



Appeal Decision

Inquiry held on 19 – 22 and 27 July 2022

Site visit made on 26 July 2022

by Phillip J G Ware BSc DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17th November 2022

Appeal Ref: APP/W1905/W/22/3292367

Homebase Ltd, Sturlas Way, Waltham Cross EN8 7BF

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Aldi Stores Ltd against the decision of Broxbourne Borough Council.
 - The application Ref 07/21/0519/F, dated 23 April 2021, was refused by notice dated 9 August 2021.
 - The development proposed is the refurbishment, extension and external alterations to the existing non-food retail unit to enable it to trade as a part foodstore and part non-food retail unit, alongside modifications to the existing external garden centre, car parking layout, landscaping and other associated site works.
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Procedural matter

1. Since the Council's decision on the application the parties have had a continuing dialogue on some details of the proposed site layout. This resulted in suggested minor changes which were discussed at the Case Management Conference, and a further iteration was considered at the start of the Inquiry. Both parties agreed that the latest iteration should be considered and the newest proposed site plan (2924-COR-111K) was discussed at the Inquiry. I am satisfied that no prejudice would be caused to any party by dealing with this latest plan.

Decision

2. The appeal is allowed and planning permission is granted for the refurbishment, extension and external alterations to the existing non-food retail unit to enable it to trade as a part foodstore and part non-food retail unit, alongside modifications to the existing external garden centre, car parking layout, landscaping and other associated site works at Homebase Ltd, Sturlas Way, Waltham Cross EN8 7BF in accordance with the terms of the application, Ref 07/21/0519/F, dated 23 April 2021, subject to the conditions set out in the Annex to this decision.

Main issues

3. There are three main issues in this case:
 - Whether the proposal would harm the potential for a comprehensive mixed use development at the Local Plan allocated site.

- Whether the proposal would integrate with the town centre and improve connectivity.
 - Whether the proposal would harm highway safety in relation to the proposed car parking provision.
4. Another reason for refusal related to the lack of information concerning to the proposed roof plant equipment in relation to the effect on neighbouring occupiers. However this has been discussed between the parties and agreed. This was a stand-alone reason for refusal and does not have any bearing on other issues.
 5. A further reason for refusal stated that the development would not provide sufficient connectivity improvements for cyclists and pedestrians and improvements to promote the use of public transport. This matter has also been discussed between the parties and agreed in the light of the revised plan (above). The appellant suggests that this has a bearing on the second main issue set out above, though the Council disagrees. This will be discussed below.

Reasons

The site, planning history and the proposal

6. The appeal site is a free standing Homebase store, which includes external sales areas and car parking. It is located on the west side of Sturlas Way, just to the southwest of its junction with Winston Churchill Way.
7. It is close to a wide range of existing retail, leisure and commercial uses in the town centre, where there is further car parking and public transport facilities. It is within the northern boundary of the Waltham Cross town centre as defined by the Borough of Broxbourne Local Plan.
8. Access to the site is from a junction onto Sturlas Way. There are various pedestrian linkages from the site to the remainder of the town centre. The building occupies a central position within the site and faces east, with car parking around the building to its north and east.
9. There is a relatively lengthy planning history¹ but the key planning permission related to the current building and its use is that dating from May 1984. This permission includes a condition stating that the premises:

"Shall be used for the storage, wholesale and retail of articles for home decoration, maintenance and improvement, garden goods and equipment, self-assembly furniture and for no other purpose including any other purpose in Class I of the schedule to the Town & Country Planning (Use Classes) Order 1972."
10. This condition was varied in October 2005 to allow for the sale of all non-food items rather than only home improvement products.

¹ CD 4.4 Set out in the Statement Of Common Ground.

11. A planning agreement under the (former) s52 was made in 1984 which prevented the property being used for the purposes of retail or wholesale food shop or store².
12. The appeal proposal is to enable the unit to trade partly for non-food retail purposes and partly for food retail use. The intention is that the appellants (Aldi Stores Ltd) would occupy part of the building. The existing occupiers (Homebase) would continue to trade at the premises in reduced floorspace and remain open and trading whilst works were carried on.
13. Along with various relatively minor works to the building the proposal includes modifying the existing external sales area, car parking, and other site works.

