition is recommended to ensure that measures are in place to secure the long-term maintenance of the newly planted trees.
- 8.86 Neighbour objections have been received citing the proposed loss of trees as being harmful. On balance, the proposed replacement planting scheme adequately mitigates for the loss of these trees.
- 8.87 Having regard to the above, the application demonstrates a consideration of trees and incorporates an appropriate scheme of replacement planting on the site, including trees along the frontage to Penn Road. Accordingly, the application complies with Policy D12 of the UDP and the NPPF.

Ecology

- 8.88 Policy ENV1 of the BCCS explains that development in the Black Country will safeguard nature conservation. Adequate information must be submitted with applications for proposals which may affect a designated site or any important habitat.

- 8.89 Policy D12 of the UDP explains that proposals should retain habitats, where possible. Where appropriate, creative conservation measures should be incorporated, and proposals should positively address any nature conservation resources which lie adjacent to or near the development site.
- 8.90 Paragraph 174d) of the NPPF explains that planning decisions should contribute to and enhance the natural local environment by, inter alia, minimising impacts on biodiversity and providing net gains for biodiversity.
- 8.91 The applicant submitted a Preliminary Ecological Appraisal with the application and this recommended the carrying out of emergence and return to roost surveys for bats. The Ecology Officer advised that such surveys would be required to be carried out. The necessary survey work was conducted by the applicant and a Bat Roost Characterisation and Mitigation Report was received by the Council on 30th September 2021.
- 8.92 The Ecology Officer has reviewed Bat Roost Characterisation and Mitigation Report and has raised no objection, subject to the development being carried out in accordance with the recommendations of the Report. Due to the suitability of some of the buildings on site, the Report recommends that an emergence/return to roost survey is undertaken prior to demolition. The Report also recommends that a scheme of bat boxes is implemented on the site. These recommendations have been assessed as being necessary to make the development acceptable and will be secured by planning conditions.
- 8.93 In accordance with Policy ENV1 of the BCCS, adequate information has been provided by the applicant to make an informed assessment. The carrying out of survey work prior to demolition (to be secured by condition) will safeguard nature conservation in line with Policy ENV1 and paragraph 174d) of the NPPF. A conservation measure, in the form of bat boxes (to be secured by condition), is a good opportunity to create new habitats and this accords with Policy D12 of the UDP and the thrust of paragraph 174d) of the NPPF.
- 8.94 There is no Development Plan policy which seeks a specific net gain in biodiversity based on a biodiversity metric. Accordingly, there is no requirement to demonstrate a certain level of net gain. Whilst the Environment Act (2021) does require new developments to achieve a minimum of 10% biodiversity net gain using a biodiversity metric, this and other provisions of the Act are not yet in effect, and so only very limited weight can be given to the Act as a material consideration. The proposed development will incorporate new habits in the form of bat boxes (to be secured by condition) and adequate replacement planting. This accords with the thrust of providing gains for biodiversity and is supported by Officers.
- 8.95 Neighbours have objected to the application citing harmful impacts on local ecology and local wildlife. Officers have reviewed the evidence presented by the applicant and consider that the development will not result in harmful impacts on local ecology and local wildlife.

Neighbour amenity

8.96 The proposed development has the potential to impact on neighbour amenity through noise, loss of privacy, light impact and impact on light and outlook. These are relevant material considerations.

8.97 The relevant parts of Policy EP1 of the UDP state:

“Development which may result in pollution of air, ground or water or pollution through noise, smell, dust, vibration, light, heat or radiation will only be permitted where it can be shown that there would be no material adverse impact on:

- *The immediate, medium or long term health, safety or amenity of users of the land or surrounding areas; or*
- *Quality and enjoyment of the environment.”*

8.98 Policy EP4 of the UDP relates to light pollution and states:

“Development proposals which include external lighting should:

- *demonstrate that the use and design of the lighting scheme is the minimum required to undertake the task;*
- *minimise light spillage; and*
- *include measures to adequately screen neighbouring areas from the glare produced by lighting installations, particularly residential and commercial areas, areas of nature conservation interest and areas whose open landscape qualities would be affected.”*

8.99 Policy EP5 of the UDP relates to noise and states:

“Developments which are likely to give rise to unacceptable levels of noise pollution will not be permitted, unless measures can be taken to reduce noise emissions or intrusion to acceptable levels. Such measures will be secured through the use of conditions or planning obligations, where appropriate.”

8.100 Paragraph 174 of the NPPF explains that planning decisions should contribute to and enhance the natural and local environment by, inter alia, preventing new and existing development from contributing to, being put at unacceptable risk from, or being adversely affected by, unacceptable levels of soil, air, water or noise pollution or land instability.

8.101 Paragraph 185 explains that planning decisions should ensure that new development is appropriate for its location taking into account the likely effects (including cumulative effects) of pollution on health, living conditions and the natural environment, as well as the potential sensitivity of the site or the wider area to impacts that could arise from the development. In relation to noise, planning decisions should avoid noise giving rise to significant adverse impacts on health and quality of life.

