

**APPEAL REFERENCE: APP/W1905/W/22/3292367  
LPA REFERENCE: 07/21/0519/F**

**BOROUGH OF BROXBOURNE**

**TOWN AND COUNTRY PLANNING ACT 1990 (AS AMENDED)**

**APPEAL BY ALDI STORES LTD**

**AGAINST THE DECISION OF BROXBOURNE BOROUGH COUNCIL TO REFUSE  
PLANNING PERMISSION FOR THE REFURBISHMENT, EXTENSION AND EXTERNAL  
ALTERATIONS TO EXISTING NON-FOOD RETAIL UNIT TO ENABLE IT TO TRADE AS  
PART FOODSTORE AND PART NON-FOOD RETAIL UNIT ALONGSIDE  
MODIFICATIONS TO EXISTING EXTERNAL GARDEN CENTRE, CAR PARKING  
LAYOUT, LANDSCAPING AND OTHER ASSOCIATED SITE WORKS.**

**AT**

**HOMEBASE LTD, STURLAS WAY, WALTHAM CROSS, HERTFORDSHIRE, EN8 7BF**

**STATEMENT OF CASE OF THE LOCAL PLANNING AUTHORITY**

## 1.0 INTRODUCTION

- 1.1 The application giving rise to this appeal was received with sufficient particulars on 27<sup>th</sup> April 2021 and was subsequently refused on 9<sup>th</sup> August 2021 for the following reasons:

*“1. The proposed development would undermine the Council’s ability to pursue a comprehensive mixed use development at the allocated site contrary to policies WC2, DS1, PM1, RTC2 and DSC7 of the Broxbourne Local Plan 2018 - 2033 and the Waltham Cross Town Centre Strategy (2015).*

*2. The proposal presents a layout that is not considered to integrate with the town centre and fails to enhance the character and appearance of the wider area. The proposal would not support the Council’s aim of improving the connectivity of the northern High Street area with the rest of the town centre. The proposal is considered contrary to policies WC2, PM1, DSC1, DSC3, DSC7 and DSC8 of the Broxbourne Local Plan 2018 - 2033 and the Waltham Cross Town Centre Strategy (2015).*

*3. The proposed development would not provide sufficient connectivity improvements for cyclists and pedestrians and improvements to promote the use of public transport. The proposal is therefore contrary to policies TM1, TM2 and TM3 of the Broxbourne Local Plan 2018 - 2033 and the NPPF.*

*4. The proposal does not adequately address the shortfall in car parking spaces at the site and is therefore contrary to policy TM5 of the Broxbourne Local Plan 2018 - 2033.*

*5. Insufficient information has been submitted for the proposed roof plant equipment. Therefore, the noise impact upon the amenity of neighbouring occupants is not fully addressed contrary to policies EQ1 and EQ4 of the Broxbourne Local Plan 2018 – 2033.”*

- 1.2 It has been agreed that the appeal shall proceed by means of a public inquiry.

- 1.3 The application sought the refurbishment and extension of the existing non-food retail unit, Homebase Store, and its sub-division to incorporate an Aldi foodstore. The split would maintain 2,371sqm (currently 4,319sqm) of Gross Internal Area (GIA) for Homebase and 1,756sqm of GIA for Aldi, these were to include trade areas, staff welfare areas, lobbies and warehouse space. A mezzanine floor would remain within the Homebase store. Homebase would occupy the western side of the store with a

trade area of 1,514sqm over the two floors and Aldi would be to the east with a trade area of 1,262sqm.