Planning policy context

14. The development plan includes the Broxbourne Local Plan 2018 – 2033 (LP) (adopted 2020). Not all the policies referenced in the reasons for refusal are directly relevant to the main issues, but there follows a summary of the key matters.
15. LP policy PM1 deals with sustainable places and provides that new development should complement existing towns. LP policy DS1 takes a strategic approach which, amongst other matters, makes provision for 24,000 sq. m. of new retail development on sites including the appeal site. LP policy RTC2 deals with the acceptability of development within the town centre, and makes specific reference to the role of the centre and the services it provides, its vitality and viability, and the provision of safe access, servicing and parking.
16. Moving closer to the appeal site and the remainder of the Northern High Street area, LP policy WC1 states that the Council will support proposals which accord with a range of priorities - including the redevelopment of the Northern High Street. LP policy WC2 explains that the northern end of the High Street currently shows low levels of footfall and high levels of vacancy. It references the previous Waltham Cross Town Centre Strategy (2015) (TCS) which promotes the wider area as a mixed-use high density development of apartments, shops and community uses. The appeal site is specifically referenced in the TCS as follows:

“Negotiations will take place with both the landowner and Homebase to establish the most sustainable future for this site. That may result in the status quo, a redevelopment incorporating a re-modelled Homebase store or the closure of the Homebase store and its potential relocation”.

17. LP Policy WC2 also refers to the production of a comprehensive masterplan and states that incremental development will be resisted. It states that the masterplan would consider reasonable options for, amongst other matters, the appeal site.
18. LP policy DSC7 addresses comprehensive urban regeneration and provides that the Council will resist piecemeal development of those areas that do not accord with an agreed masterplan.

² It is accepted that this would need to be discharged by agreement or through the Lands Tribunal. This is not a matter before this appeal.

19. In relation to integration with the town centre (the second issue above) LP policy DSC3 deals with design affecting the public realm, which should maximise legibility and permeability.
20. The reason for refusal relating to connectivity improvements for cyclists and pedestrians and the promotion of the use of public transport, is no longer pursued by the Council. However the third issue in this appeal is related to an alleged shortfall in car parking spaces. In that respect LP policy TM5, dealing with parking guidelines, states that the Council will seek a sensible balance of car and cycle parking spaces based on the nature of the proposal, site context and wider surrounding area, and accessibility of shops, services and sustainable transport infrastructure, with the overall aim of reducing private car use.
21. The TCS predated the LP and is referred to in that subsequent document. It was intended to guide development and regeneration of the town centre over the medium to long term. It is not part of the development plan, and is not the masterplan subsequently referenced in the LP, but is agreed by the parties to be a material consideration.
22. The TCS has a range of objectives³ aimed at improving the retail and leisure offer of the area. In particular the Waltham Cross Northern High Street opportunity zone, including the appeal site and the Wickes store opposite, is an area which could be improved so as to unlock a mixed-use redevelopment. The Homebase store is identified for potential inclusion rather than as the main opportunity site - which is the Wickes retail unit and adjoining shops. The TCS states that the Homebase site may offer further potential for a broader range of town centre uses through mixed-use development and stronger linkages to the town centre.
23. Finally some limited reference was made to the current draft Town Centre Planning Framework, but this is at a very early stage and is apparently subject to several significant objections. The parties agreed that this cannot be afforded significant weight in this appeal.

The potential for a comprehensive mixed use development at the allocated site.

24. The Council has a clearly established policy aimed at improving the northern part of the defined shopping centre with the creation of a Mixed Use Quarter. However it is important to note that this relates to the whole of the area covered by LP policy WC2, including both the appeal site and land to the east of Sturlas Way.
25. There are various elements of the adopted policies, as summarised above, which are supportive of the appeal scheme and are not in contention between the parties. The object of those policies includes the provision of a substantial amount of retail development on various sites, including the appeal site, and the encouragement of the vitality and viability of the overall centre. In particular the policy approach notes the currently low levels of footfall and high levels of vacancy in the northern part of the shopping centre, which the provision of mixed development, including retail use, is intended to address.