Noise

8.102 The application is supported by a Noise Assessment. The Noise Assessment concludes:

- The difference in ground levels between the development site and the nearest dwellings on Lonsdale Road, together with the retaining wall and boundary treatment to Lonsdale Road, will provide a significant screening effect for delivery vehicle movements associated with the loading bay.
- The dwellings adjacent to the site are already subject to significant levels of traffic noise from the adjacent roads. It is considered unlikely that activity noise associated with the proposed new store would be particularly noticeable above this existing noise climate.
- The Assessment, undertaken in accordance with BS 4142, for the periods of lowest background sound level indicates that noise rating levels at the nearest dwellings for plant noise and for delivery activities from the proposed store fall into the category of 'low impact' at all times.
- The calculated emission levels for plant noise and delivery noise at the nearest dwellings would enable BS 8233 internal criteria for bedrooms and living rooms to be readily achieved when windows are open.

8.103 The Noise Assessment and has been reviewed and subject to conditions, it is unlikely that unacceptable noise impact and nuisance would occur. It is considered necessary to impose planning conditions to restrict the store's opening and servicing hours, in the interest of safeguarding local residential amenity. These have been agreed by the applicant following a period of negotiation and can be found later in this report. In relation to noise, the proposed development is considered to accord with Policies EP1 and EP5 of the UDP and the NPPF.

8.104 Neighbours have objected to the application citing the potential for noise and nuisance from the deliveries and vehicles. Subject to the recommended conditions which restrict the store's opening and servicing times, which are consistent with recent planning decisions for similar premises elsewhere in the city, the proposed development is considered to be acceptable from a noise impact perspective.

Lighting

8.105 The proposal incorporates a lighting scheme. This has been designed to limit impact on neighbour amenity and is considered acceptable. The proposal is considered to accord with Policy EP4 of the UDP and the NPPF.

8.106 Neighbours have objected to the application citing the potential for light pollution. The proposed lighting scheme has been appropriately designed so as to limit any light pollution and consequential impacts on amenity.

Privacy, Light and Outlook

- 8.107 The proposed foodstore building would be sited at an adequate distance away from neighbouring properties, including the houses on Lonsdale Road and Oaklands Road. Accordingly, there will be no loss of outlook, or daylight or sunlight arising from the proposed development. The development is considered acceptable with regard to these considerations.
- 8.108 During the course of the application, Officers raised a concern regarding the proposed site levels and how these could result in a potential loss of privacy for the residents of Oaklands Road and Lonsdale Road, to the west of the car park. This is because the car park will be set at a substantially higher level than the neighbouring residential properties and their gardens. The applicant has amended the application to include the provision of a 2m high fence along the western edge of part of the car park. The fence will sit behind a retaining wall and will prevent car park users from looking over to the houses on Lonsdale Road and Oaklands Road. This is considered to be an acceptable solution and adequately addresses the concerns of Officers regarding privacy. There are no other issues in relation to loss of privacy.

Transportation Considerations

- 8.109 Policy TRAN1 of the BCCS states that all new developments will address the transport network and provide adequate access for all modes, including walking and cycling.
- 8.110 Policy TRAN2 of the BCCS explains that planning permission will not be granted for development proposals that are likely to have significant transport implications, unless applications are accompanied by proposals to provide an acceptable level of accessibility and safety by all modes of transport to and from all parts of a development including, in particular, access by walking, cycling, public transport and car sharing.
- 8.111 Policy TRAN4 of the BCCS states that cycle parking facilities should be provided at all new developments, having regard to local standards. Cycle parking should be located in a convenient location with good natural surveillance.
- 8.112 Policy TRAN5 of the BCCS explains that a priority for the Black Country is maximum parking standards for car parking. The Highways Technical Guidance Note (dated July 2016) is a material consideration and outlines the maximum parking standards for Wolverhampton. According to the Note, food retail developments of 1,000 sq.m gross and above should be served by a maximum of one car parking space for every 14 sq.m. A minimum of three bays or 6% of the total of parking spaces, whichever is greater, should be reserved for disabled parking. The parking standard for motorcycles is one space, plus an additional space for every 10 car parking space. A minimum of 1 cycle parking space per 100 sq.m GFA (with a minimum of 2 spaces) for retail stores should also be provided.
- 8.113 Policy D11 of the UDP explains that all highway and development proposals should be designed to provide safe and convenient access for people with disabilities.
- 8.114 Paragraph 111 of the NPPF states:

“Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.”