## **2.0 LOCATION AND DESCRIPTION OF THE APPEAL SITE**

- 2.1 The application site is located at the northern limit of the Waltham Cross Town Centre designation area on the western side of Sturlas Way. The site is immediately west of and adjacent to the large busy roundabout at the junction of the High Street and Winston Churchill Way, Sturlas Way and Monarchs Way. It is bounded by Winston Churchill Way to the north and set at a lower ground level. To the east exists Sawyers Court on Sturlas Way which is a three storey residential apartment block containing office uses at ground floor level. The 'Wickes' DIY store is located further to the south east beyond which commences the High Street with its pedestrianised area. To the south and west are terraced and semi-detached houses on Ruthven Avenue, Leven Drive and Leven Close with gardens backing onto the site boundaries that contain mature trees (largely conifer trees) and hedging. A strip of soft landscaping exists along the eastern boundary adjacent to Sturlas Way footpath.
- 2.2 The application site covers approximately 1.23 hectares in area measuring 130m in width and 98m in depth occupying the north western corner of the town centre. It comprises of a large format, established, non-food retail premise, part of the national chain of Homebase DIY/ Garden Supply outlets. Car parking spaces wrap around the eastern and northern areas of the site and servicing is located along the southern boundary. The site is accessed via a crossover onto Sturlas Way approximately 75m south of the roundabout.
- 2.3 The building is single storey with a partial mezzanine level within. The Gross Internal Area covers 4,319sqm, including the mezzanine. The building is of a steel frame construction with a mixture of external finishes, including brown/red brick and high level profiled cladding. A glazed entrance area exists to the eastern elevation. A glazed roof structure also exists to the northern and western garden display areas of the store that are partially open air.
- 2.4 The site is located within Flood Zone 1 with a low probability of flooding.

## **3.0 PLANNING HISTORY**

- 3.1 07/09/0669/F - Continued use of land as car wash without compliance with condition 1 of planning permission 7/1017/07/F/WX dated 28.12.2007. Approved November 2009. Condition 1 granted temporary permission that expired on 21<sup>st</sup> December 2009.

- 3.2 7/1017/07/F/WX – Hand car wash and valeting services in car park. Approved December 2007.
- 3.3 7/0757/05/F/WX - Variation of condition 18 of planning permission (ref. 7/0383/1984) to allow the sale of all non-food items (A1). Approved October 2005. Condition 18 restricted use of the premise to only storage, wholesale and retail of articles for home decoration, maintenance and improvement, garden goods and equipment, and self-assembly furniture.
- 3.4 7/0717/02/F/WX - Rear conservatory and replacement side canopy. Approved September 2002.
- 3.5 7/411/2001 - Side extension to garden centre with additional doors. Approved September 2001.
- 3.6 7/464/1997 - External storage in service yard in contravention of condition 11 of planning permission 7/383-84 as shown on drawing number TPC1. Approved September 1997.
- 3.7 7/148/1995 - Demolition of garden centre wall construction of new wall and resurfacing of car park (Post Facto). Approved April 1995.
- 3.8 7/383/1984 - Retail Store, Garden Centre & Car Parking. Approved May 1984. The permission was also subject to a Section 52 Agreement (dated 31 January 1984) preventing the site from being used for the 'purpose of a retail or wholesale food shop or store'. This is the original planning permission at the site for the current use.
- 3.9 7/632/1982 - Replacement of Existing Buildings by Erection of 5,639.4 sqm (60,701sq ft) buildings for class 1 retail use - excluding sale of food/car parking & temporary garden centre. Approved February 1984.

#### **4.0 RELEVANT PLANNING POLICIES AND DOCUMENTS**

- 4.1 Documents that are material planning considerations relevant to this appeal and that the Council will refer to in our evidence will include the following:

4.2 The Broxbourne Local Plan 2018 - 2033 (adopted June 2020) is a material consideration and, as such, is a relevant planning document in this appeal. The relevant Policies within this document are:

- DS1 The Development Strategy
- PM1 Sustainable Place Making
- WC1 Waltham Cross Town Centre
- WC2 Waltham Cross Northern High Street
- DSC1 General Design Principles
- DSC2 Extensions and Alterations to existing developments
- DSC3 Design Affecting the public realm
- DSC4 Management and Maintenance
- DSC7 Comprehensive Urban Regeneration
- DSC8 Shop Fronts and Fascias
- RTC1 Retail Hierarchy
- RTC2 Development within town, district and local centres and neighbourhood centres and shopping parades
- EQ1 Residential and Environmental Quality
- EQ2 Air Quality
- EQ4 Noise
- EQ5 Contaminated Land
- NEB1 General Strategy for Biodiversity
- NEB3 Green Infrastructure
- NEB4 Landscaping and Biodiversity in New Developments
- W4 SuDS
- W5 Flood Risk
- TM1 Sustainable Transport
- TM2 Transport and New Development
- TM3 Access and Servicing
- TM4 Electric Vehicle Charging Points
- TM5 Parking Guidelines