³ CD 4.4 Para 4.4

26. The way in which the policy envisages such a mixed development coming forward is stated to be by way of a comprehensive masterplan. This masterplan would consider options for the appeal site and the wider WC2 area. The approach to achieving a satisfactory development of the wider area is clearly intended to be cooperative and is stated to include both the appeal site's owner and Homebase as its occupiers. The policy outlines that there are a number of options for the site, including the remodelling of the existing store or the closure and relocation of the Homebase store.
27. The approach is to resist piecemeal development within the area which does not accord with an agreed masterplan.
28. With that background it is important to consider what the consequences of the appeal scheme would be for a potential comprehensive mixed use of the allocated site, not just the appeal site.
29. Given the clear need for an improvement to the northern part of the shopping centre, as supported by adopted policy, the Inquiry considered the likely time scale for any hypothetical mixed-use scheme. No evidence has been produced to indicate that a mixed redevelopment of part or all of the allocated site is viable now or at any time in the medium term. The Council's position, unsupported by any specific evidence, is that the soonest a mixed use development could come forward would be in around 10 to 15 years' time. From the evidence it is clear to me that there is no time scale for the delivery of any such development and no evidence before me suggests that the Council's approach is likely to bear fruit in the short/medium term.
30. The Council's witness did not identify any way in which the appeal scheme would actually prejudice a future development coming forward. He stated that it would make matters more difficult, but did not explain in what way that would occur.
31. If the appeal is allowed the evidence is that Aldi would be likely to take a lease of around 20 years and, on that basis, this would not frustrate the Council's hope that redevelopment for mixed uses would take place at around that time. Aldi have expressed the view that they are happy to work with the Council to explore the medium and long term options for the site. This would accord with policy.
32. One matter which emerged at the Inquiry, although not explained by the Council in evidence, is the current difficulty related to any potential relocation of the occupiers of the wider site - Homebase and Wickes. It emerged at the Inquiry that this relocation, to Park Plaza North, has been the subject of objections from a number of important parties, including the owner of that site, their consultants, and the potential purchaser of the land. At the moment this must cast very considerable doubt as to the potential relocation of the existing occupiers of the wider site, even leaving aside the current appeal.
33. For the above reasons, I do not consider that approval and implementation of the current proposal would harm the likelihood of a mixed use development in the area.
34. There is a separate but related aspect to the Council's objection to the scheme. This is that the appeal proposal would prejudice the adoption of a masterplan as foreshadowed in LP policy WC2. The intention at the time of the adoption of

the policy is clearly that a masterplan would be produced. However this has not happened. The TCS is clearly not the masterplan envisaged in the policy as it predates the adoption of the LP. Nor is the emerging Town Centre Planning Framework intended to be the masterplan – and even if it was it cannot be accorded any significant weight at this very early stage.

35. The policy is clear that development should not prejudice a masterplan. However in the years since the adoption of the LP there is no indication that a masterplan will be produced. It is entirely illogical to resist development on the basis of prejudice to a masterplan which does not exist.
36. The Council have referred to the approach in LP policy WC2 which provides that that incremental development would be resisted. Even the emerging Town Centre Planning Framework suggests that there is no objection to different parties bringing forward different sites at different times. The key to this matter is whether the development of the appeal scheme would prejudice the delivery of future development within the allocation. In this case, even if the appeal site continued in retail use in the long term, there is no evidence that this would prejudice other forms of mixed development in the wider area.
37. There was evidence and discussion at the Inquiry about a pre-application enquiry on behalf of the owners of the appeal site regarding a mixed use proposal. Leaving aside the debate as to whether this matter should have been revealed, it takes my considerations nowhere. It was clearly a perfectly reasonable exploration of options, there was no indication of viability, and the proposal was not progressed. Too much has changed since then to accord this any weight.
38. There was suggestion made by the Council that the outcome of this appeal might affect the continuation of Homebase's occupation. However no evidence of this was presented by the Council and I cannot give this matter any weight. All that is known is that Homebase no longer require the whole building.

Overall, it must be remembered that the appeal premises have a lawful use for retail purposes (although limited in terms of the range of goods), in a defined town centre which is accepted to be in need of investment. The appeal is from a major retailer who wishes to invest in the area in line with policy and in the context of an acknowledged need for inward investment. The Council accepts that there are no alternative sites in the town centre for the proposed food store, and that it would be resisted on policy grounds outside the centre. The physical works are minor, as will be discussed below, but in no way are of such a magnitude as would prejudice any longer term development.