Highway and Traffic Impacts

- 8.115 The application is supported by a Transport Assessment which concludes that the impact of the development on the local highway network could be safely accommodated and that there is no evidence of residual impact from the proposals that could be classified as ‘severe’ in the context of paragraph 109 of the NPPF (2019) (now paragraph 111 of the NPPF 2021).
- 8.116 The applicant’s Transport Assessment further explains that the proposed simple-priority site access junction onto Oaklands Road has been tested robustly up to 2026 for the AM, PM and Saturday midday peak periods and no evidence of any capacity issues has been found. Similarly, the impact of development traffic was concluded to be safely and easily accommodated at the Penn Road / Oaklands Road signalised junction with no detriment to the free-flow of traffic, subject to mitigation in the form of minor improvements to allow traffic to go straight ahead from two lanes from Oaklands Road to Marston Road.
- 8.117 Transportation raised some initial concerns during the first consultation with regard to the methodology that was applied to inform the conclusions of the applicant’s Transport Assessment. Due to COVID restrictions, traffic surveys had not been commissioned by the applicant at the Penn Road / Marston Road / Oaklands Road junction. Transportation noted in its response that current traffic levels were back to pre-COVID levels, and thus requested the applicant to carry out fresh survey work (for turning manoeuvres and traffic volume) to enable a more accurate understanding of the existing situation. The absence of up-to-date survey data to inform the Transport Assessment was also noted by neighbours in their objections.
- 8.118 As part of their initial concerns, Transportation also acknowledged that the Oaklands Road \ Penn Road traffic signal controlled junction has a history of accidents which is already a concern for the Council. It was a concern to Officers that the proposed foodstore would generate an increase in vehicle trips and pedestrian trips when compared to the existing hotel.
- 8.119 The applicant submitted a Technical Note 01 in response to Transportation’s initial commentary, summarised above. The Note reported the findings of a fully classified turning count of the Penn Road / Marston Road / Oaklands Road junction during a weekday AM, PM, and Saturday peak period which had been undertaken in response to the request of Transportation (and the various neighbour objections). The Note concluded that the mitigation that was originally proposed - in the form of minor improvements to allow traffic to go straight ahead from two lanes from Oaklands Road to Marston Road - would no longer be necessary, since the updated modelling work had identified no capacity or queueing issues on Oaklands Road.
- 8.120 In response to Technical Note 01, Transportation raised further issues with regard to the applicant’s methodology for the LinSig Model, which was used to inform the conclusions

of Technical Note 01. It also remained a concern for Transportation that the proposed foodstore would be generating more trips than the existing hotel.

- 8.121 The applicant submitted Technical Note 02. This reported on an updated LinSig Model conducted by the applicant, in response to Transportation's previous comments. Technical Note 02 acknowledged that the foodstore would generate more vehicle trips than the hotel use on the site, but that the updated junction modelling had found that these vehicle trips would not result in any capacity issues at the Oaklands Road / Penn Road / Marston Road junction.
- 8.122 In a further response to Technical Note 02 and on review of the application which had by that point been amended, Transportation advised that the Council would be undertaking traffic signal refurbishment works at the Oaklands Road / Penn Road / Marston Road junction in response to the history of accidents. These works are expected to be completed by the end of March 2022. On review of the updated junction modelling work presented by the applicant, Transportation issued its final consultation response confirming that the additional traffic generated by the proposal would not have such an impact on Oaklands Road or the wider highway network that it would constitute a reason to refuse the application.
- 8.123 On review of the latest Technical Note 02 provided by the applicant and the recommendations of Transportation, the increase in vehicular trips is considered acceptable. It is accepted that the increase in vehicular trips would not result in any capacity issues at the Oaklands Road / Penn Road / Marston Road junction. The proposed development will not result in any significant adverse transport implications and the residual cumulative impacts on the road network will not be 'severe'. Accordingly, the proposal complies with Policy TRAN2 of the BCCS. The neighbour objections citing concerns in relation to traffic impact and congestion are afforded no weight.

Parking Provision

- 8.124 The proposed foodstore measures 1,923 sq.m GIA with a sales area of 1,175 sq.m, and will be served by 93 car parking spaces including 6 disabled bays, 4 electric vehicle charging spaces, 9 motorcycle spaces and 20 cycle spaces.
- 8.125 The level of car parking proposed complies with the maximum standard outlined in the Highways Technical Guidance Note (dated July 2016). The applicant's Transport Assessment actually demonstrates that less spaces (84) would be sufficient to contain parking generated by the store within its site, avoiding potential congestion, obstruction and safety concerns. This has been assessed and the proposal for 93 spaces is considered appropriate.
- 8.126 The proposal for 6 disabled bays, 9 motorcycle spaces and 20 cycle parking spaces accords with the minimum standards outlined in the Highways Technical Guidance Note (dated July 2016). This is considered appropriate.

- 8.127 The proposed provision of 4 electric vehicle charging spaces (2 rapid and 2 fast chargers) generally meets the standards that are set out in the Black Country Air Quality SPD (dated October 2016). This level of provision is considered appropriate.
- 8.128 The proposed level of parking across the site is acceptable. The layout of the site and car park will provide convenient access for people with disabilities, and the cycle parking spaces will be located in a convenient location to the front of the store with good natural surveillance. The proposal complies with Policies TRAN1, TRAN2, TRAN4, TRAN5 of the BCCS, Policy D11 of the UDP, the Highways Technical Guidance Note (dated July 2016) and the Black Country Air Quality SPD (dated October 2016).