- 4.3 The Waltham Cross Town Centre Strategy (March 2015) was produced to help guide the development and regeneration of the town centre over a period of five to ten years. It is therefore relevant to this application and cited within the reasons for refusal.
- 4.4 The National Planning Policy Framework (NPPF) is also a material consideration in this appeal and underpins the aims and objectives of the Local Plan Policies, identified in paragraph 4.2. As such, these policies are considered to comply with the policies and principles of the National Planning Policy Framework (NPPF) and the National Planning Policy Guidance.

## **5.0 MATERIAL CONSIDERATIONS RELEVANT TO THE APPEAL**

- 5.1 The case to be presented by the Council in respect of the reasons for refusal will be as follows:

### Reason for Refusal 1 – Site Allocation

- 5.2 The Council's first reason for refusing the planning application is as follows:  
*"The proposed development would undermine the Council's ability to pursue a comprehensive mixed use development at the allocated site contrary to policies WC2, DS1, PM1, RTC2 and DSC7 of the Broxbourne Local Plan 2018 - 2033 and the Waltham Cross Town Centre Strategy (2015)."*
- 5.3 The application site lies wholly within Waltham Cross town centre. It is also an allocated site for a mixed-use development incorporating housing and the existing Homebase store as set out in the adopted Local Plan Policy WC2 (*Waltham Cross Northern High Street*). Policy WC2 was formulated following adoption of the Waltham Cross Town Centre Strategy in 2015, collectively these set out the future aspirations for the application site as being part of the Northern High Street redevelopment opportunity. That opportunity would promote a mixed use, high density development of apartments, shops and community uses that would complement and connect more strongly to the town centre. The northern end of the High Street includes both the existing Wickes and Homebase sites either side of Sturlas Way and the current mixed use site at Sawyers Court. The eastern side of the allocation would accommodate approximately 150 dwellings, whilst to the west within the application site, the potential for significant housing and mixed use development is envisaged.

- 5.4 Local Plan Policy PM1: *Sustainable Place-Making* also provides an overarching objective of the Council to enable sustainable place making that complements existing towns and villages. Mixed use developments are being promoted that will enable interconnection of land uses and interaction between people providing for social and economic needs of the wider community. The inclusion of housing within a mixed-use allocation at the Homebase site is one such opportunity towards regenerating the town centre that would improve the attractiveness and accessibility of its northern end.
- 5.5 The northern end of the High Street currently sees low levels of footfall. Whilst the two existing home improvement stores at Wickes and Homebase provide an alternative retail range and complement the retail offer within the town centre, as noted in paragraph 11.4 of the Local Plan, the sites ‘turn their back’ on this end of the High Street to the effect that they close off the pedestrianised core and limit the footfall and viability of the retail units in the town centre. The appeal proposal would not improve these wider issues within this sector of the town centre that is required to form part of a more comprehensive master plan to improve the vitality of this area of the town, improve the public realm and connect more strongly with the town helping to create a balanced town centre from the northern to southern gateways. Policy DSC7: *Comprehensive Urban Regeneration* seeks to promote comprehensive regeneration through the development of strategic allocations within the Plan.
- 5.6 Policy WC2 supports the wider objectives of the NPPF which sets out in Section 7 (*Ensuring the Vitality of Town Centres*) that decisions should support the role that town centres play at the heart of local communities by taking a positive approach to their growth, management and adaptation. Building on the Waltham Cross Town Centre Strategy, it recognises that residential development often plays an important role in ensuring the vitality of centres and that residential use should be encouraged (para. 86 (f) of the NPPF). In the Council’s evidence, we will set out how ‘vitality and viability’, referred to in Policy WC2, relates to the wider policy context and objectives for the town centre as part of a comprehensive approach to the positive planning of the northern High Street site allocation.
- 5.7 The appeal proposals revised layout to the store, with entrances to the north of the building, is not considered to fit the aspirations sought within policy WC2 as the buildings main façade would continue to face away from the public realm of the town centre. Furthermore, the proposal would not improve pedestrian connectivity and the opportunity for making more efficient use of this extensive piece of land within the town

centre would be impeded. The Council's vision for a mixed-use development within the site provides significant opportunity to improve this corner of the town centre as a gateway development with housing as a primary component.