39. With that background I consider that the case for resisting the appeal on retail grounds has to be compelling. It is not. The Council has not suggested that redevelopment of this particular site for mixed uses, which is not an essential component of policy in any event, is any more than a hypothetical aspiration. Such a development is not supported by a masterplan as indicated in the adopted Local Plan. The proposal would not, in any event, prevent other types of development on the remainder of the allocated site.
40. The relevant policies seek enhancement of the retail offer in the town centre and inward investment. The appeal proposal would achieve these aims and would not harm the potential for a comprehensive mixed use development at

the allocated site. It would not conflict with LP policies WC2, DS1, PM1, RTC2 and DSC7 or the Town Centre Strategy.

Integration and connectivity

41. The reason for refusal which gives rise to this issue states that the layout would not integrate with the town centre or enhance the character and appearance of the wider area. However a separate reason for refusal, which has been withdrawn by the Council, alleged that the development would not provide sufficient connectivity improvements for cyclists and pedestrians or improvements to promote the use of public transport. At the very least these two reasons for refusal are closely linked in terms of integration and connectivity and, although the Council sought to explain the difference in the stance of the authority, this was far from persuasive.
42. The provision of a food store at the appeal site within the defined town centre is clearly in line with national and local policy aimed at fostering linked shopping trips and increasing footfall. It would provide spin off trade for businesses elsewhere in the town centre. This is uncontentious and is in line with the Council's own approach, which is to provide a food store on the wider site as part of a mixed-use development.
43. The evidence of recent surveys of pedestrian movements into and out of the appeal site shows that there is a reasonable degree of connectivity to the remainder of the town centre and that there are currently linked trips. This pattern is less obvious when one considers trips from outside the area, as the existing store trades in generally bulky goods which tends to discourage the potential for linked trips. There is also a current issue with the lack of convenient access from the site onto Sturlas Way.
44. It is uncontentious that food stores in town centre locations have a far greater likelihood of generating linked trips and spin off activity than DIY stores. With this in mind it is clear that the proposed Aldi store would act as a useful anchor for the northern part of the town centre in the same way that the Lidl store does to the south.
45. The minor changes to the layout plan, which I accepted above, would promote safe and legible routes for those arriving by various different modes of transport and potentially considering a linked trip to other parts of the town centre. In principle the appeal site is in an accessible location and this would be enhanced by the improvements which form part of the appeal scheme.
46. The Council put forward a suggestion that visitors to the site would in some way be confused and unable to navigate through the site. This seriously underestimates the intelligence of those using the stores and there is nothing before me to suggest that the development would be anything other than wholly legible.
47. The Council expressed concern that the orientation of the development would face away from the main part of the town centre. To a degree I sympathise with this concern and it might well be a more persuasive issue if one were dealing with a redevelopment. However the existing entrance to the DIY store, although ostensibly facing towards the town centre, is an almost entirely dead frontage devoid of visual interest. Whatever its orientation, the proposed new entrance could not be described in those terms. In any event the appellant

explained convincingly why any alternative layout within the existing building would not work bearing in mind the requirements of the two operators, and the Council had no specific evidence to contradict this.

48. For all the above reasons I consider that the proposal would integrate well with the town centre, increase footfall and investment in the area, and improve connectivity. It would therefore accord with LP policies WC2, PM1, DSC1, DSC3, DSC7 and DSC8 and the Waltham Cross Town Centre Strategy.