Servicing

- 8.129 The applicant has provided swept path analysis which demonstrates that service and delivery vehicles can; (a) enter and exit Oaklands Road via the traffic signal controlled junction with Penn Road; (b) enter and exit the site via Oaklands Road and; (c) manoeuvre around the internal layout of the development site to access the loading \ unloading bay. This evidence has been reviewed by Transportation, though it is acknowledged that improvements to the existing kerblines at the Oaklands Road / Penn Road junction to facilitate HGV movements associated with the development will be necessary. Transportation raise no objection to this in principle and this can be secured by an appropriate legal agreement, with the works being required to be completed prior to the first occupation of the foodstore.
- 8.130 Transportation have recommended that should this application be granted; a Servicing Strategy Plan will need to be agreed. This should detail delivery routes, general delivery procedures, delivery times and the number of deliveries per day. This is necessary in order to control servicing in the interest of highway safety. A condition is recommended.

Site Access and Visibility

- 8.131 Transportation's initial comments on the application stated that acceptable visibility splays must be delivered at the site access on Oaklands Road, and that these must be based on the speed of traffic using Oaklands Road, taken from up-to-date speed surveys. The applicant undertook a speed survey, the findings of which are reported in Technical Note 01, with 200 readings being collected for each direction along Oaklands Road. The speed survey data was used by the applicant to propose a visibility splay for the car park access off Oaklands Road.
- 8.132 In its final consultation response, Transportation confirmed its acceptance of the proposed visibility splay for the access, based on the speed survey data. Transportation also raised no concerns in relation to the proposed boundary treatment near the car park access. However, Transportation has advised that the existing Traffic Regulation Order (TRO) on Oaklands Road will need to be reviewed and likely amended to protect the required visibility splays at the site access from inappropriate parking. This will be secured by an appropriate legal agreement and is accepted by the applicant.
- 8.133 Subject to a legal agreement to amend the existing TRO on Oaklands Road to protect the required visibility splays at the site access to the foodstore car park, the vehicular

access arrangements for the proposal are considered acceptable. Accordingly, the proposal accords with Policies TRAN1 and TRAN2 of the BCCS.

- 8.134 Within its final consultation response, Transportation also noted the lack of boundary treatment at the north east corner of the site near the Oaklands Road / Penn Road / Marston Road junction, citing a potential safety issue whereby vehicles could enter or exit the site at this location. In response to this, the applicant has provided amended details of boundary treatment for this location, essentially narrowing the gap in proposed boundary treatment. This is considered appropriate and addresses Transportation's concern.

Construction Management Plan

- 8.135 In the interests of highway safety, Transportation has recommended a planning condition requiring the submission and approval of a Construction Management Plan prior to any works commencing on site. This is considered necessary to make the development acceptable and a condition is recommended.

Drainage

- 8.136 Flood risk assessment documentation has been provided and assessed by the Lead Local Flood Authority (LLFA),
- 8.137 The LLFA have provided technical advice for the developer and have recommended a comprehensive condition to secure a suitably designed surface water drainage system prior to work commencing on site. The LLFA have asked to be reconsulted with the drainage scheme when submitted to continue to provide specialist flood risk advice.

Air Quality

- 8.138 The application site is located in an Air Quality Management Area, designated in 2005. Air quality is therefore a relevant material planning consideration.

The relevant parts of Policy ENV8 of the BCCS state:

“Where development is proposed in areas where air quality does not meet (or is unlikely to meet) air quality objectives or where significant air quality impacts are likely to be generated by the development, an appropriate air quality assessment will be required. The assessment must take into account any potential cumulative impacts as a result of known proposals in the vicinity of the proposed development site, and should consider pollutant emissions generated by the development.

If an assessment which is acceptable to the local authority indicates that a proposal will result in exposure to pollutant concentrations that exceed national air quality objectives, adequate and satisfactory mitigation measures which are capable of implementation must be secured before planning permission is granted.”

- 8.139 Paragraph 174e) of the NPPF explains that planning decision should contribute to and enhance the natural and local environment by preventing new and existing development from contributing to, being put at unacceptable risk from, or being adversely affected by, unacceptable levels of soil, air, water or noise pollution or land instability. Development should, wherever possible, help to improve local environmental conditions such as air and water quality.
- 8.140 Paragraph 185 of the NPPF explains that planning decisions should also ensure that new development is appropriate for its location taking into account the likely effects (including cumulative effects) of pollution on health, living conditions and the natural environment, as well as the potential sensitivity of the site or the wider area to impacts that could arise from the development.
- 8.141 The applicant submitted an Air Quality Assessment in support of the application. It should be noted that the NPPF paragraphs referenced in the Assessment relate to the 2019 version of the NPPF and are out-of-date. Whilst the Assessment does not refer to the latest version of the NPPF (July 2021), there has been no change to the specific wording of the NPPF paragraphs referenced that impacts on the conclusions of the Assessment.
- 8.142 The Air Quality Assessment comprises the results of two assessment. A qualitative construction phase assessment and a detailed road traffic emissions assessment.
- 8.143 Subject to the implementation of mitigation during the construction phase, including the use of dust suppression techniques, etc, the impact of air quality from the construction phase is concluded by the applicant to be 'not significant'. This is accepted. Should this application be granted, it is considered necessary to recommend a condition requiring the submission and approval of a Construction Management Plan (to include details of dust suppression).
- 8.144 A detailed road traffic emissions assessment was undertaken to consider the impact of development-generated road traffic on local air quality at identified existing receptor locations. Road traffic emissions were modelled using the dispersion model ADMS-Roads and concentrations of NO₂, PM₁₀ and PM_{2.5} were predicted at identified sensitive receptor locations. The applicant's Assessment concludes that the development is not predicted to result in any new exceedances of the relevant air quality objectives and the impact of the development on local air quality is predicted to be 'negligible'.
- 8.145 The Air Quality Assessment gives consideration to the Black Country Air Quality SPD (dated October 2016).