- 5.8 Prior to the current proposal, a dialogue had taken place with the site owner about a scheme that would be compliant with the policy to the extent that a scheme had been drawn up by the owner, discussed and substantially agreed in principle and that this scheme had been incorporated into a new 'Waltham Cross Town Centre Planning Framework' which will be presented as part of our evidence. The scheme had potential for being brought forward sooner as a positive scheme reflecting the Local Plan policies, which would benefit the appearance of the northern gateway to the High Street and integrate it effectively with the wider town centre.
- 5.9 Overall, the Council remain of the opinion that the appeal scheme would not support the aspirations for a mixed-use development of the site and that it is contrary to the Development Plan. In our evidence we will set out the background and explain the evolution of the overarching policy framework in relation to the strategic urban allocations and the need for a comprehensive approach.

#### Reason for Refusal 2 – Site Layout

- 5.10 The Council's second reason for refusing the application is as follows:  
*“The proposal presents a layout that is not considered to integrate with the town centre and fails to enhance the character and appearance of the wider area. The proposal would not support the Council's aim of improving the connectivity of the northern High Street area with the rest of the town centre. The proposal is considered contrary to policies WC2, PM1, DSC1, DSC3, DSC7 and DSC8 of the Broxbourne Local Plan 2018 - 2033 and the Waltham Cross Town Centre Strategy (2015).”*
- 5.11 The appellant sets out that the proposal would constitute a high quality contemporary design whilst making efficient use of an existing retail building. However, the layout and orientation of the scheme presents a failure in enhancing the sites character and appearance of the area.
- 5.12 The existing entrance to the building is to the east elevation facing the active frontage along Sturlas Way. The proposal would remove that arrangement so that two entrances for the stores would be located to the north elevation, with extensions to the north and east elevations. A ramp measuring 19m in length with a width of 5m would



be excavated sloping down towards the eastern extension that would provide the service area and loading bay requirements for the Aldi store. The supporting text to Local Plan Policy WC2 sets out that this northern end of the High Street 'turns it back' on the street and creates closure to the pedestrian core, consequently limiting footfall. This proposal is not considered to improve that issue. Rather it would create further isolation from the active site frontage, given that the entrances would face away from the pedestrian route to the site from Sturlas Way and turn its back on the town centre.

5.13 Being presented with the service area of the store to the east with its associated ramp and loading bay exposed to the wider area, is also considered to be an inappropriate arrangement as it would not be an attractive public fronted elevation. The proposed entrances for both stores would face northwards towards Winston Churchill Way. Winston Churchill Way is screened by a high boundary wall, therefore the north elevation is not directly visible on approach to the town centre. The sites main elevations that have a more pronounced public view and active frontage are at the north eastern corner and the east elevation from Sturlas Way. These areas are given little recognition within the appellant's case other than to improve the landscaping along Sturlas Way. The appeal site has the potential of hosting a gateway building to the northern High Street, however this proposal would face the main active frontage of the building away from the key views into the site that would be presented with a prominent service area. For this reason, the application was refused as the layout was considered detrimental to the character and appearance of the wider area contrary to the policies listed within the refusal reason. In particular, Policies DSC1 and DSC3 that seek to ensure the layout of a new development proposal is coherent, logical and legible and that it supports the public realm, amongst other design matters.

5.14 Furthermore, the application site is entered from the south east corner via the only vehicular access, a customer entering the site would not directly view the main entrance to the building and therefore the legibility of the building would not be maximised. With the proposed entrances facing northwards towards Winston Churchill Way, which sits at a higher ground level, the entrances would not be obvious to customers. The service area would also present conflicts with customers and delivery lorries given the location of the service ramp alongside the car park rather than in a more inconspicuous location as existing to the rear of the building. Overall, the layout would not be coherent and logical. This matter has the potential to affect the footfall recognised within the Local Plan as a major issue of this town centre location.