9.0 Legal Implications

- 9.1 There are no legal implications arising from the recommendations of this report SE/16052022/B.

10.0 Background Papers

- Planning and Retail Statement (dated March 2021)
- Addendum to Planning and Retail Statement prepared by Walsingham Planning (dated March 2022)
- Letter from Walsingham Planning (dated 6th December 2021)
- Design and Access Statement (dated November 2021 rev. C)
- Heritage Statement (dated December 2021)
- Flood Risk and Sequential Test Review (dated December 2021 rev. 1.0)
- Bat Roost Characterisation and Mitigation Report (dated September 2021)
- Technical Note 01 (dated July 2021)
- Technical Note 02 (dated September 2021)
- Transport Assessment and Appendices (dated March 2021)
- Observations to the Tree Officer in relation to the street tree on Oaklands Road (received 12 July 2021 and 6 October 2021)
- Results of Soakaway Tests Letter prepared by Remada dated March 2021
- Travel Plan (dated March 2021)
- Noise Impact Assessment (dated March 2021)
- Phase 2 Ground Investigation Report (February 2020)
- Flood Risk Assessment and Outline Drainage Strategy Report (dated March 2021)
- Energy Usage and Sustainability Statement (dated March 2021)
- Employment and Skills Plan
- Preliminary Ecological Appraisal (dated March 2021)
- BREEAM Pre-Assessment Report
- Arboricultural Impact Assessment (dated February 2021)
- Air Quality Assessment (dated March 2021)

11.0 Conclusion

- 11.1 The implementation of the development would create significant investment and new jobs. Whilst there would be some impact on visual amenity and the loss of a heritage asset, the amended proposals would result in a good quality scheme which would not result in any highway concerns and are therefore considered appropriate.
- 11.2 On balance, the benefits afforded the development outweigh the loss of the significance of the non-designated heritage asset, and the development would be in accordance with the policies of the development plan.
- 11.3 The design of the new food store proposal has been improved, it is considered that the proposal will not harm the significance of either of the nearby designated heritage assets, and though it is most regretful to lose the former Pines and its associated significance, it has been considered that the benefits of the scheme outweigh its loss.
- 11.4 The comments from the Drainage/Flood Authority that planning permission is not granted until infiltration testing in full concordance with BRE 365 best practice guidance has been carried out are materially significant and therefore, in order to allow the developer an opportunity to address the initial comments, delegated authority to grant the application, once the comments are addressed, is requested.

12.0 Detailed recommendation

12.1 That delegated authority is granted for planning application 21/00402/FUL subject to the slight revision of the proposed highway design, modifications to traffic regulation orders (to be secured through Section 106 and Section 278 Agreements) and subject to the following conditions:

1. This development shall accord with the following drawings: -

Plan Type	Reference	Version No.
Location Plan	180559 PL-01	-
Existing Layout Plan (and Levels)	180559 PL-02	B
Proposed Layout Plan (and Levels)	180559 PL-03	G
Floor Layout Plan	180559 PL-04	A
Roof Plan	180559 PL-05	B
Elevation Plan	180559 PL06	D
Landscape Plan (Hard)	180559 PL-08	C
Landscape Plan (Soft)	210225_1212 L01	D (received 17.02.22)

Reason: - For the avoidance of doubt.

2. Notwithstanding the details provided, prior to the commencement of development details of all materials to be used externally shall be submitted to and approved in writing by the local planning authority. The development shall be built in the materials approved.

Reason: In the interests of visual amenity and to preserve the character of nearby heritage assets. Relevant UDP policies HE3, HE4 and BCCS Policies: ENV2, ENV3 and CSP4.

3. Notwithstanding the details provided, prior to the commencement of development, details of the landscaping of the site (including hard surfaces, car parking areas and access/egress, boundary treatments and wherever appropriate the retention of existing trees) shall be submitted to, and approved in writing by, the local planning authority.

The approved landscaping scheme shall be fully implemented within one year of either the first occupation or use of the development or its substantial completion, whichever is the sooner, and shall be maintained thereafter for a period of not less than five years. The maintenance shall include the replacement of any tree or shrub which is removed, destroyed or dies by a tree or shrub or the same size and species as that which it replaces, unless otherwise agreed in writing by the Local Planning Authority.

Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking and re-enacting that

Order with or without modification), areas of soft landscaping shall not be replaced by the provision of a hard surface nor shall they be used for parking or storage, unless otherwise agreed in writing by the local planning authority.

Reason: In the interests visual of amenity. Relevant UDP policies N1, D6 and D12

4. All approved western boundary treatments, including the 2.0m high Jackson Fencing, as shown on drawing numbered 180559 PL-08 Revision C, shall be installed prior to first use of the development and maintained as such thereafter.

Reason: In order to secure a satisfactory development of the site and in the interests of amenity. Relevant BCCS Policy ENV3 and UDP policies D2, D3, D4, D5, D6, D7, D8, D9, D10 and H6.

5. The development shall accord with the approved site and slab levels, as shown on approved drawing: 180559 PL-03 Revision G.

Reason: In order to secure a satisfactory development of the site and in the interests of amenity. Relevant BCCS Policy ENV3 and UDP policies D2, D3, D4, D5, D6, D7, D8, D9, D10 and H6.

6. Notwithstanding the details shown on any of the submitted layout or landscape plans, prior to the commencement of the development hereby approved (including demolition and all preparatory work), an Arboricultural Method Statement (AMS) shall be submitted to and approved in writing by the Local Planning Authority. Specific issues to be dealt with in the AMS:

- a) An updated Tree Protection Plan and details of any necessary other tree protection measures (in accordance with BS 5837: 2012) to reflect the approved layout plan and the trees, both on and off site, to be retained as shown on the approved layout plan. In particular details of tree protection measures in relation to the off-site tree identified as "T37" on the RPS Arboricultural Impact Assessment (Dated 23 Feb 2021) that is shown on the layout plans to be retained shall be included on the updated Tree Protection Plan.
- b) Details of any required facilitation pruning of the retained trees.
- c) Methods of demolition of any structures or the removal of any existing surface and sub-base material within the Root Protection Area (RPA as defined in BS 5837: 2012) of the retained trees. This shall be undertaken in an arboriculturally sensitive manner.
- d) Details of any excavation, construction works or other changes in land levels (however temporary) within the Root Protection Area (RPA as defined in BS 5837: 2012) of the trees to be retained on and off site, and how these shall be undertaken in an arboriculturally sensitive manner, along with any

appropriate protection and mitigation measures, to minimise any damage within the Root Protections Area.

- e) Details of a scheme of Arboricultural supervision and inspection by a suitably qualified arboriculturalist throughout the development, and in particular during any works within the root protection area (RPA as defined in BS 5837: 2012) of any retained trees to ensure adherence with the agreed tree protection details.
- f) Location and installation method of services/ utilities and drainage apparatus.
- g) A full specification for the construction of roads, driveways, parking areas, patios, pathways or other areas of hard standing. Where such areas are proposed within, or abutting to, the RPA of a tree to be retained on and off site, they shall, unless otherwise agreed in writing with the Local Planning Authority, be constructed in such a manner as will not result in any excavation within the Root Protection Area (RPA as defined in BS 5837: 2012) of any of the retained trees on or adjacent to the site. Details of this specification shall include both the details of the construction materials and methods along with relevant sections through the roads, driveways, parking areas, patios, pathways or other areas of hard standing.
- h) A full specification for the design and construction of, structures, walls, kerbs (or other edgings), fences, railings or other retaining features, architectural features or boundary treatments that are either located within 2 metres of, or would require facilitation works (including any permanent or temporary excavation or level build up works) within 2 metres of, the Root Protection Area (RPA as defined in BS 5837: 2012) of trees to be retained (both on and adjacent to the site). Any such new features / structures and associated works shall be designed and undertaken in an arboriculturally sensitive manner including the design and use of minimal excavation for foundations or supports. The submitted details of these structures shall include both their construction make up and a sections through them showing the extent of any excavation required relative to the existing ground levels. Where excavation for posts or piers or other such foundation / support elements are required the final positioning of these shall be sufficiently flexible to allow for their location to be amended to prevent any unforeseen damage to significant roots (in excess of 25mm diameter). The details shall also include a method statement to demonstrate how any required excavations and installations shall be undertaken so as not to cause any damage to the tree roots within the Root Protection Area, including the prevention of leaching of cementitious or other chemicals into the RPA until they have set / cured.
- i) Details of a scheme for the identification and provision of any necessary ground remediation or soil decompaction necessary either as a result of the removal of exiting surfaces, demolition of structures or any development site activities during the course of the development; or, for the improvement of

any retained areas of existing landscape soil volumes, where the improvement of such soil areas would be of benefit to the growth and development retained trees.

Reason: Required to satisfy the Local Planning Authority that the trees to be retained will not be damaged during site preparation or construction and to protect and enhance the appearance and character of the site and locality, in accordance with UDP policies N1, D6 and D12 and pursuant to section 197 of the Town and Country Planning Act 1990

7. Notwithstanding the details shown on any of the submitted layout or landscape plans, the development hereby approved shall be undertaken in complete accordance with the Arboricultural Method Statement and Associate details as agreed in Condition '5'. There shall be no alteration to, deviation from or substitution of any part of the approved details unless otherwise approved in writing by the Local Planning Authority.