5.15 The Council's evidence will demonstrate that the proposed development would result in a building that would be out of context with the character and appearance of the wider area and the town centre due to its layout and lack of connectivity. As such, the proposal fails to comply with policies WC2, PM1, DSC1, DSC3, DSC7 and DSC8 of the Broxbourne Local Plan 2018 - 2033 and the Waltham Cross Town Centre Strategy

Reason for refusal 3 – Highways

5.16 The third reason for refusal is as follows:

*"The proposed development would not provide sufficient connectivity improvements for cyclists and pedestrians and improvements to promote the use of public transport. The proposal is therefore contrary to policies TM1, TM2 and TM3 of the Broxbourne Local Plan 2018 - 2033 and the NPPF."*

5.17 In addition to the matter relating to the orientation of the building away from the active frontage of the appeal site set out above, the proposal presents other technical matters that do not improve connectivity to the site for ease of use for pedestrians and cyclists. The access would be required to be upgraded to modern highway standards and designed with pedestrian priority in mind. The access road and access junction would need to be narrowed (the exact width tested by tracking of the largest vehicle likely to enter the site) and the access raised to aid pedestrian crossing along with provision of tactile paving. The submission did not provide sufficient information in this regard. In addition, the submitted tracking diagrams did not correspond with the reduction in width of the access. The required pedestrian visibility splays of 2m x 2m were also missing.

5.18 In terms of the assessment of traffic that would be generated by this proposal, the Highway Authority commented that the proposal is not supported by a robust methodology. The TRICS data (an industry standard collection of traffic surveys) is not supported by real traffic surveys or counts. Furthermore, the selected peak times are not reflective of the local highway network through collection of data from the County. The proposal therefore does not present an adequate assessment of the traffic generation at the site.

5.19 The appeal application sets out that there would be a pedestrian link from the store entrances across the car park to Sturlas Way which would then have its own links to the town centre. However, this was not reflected in the plans. A pedestrian link only partially crossed the site and was not clearly marked out. The Highway Authority also stated that a walking and cycling survey should have been provided that would set out recommendations to improve the safety of pedestrians and cyclists between the site

and the town centre and Winston Churchill Way roundabout. The current crossing facilities for pedestrians on Sturlas Way do not contain tactile paving and upgrading of the pedestrian access to Sturlas Way is required. Improvements would also be required to nearby bus stops. The proposed location of the Aldi service area at the eastern elevation is not shown to have safe routes around it for pedestrians which should be provided for each direction customers will walk to the site. The NPPF (paragraph 112) requires new developments to be designed so that they are safe for pedestrians and not favour motor traffic, it also seeks to minimise the scope for conflicts between pedestrians, cyclists and vehicles. Local Plan Policy TM1 (*Sustainable Transport*) also emphasises the expectation that major development proposals are to prioritise pedestrian and cycling provision within the scheme. The application failed to meet these requirements. The proposed car park layout does not provide any path markings that would otherwise ensure the safety of pedestrians within its design.

- 5.20 The appellant sets out a revised proposed site plan within their appeal statement that differs to that considered within the application process. It suggests in Section 8 of the statement that minor site enhancements would seek to overcome concerns raised by the Council in relation to pedestrian and cyclist accessibility and connectivity cited within refusal reasons 2 and 3. However, a number of these points also concern the Highway Authority requiring further consultation. It is noted that a pedestrian access along the eastern boundary to the north of the vehicular access is shown to be removed, thereby leaving only the northern widened access suitable for pedestrians. The Highway Authority comments provided at the time of the application consultations stated that better internal pedestrian link paths from the footway of Sturlas Way would be expected for pedestrians at three desire line points. These would meet pedestrian approaches from the south (Park Lane which connects with the High Street), east from Wicks (via the existing zebra crossing) and the north east corner. The revised plan would only provide one pedestrian link in the north east corner, albeit a widened and improved access arrangement. The proposal would also remove 3 car parking spaces. The substituted site plan is not supported at this stage.
- 5.21 The new service area would present potential obstruction with customers travelling to the site by car at the point of manoeuvring in and out of the nearest car parking spaces to the loading bay. The proposal set out that on average four HGV deliveries would take place per day and required every day to provide fresh produce. The proposed delivery times overlap with the store opening times and could cause congestion within the site. The Homebase store will continue its use of the service area to the south and

south west of the store. Its service frequency and duration will continue as existing. The proposal would not provide a servicing arrangement that is considered safe and convenient for other traffic entering the site and is considered contrary to Local Plan Policy TM3 (*Access and Servicing*).