Reason: Required to satisfy the Local Planning Authority that the trees to be retained will not be damaged during site preparation or construction and to protect and enhance the appearance and character of the site and locality, in accordance with UDP policies N1, D6 and D12 and pursuant to section 197 of the Town and Country Planning Act 1990

8. The development shall be constructed in accordance with the Remada Ground Investigation Report (reference 718.02.01 – February 2020). This shall include implementation of all recommendations in the report, including: a watching brief should be maintained for evidence of Asbestos Containing Materials (ACMs). If further evidence of asbestos is encountered in the soils, work should cease until the risk assessment and Plan of Work have been submitted to and agreed in writing by the local planning authority and any additional asbestos control measures have been put in place.

Reason: To ensure that the site is suitably decontaminated. Relevant UDP policies: EP11 and EP12

9. Prior to the commencement of development drainage plans for the disposal of foul and surface water flows shall be submitted to and agreed in writing by the Local Planning Authority. The scheme shall be implemented in accordance with the approved details before the development is first brought into use.

Reason: To ensure that the development is provided with satisfactory and sustainable means of drainage as well as to reduce the risk of creating or exacerbating a flooding problem and to minimise the risk of pollution. Relevant UDP policy is EP9.

10. Prior to commencement of development, including any demolition, a scheme for a heritage installation shall be submitted to and agreed in writing by the local

planning authority. The heritage installation shall be fully installed prior to first use of the development and maintained as such thereafter.

Reason: In the interests of visual amenity and mitigation for the loss of the undesignated heritage asset. Relevant UDP policies HE3, HE4 and BCCS Policies: ENV2, ENV3 and CSP4.

11. Prior to commencement of development, including any demolition, a document shall be produced recording the heritage significance of the main building. The document shall be submitted to and approved in writing by the local planning authority prior to the commencement of development.

Reason: To maintain a record of the heritage importance of the site. In accordance with Paragraph 205 of the NPPF. Relevant UDP policies HE3, HE4 and BCCS Policies: ENV2, ENV3 and CSP4.

12. Notwithstanding the details provided, prior to the commencement of development details of external lighting shall be submitted to and approved in writing by the local planning authority. External lighting shall be provided in accordance with the approved details prior to occupation and retained at all times thereafter.

Reason: In the interests of high quality design, amenity and security. Relevant BCCS Policy ENV3 and UDP policies D9, and D10.

13. Prior to the commencement of development a Construction Method Statement (to include controls in relation to traffic management, hours of operation, dust, noise, vibration, waste, stockpiling, emissions, vehicle sheeting and wheel washing, road sweeping, lighting, energy efficiency, machinery and plant including cranes) for each phase of the development has been submitted to and approved in writing by the local planning authority. The approved measures shall be undertaken at all times during construction.

Reason: In order to minimise the impact of the construction of the development in the interest of local amenity. Relevant UDP Policy EP1.

14. Prior to the first use of the development a Travel Plan shall be prepared, submitted to and approved in writing by the local planning authority and implemented in accordance with time scales which shall be set out as part of the Travel Plan.

Reason: To reduce demand for travel to the site by private car and encourage the use of other modes of transport. Relevant BCCS Policy TRAN4 Cycling & Walking.

15. Prior to the first use of the development a Servicing Strategy Plan, including the number of deliveries per day and times, shall be submitted to and approved in writing by the local planning authority. Servicing shall be carried out in accordance with the approved Servicing Strategy Plan, unless otherwise approved in writing by the local planning authority.

Reason: To reduce demand for travel to the site by private car and encourage the use of other modes of transport. Relevant BCCS Policy TRAN4 Cycling & Walking.

16. The approved cycle and motorcycle parking facilities, as shown on approved drawing: 180559 PL-03 Revision G, shall be provided prior to the first use of the development hereby permitted and maintained as such thereafter.

Reason: In the interests of high quality design and to encouraging cycling and motorcycling in the interests of sustainability. Relevant BCCS Policy ENV3 and BCCS Policy TRAN4 Cycling & Walking

17. The approved electric vehicle charging scheme, as shown on approved drawing: 180559 PL-03 Revision G, shall be implemented prior to use of the development and maintained as such thereafter.

Reason: The development falls into the classification of “minor” in accordance with the Black Country Air Quality Supplementary Planning Document and will require “Type 1” Standard Mitigation for Scheme Sustainability. In the interests of creating a sustainable form of development and to encourage the use of vehicles that will contribute toward a reduction in road transport emissions. Relevant UDP Policies EP1, EP5 and BCCS policies ENV8 and DEL 1.

18. Prior to the first use of development, details of how the development shall incorporate the generation of energy from renewable and low carbon sources sufficient to off-set at least 10% of estimated residual energy demand of the development on completion, shall be submitted to and approved in writing by the local planning authority. The development shall generate energy in accordance with the approved details.

Reason: To promote sustainable development. Relevant BCCS policy ENV7.

19. Prior to first use of the development a scheme for closed circuit television (CCTV) shall be submitted to and approved in writing by the local planning authority.

Reason: In the interests of prevention/reduction in crime and anti-social behaviour. Relevant UDP Policy D10.

20. Prior to first use of the development details of an automatic number plate recognition system (ANPR) shall be submitted to and agreed in writing by the local planning authority. The ANPR system shall be installed and fully operational prior to first use and shall be maintained as such thereafter.

Reason: In the interests of prevention/reduction in crime and anti-social behaviour. Relevant UDP Policy D10.

21. Hours of opening shall be limited to between 0800 hours – 2200 hours Monday to Saturday and Sunday and Bank Holidays 1000 hours – 1600 hours.

Reason: In the interests of the amenity of the area. Relevant UDP policies B5 and EP5

22. Hours of access for deliveries and collection of goods and refuse shall be limited to between 0800 hours – 2200 hours Monday to Saturday and Sunday and Bank Holidays 1000 hours – 1600 hours.

Reason: In the interests of the amenity of the area. Relevant UDP policies B5 and EP5

23. Prior to the commencement of development, including demolition or tree clearance/removal, updated bat surveys shall be submitted to and approved in writing by the local planning authority.

Reason: In the interests of ecology and biodiversity. Relevant UDP Policy N9.

24. Prior to first use of the development, a scheme for bat roost boxes shall be submitted to and agreed in writing by the local planning authority. The scheme shall be implemented prior to first use of the development and maintained as such thereafter.

Reason: In the interests of ecology and biodiversity. Relevant UDP Policy N9.

25. Notwithstanding the provision of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking, replacing or re-enacting that Order with or without modification) the use hereby permitted shall be for a use falling within Class E(a); of the Town and Country Planning (Use Classes) Order 1987 as amended and for no other use.

Reason: To clearly define the use of the unit to protect the vitality and viability of the City Centre and District & Local Centres. Relevant BCCS Policies CEN1, CEN2, CEN3, CEN5 and CEN7.

26. The maximum gross internal floorspace of the approved development shall not exceed is 1926 sqm. The maximum total net sales area shall not exceed is 1179 sqm, of which the maximum net sales area for the display of comparison goods shall not exceed 236 sqm. No mezzanine floors shall be installed in any part of the development.

Reason: To clearly define the maximum floorspace and sales area size, including the sales area size for the sale of types of goods within the permitted use, of the unit to protect the vitality and viability of the City Centre and District & Local Centres. Relevant BCCS Policies CEN1, CEN2, CEN3, CEN5 and CEN7.

27. No sub-division of the unit shall take place unless otherwise agreed in writing by the local planning authority.

To clearly define that the development should consist of one unit to protect the vitality and viability of the City Centre and District & Local Centres. Relevant UDP BCCS Policies CEN1, CEN2, CEN3, CEN5 and CEN7.

28. Prior to the commencement of development, a fully detailed surface water drainage scheme for the site shall be submitted to and approved in writing by the Local Planning Authority, in consultation with the Lead Local Flood Authority. The scheme shall subsequently be implemented in accordance with the approved details before the development is completed. The scheme to be submitted shall demonstrate:
- A. Surface water drainage system(s) designed in full accordance with the Non-Statutory Technical Standards for Sustainable Drainage Systems (SuDS), (DEFRA, March 2015).
 - B. Sustainable Drainage Systems designed in full concordance with the Staffordshire County Council SuDS Handbook and all applicable policies detailed within.
 - C. Consideration of the use of, across and throughout the site, where appropriate – as recommended by CIRIA C753 – the use of sustainable infiltration drainage solutions (Blue/Green SuDS). As infiltration has been evidenced as viable, the opportunities presented by this should be embraced- across the site. Holistic surface water management can be achieved here and well as wider amenity benefits.
 - D. Provision of adequate attenuation surface water run-off attenuation storage in accordance with the requirements specified in ‘Science Report SC030219 Rainfall Management for Developments’.
 - E. The incorporation of adequate surface water treatment in accordance with CIRIA C753 – The Simple Index Approach, to mitigate water quality pollution.
 - F. Detailed design (plans, network details and calculations), in support of any surface water drainage scheme, including details of any infiltration soakaways and attenuation systems, and the outfall arrangements. Calculations should demonstrate the performance of the designed system for a range of return periods and storm durations, inclusive of the 1 in 1 year, 1 in 2 year, 1 in 30 year, 1 in 100 year and 1 in 100 year plus 40% (climate change), return periods.
 - G. Plans illustrating flooded areas and flow paths in the event of exceedance of the drainage system,
 - H. Provision of an acceptable management and maintenance plan for surface water drainage to ensure that surface water systems shall be maintained and managed for the lifetime of the development.

Reason: To prevent flooding by ensuring the satisfactory storage and disposal of surface water from the site. Relevant UDP policy is EP9.

This report is PUBLIC
[NOT PROTECTIVELY MARKED]