- 5.22 These matters, taken together were concluded to result in a proposal that did not adequately address connectivity for pedestrians and cyclists to the site from Sturlas Way and ultimately was refused on this basis as being contrary to Local Plan Policies TM1, TM2 and TM3 and the NPPF.

#### Reason for Refusal 4 – Car Parking

- 5.23 The fourth reason for refusal concerned the shortfall in car parking spaces being contrary to Local Plan Policy TM5 (*Parking Guidelines*):

*“The proposal does not adequately address the shortfall in car parking spaces at the site and is therefore contrary to policy TM5 of the Broxbourne Local Plan 2018 – 2033”.*

- 5.24 The proposal would provide 157 car parking spaces in total for both uses (including 8x disabled customer spaces, 8x parent and child spaces, 4x click and collect spaces and 4x spaces with EV charging points (with below ground infrastructure for a further 16 spaces). As noted above, the proposed substituted plan would reduce this by a further 3 spaces if accepted. The existing store currently has 192 spaces; under the Council’s current parking guidelines this is an excessive amount for the existing arrangement. However, the guidelines indicate that a foodstore would have a higher parking requirement than the existing non-foodstore with garden centre. The Aldi food store would therefore require 98 car parking spaces (1 space per 18sqm gross floor area) and Homebase would require 95 spaces (1 space per 25sqm gross floor area) as per the *Parking Guidelines* (Local Plan Policy TM5). The total of 193 spaces were required and therefore a shortfall of 36 spaces was presented.

- 5.25 The site is located in an accessible location within the town centre and sufficient cycle parking was set out to be provided. However, Policy TM5 also sets out that a sensible balance of car and cycle parking spaces would be sought based on the nature of the proposal, site context and wider surrounding area. Whilst the number of car parking spaces is suggested within the submission to suit both stores, the issue of insufficient pedestrian accessibility improvements to and within the site places significant doubt over the acceptability of this shortfall. Without the pedestrian links there is potential for

increased vehicular travel to the site resulting in greater demand for parking. Therefore, the shortfall in car parking spaces was not sufficiently justified within the application.

- 5.26 Accordingly, the Council's evidence will demonstrate that the proposal does not sufficiently address the shortfall in car parking at the site due to the inability to encourage alternative modes of transport through enhancing connectivity to the wider town centre. This shortfall also has potential to result in overspill of parking onto adjacent roads.

#### Reason for Refusal 5 – Noise Impact

- 5.27 The final reason for refusal related to the proposed plant equipment upon the proposed roof of the extension to the existing building:

*“Insufficient information has been submitted for the proposed roof plant equipment. Therefore, the noise impact upon the amenity of neighbouring occupants is not fully addressed contrary to policies EQ1 and EQ4 of the Broxbourne Local Plan 2018 – 2033.”*

- 5.28 The application was supported by a 'Plant and Delivery Noise Impact Assessment' to assess the impact of noise from the proposed externally mounted mechanical plant upon neighbouring residents. The location indicated for measuring the background sound levels was from a single point on Sturlas Way on approach to the Monarch's Way/Winston Churchill Way roundabout, which has a louder noise climate due to traffic noise. However, the plant would also be close to residents on Ruthven Avenue that are further away from the louder noise climate on Sturlas Way and therefore not a suitable representation of any associated noise impact. The assessment did not provide the exact location of the plant, presumably this is to be above the proposed loading bay extension behind the proposed acoustic screening. There were no details provided for the make and model of the equipment and therefore the Council's Environmental Health team were unable to assess the impact of the development upon noise sensitive receptors, being the dwellings at Sawyers Court, Ruthven Avenue, Leven Drive and Leven Close. Therefore, the disturbance to neighbours resulting from potential noise was not adequately addressed in the application.

- 5.29 Policy EQ1 (*Residential and Environmental Quality*) sets out that proposals generating noise must not result in a material harm to the amenity levels currently enjoyed in an area. Furthermore, Policy EQ4 (*Noise*) requires that new developments emitting noise levels above background levels should be sited away from noise sensitive land uses including residential accommodation. As insufficient information was provided

regarding the plant equipment it was not possible to determine whether the equipment was in a suitable location and the Council maintain this matter as a reason for refusal.

## **6. SUMMARY**

6.1 In conclusion, for the reasons set out within this Statement of Case, the Local Planning Authority considers that the appeal proposal does not comply with the Development Plan which is compliant with the aims and objectives of the NPPF. No material reasons would justify the grant of planning permission. On this basis the Inspector is respectfully requested to dismiss this appeal as it is considered that insufficient justification exists to override the reasons for refusal.

6.2 Without prejudice to the above, in the event that the Inspector determines that planning permission should be granted, they are requested to consider the imposition of the conditions set out in Section 7 below.

## **7. SUGGESTED CONDITIONS**

Should the Inspector be minded to allow the appeal and grant planning permission, it is requested that the following conditions are imposed:

1. The development to which this permission relates shall be begun within a period of 3 years commencing on the date of this notice.

Reason - To comply with the requirements of Section 91 of the Town and Country Planning Act 1990.

2. The development hereby permitted shall be carried out and completed in accordance with the proposals contained in the application and drawings submitted therewith.

Reason - To ensure the development is carried out as permitted.

3. Deliveries to the food store shall be restricted to the hours of 07:00 to 23:00 Monday to Saturday and 09:00 to 17:00 on Sundays.

Reason - To protect the amenities of the occupiers of neighbouring properties and the locality in accordance with Policy EQ4 of the Local Plan 2018 - 2033 (adopted June 2020).

4. Prior to commencement of the development, additional plans must be submitted to and approved in writing by the Local Planning Authority, in consultation with the Highway Authority, which show the details of the following works:

- (i) Full design details of the site's main access, including pedestrian dropped kerbs and tactile paving either side;

- (ii) The provision of internal footways serving all pedestrian access points;
- (iii) Tracking diagrams to show appropriate turning space for delivery vehicles accessing the proposed development site to ensure that such vehicles can safely enter and exit the site in a forward gear;
- (iv) Improvements to bus stops;
- (v) Operation/hours of the proposed barrier system.

The approved works shall be completed before first use of the development.

Reason – In the interests of safe and sustainable travel.

5. Prior to the commencement of the development, a Construction Environmental Management Plan (CEMP) shall be submitted to and approved in writing by the Local Planning Authority in consultation with the Highway Authority. The CEMP shall include details of:

- a) Construction vehicle numbers, type, routing access arrangements;
- b) Provision of sufficient on-site parking and turning areas and loading and unloading areas prior to commencement of construction activities;
- c) Programme of works (including measures for traffic management and operating hours);
- d) Construction and storage compounds;
- e) Siting and details of wheel washing facilities;
- f) Cleaning of site entrances and the adjacent public highway;
- g) Timing of construction activities and phasing of the development;
- h) Details of proposed means of dust suppression and noise mitigation;
- i) Site hoardings and security; and
- j) Post construction restoration/reinstatement of the working areas.

Reason – To minimise danger and inconvenience to highway users and to safeguard the amenities of neighbouring residential amenity.

6. Prior to first use of the food store hereby approved, a revised Travel Plan shall be submitted to and approved by the Local Planning Authority in consultation with the Highway Authority. The Travel Plan shall be implemented and annually reviewed thereafter.

Reason – To encourage the use of sustainable transport methods in accordance with the NPPF.

7. The applicants and/or their successors in title shall ensure that no construction or construction deliveries shall take place outside the hours of 8.00am-6.00pm Monday-Friday and 8.00am-1.00pm Saturday. No such construction deliveries or work shall take place on Sunday, Statutory or Bank/Public Holidays.

Reason – To preserve the amenities of the occupiers of the neighbouring properties.

8. Prior to the commencement of development approved by this planning permission, the following components of a scheme to deal with the risks associated with contamination of the site shall each be submitted to and approved, in writing, by the local planning authority:

**Phase 2-Site Investigation**

A site investigation scheme, including soil sampling based on the Land Contamination Phase 1 Environmental Site Assessment”, Ref: B1299-Doc-01, Revision XI, to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off site. The investigation and risk assessment must be undertaken by competent persons and a written report of the findings must be produced. The report of the findings must include a survey of the extent, scale and nature of contamination, an appraisal of remedial options, and a proposal of the preferred option(s). Site investigations should be carried out in conjunction with BS10175:2011 +A2:2017 Investigation of potentially contaminated sites - Code of practice.

**Remediation Strategy**

A detailed remediation strategy to bring the site to a condition suitable for the intended use by removing unacceptable risks to human health, buildings and other property and the natural and historical environment. The strategy must include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures. The strategy must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.

**Verification/Validation Report**

Following completion of measures identified in the approved remediation strategy, a verification report (referred to in PPS23 as a validation report) that demonstrates the effectiveness of the remediation carried out must be submitted to and approved in writing by the Local Planning Authority before first use of the development. The verification report must also identify any requirements for longer term monitoring of pollutant linkages, maintenance and arrangements for contingency action. Any changes to these components requires the express consent of the Local Planning Authority. The scheme shall be implemented as approved.



Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.

9. In the event contamination is found at any time when carrying out the approved development, which was not previously identified, it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken in accordance with details to be agreed in writing with the Local Planning Authority. Where remediation is necessary, a remediation scheme must be submitted to and approved in writing by the Local Planning Authority. Following completion of measures identified in the approved remediation scheme a verification report shall be submitted to and approved in writing by the Local Planning Authority.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.

10. Prior to the refurbishment of the existing structure, a preliminary asbestos survey shall be carried out and the survey results report submitted to the Local Planning Authority for approval. In the event that Asbestos is identified, a method statement detailing the procedures for removal shall also be submitted for approval. The works shall then be carried out in accordance with the approved statement.

Reason - To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.

11. Prior to the installation of any externally mounted mechanical plant, the Applicant shall submit a revised Noise Impact Assessment report which follows the guidelines set out within BS4142: 2014 +A1:2019. The report shall take into account all proposed plant within the application and shall include noise control measures which should be submitted for written approval by the Local Planning Authority (LPA). No plant shall be installed and operated at the site until the noise survey's report has been approved by the LPA. Noise mitigation

measures shall be such in order to ensure that there is not a difference of 5 dB(A) above existing background noise levels.

In completing the above the Applicant shall also provide the product specification/data sheets for each piece of externally mounted mechanical plant associated with this application. The Applicant shall also provide a revised plan which clearly shows the location(s) of any externally mounted mechanical plant. If it transpires that any of the externally mounted mechanical plant will overlook properties located on Ruthen Avenue, Leven Drive or Leven Close, then additional monitoring will be necessary within the vicinity of these locations, in order to obtain a representative background sound level.

Reason: To protect the amenities of existing nearby residents.

12. No development approved by this planning permission shall take place until a revised detailed surface water drainage scheme has been submitted to, and approved in writing by, the Local Planning Authority in consultation with the Lead Local Flood Authority. The scheme is to be in compliance with the SuDS Design Guidance for Hertfordshire March 2015 and should include:

1. Clarification of car park proposals.
2. Details of existing drainage on site.
3. Justification of SuDS selection.

The scheme shall be fully implemented and subsequently maintained, in accordance with the timing/phasing arrangements embodied within the scheme.

Reason - To prevent flooding by ensuring the satisfactory storage of/disposal of surface water from the site and to reduce the risk of flooding to the proposed development and future users.

13. Prior to commencement of works above ground level, details for the electric vehicle charging point installations shall be provided to the Local Planning Authority for approval. The installations shall be provided prior to use of the food store and retained thereafter in accordance with the approved details.

Reason – To provide appropriate facilities for electric vehicles in accordance with Policy TM4 of the Broxbourne Local Plan 2018 – 2033.

14. The development hereby permitted shall be carried out and completed in accordance with the mitigation and enhancement measures set out within the submitted 'Ecological Assessment Report' carried out by Tyler Grange (ref. 13452\_R02a\_RB-HM) dated 8<sup>th</sup> April 2021.

Reason - To minimise harm to biodiversity in accordance with Policies NEB1 and NEB4 of the Broxbourne Local Plan 2018 – 2033 and the NPPF.