The proposed level of car parking and highway safety

49. The reason for refusal states that the proposal did not adequately address the shortfall in car parking spaces at the site and was therefore contrary to LP policy TM5. It is worth noting at this point that the consequences of any shortfall, that is to say what harm would be caused other than an alleged conflict with policy, was not spelt out, and I will return to that matter below.
50. The Broxbourne Local Plan parking ratios are described as "Guidelines", rather than "Standards", and no mention is made of whether they are maxima or minima. Given that the reason for refusal states that there is an alleged shortfall, this is particularly unhelpful. If the guidelines were intended to be maxima then there is no shortfall, but for the purposes of the remainder of this section I will assume that the guidelines are intended to be either a fixed figure or a minimum - as these are the only ways in which there could be an alleged breach. (The policy has another limb dealing with the balance of car parking related to the area and I will return to that below.)
51. In numerical terms the proposal would result in car parking provision at a level of around 75% of the Guidelines. There was considerable discussion at the Inquiry as to the dynamic capacity of car parks of this nature, and the parties put forward different figures as matters of professional judgement. However the appellants put forward separate surveys using multiple methods of analysis which indicates that a sensible balance of car parking has been provided and I am inclined to prefer their analysis of the dynamic capacity.
52. The second limb of LP policy TM5 relates to a sensible balance of car and cycle parking spaces based on the nature of the proposal, site context and wider surrounding area and accessibility of shops, services and sustainable transport infrastructure. In this context it is important to note the Council's decision to no longer defend the third reason for refusal, which relates to the provision of connectivity improvements for cyclists and pedestrians, as well as the promotion of the use of public transport. Additionally in the Statement of Common Ground it is agreed that the location of the site is accessible by walking, cycling and bus travel. On that basis reliance on parking guidelines, assuming that they are not a maximum, is difficult to reconcile.
53. Overall I do not consider that the proposal would conflict with the identified LP policy, even if the guidelines - and they are only that - were interpreted as being a fixed figure or a minimum.
54. But even if it were considered that there is a conflict with policy, neither the reason for refusal nor the evidence at the inquiry suggested what actual harm would be caused.
55. The Council's position was that, if the car park were to prove inadequate at certain times, overspill parking would occur on the roads and the surrounding

area. That is self-evident, unless of course shoppers were to amend the time of their visits in the light of previous experience. However the Council's highway department have not objected to the scheme on the basis that there would be dangerous parking on the highway or elsewhere.

56. In any event, given the parking restrictions in the area, it was entirely unclear what harm this would cause. In addition, as agreed with the parties, I inspected the other car parks within the town centre during my site visit. Whilst I appreciate that this was only a snapshot, I certainly did not form the impression that there was a shortage of car parking spaces in the area, and no evidence was presented to that effect.
57. Overall, aside from a debatable conflict with Guidelines, the Council has not substantiated any harm caused by any overspill parking. The proposal would not harm highway safety in relation to the provision of car parking and would not conflict with LP policy TM5.

Other matters

58. The Council drew attention to a High Court judgement⁴ concerning a Sainsbury's proposal in Northwich. This related to the Council's position on the first issue above. I have carefully read this judgement but it appears that this related to significantly different circumstances. In that case the scheme appeared to involve the construction of an extension (unlike the current appeal), there was a draft masterplan in existence (unlike the present case), and there was an identified development partner (again, a difference from the current position). Overall, in that case these matters are very different to the current appeal, and this decision is of limited assistance.
59. The appellant drew attention to the fallback position. The building has a lawful retail use and could be subdivided without planning permission and the resulting units could sell non-food items. The appellant suggests that, if this appeal fails, the landlord and Homebase would seek another non-food retailer to occupy part of the premises. Given the position of these parties, I consider that this is a realistic possibility and that the result would be the continuation of the retail use – potentially without the improvements forming part of the current proposal. This is a real prospect and would result in a less attractive scheme than the appeals scheme.

Conditions

60. The conditions set out in the annex to this decision were discussed and agreed, without prejudice, by the parties. I have included reasons for each one and have made only minor modifications in the interests of clarity. They meet the tests for conditions in the National Planning Policy Framework.
61. The only condition which I have not imposed is one requiring a revised Travel Plan. There is no persuasive evidence of the necessity for this condition.

Planning balance and conclusion

62. In relation to the first main issue, the proposal would accord with policies looking to enhancing the retail offer in the town centre. It would provide a major new anchor store and increase consumer choice in part of the town

⁴ [2009] EWHC 1501 (Admin)

centre which is acknowledged to have relatively low footfall and to be in need of investment. The proposed use would not harm the potential for a comprehensive mixed use development at the allocated site, especially as the Council's approach is at such an early stage, and the physical works (though welcome) are minor in nature.

63. The proposal would also accord with the policy approach related to the second main issue, as the scheme would integrate well with the town centre and improve connectivity. It would act as a draw in its own right and would operate as a town centre car park.
64. In relation to the car parking issue, aside from an arguable conflict with unclear Guidelines, there would be no harm caused to highway safety or any other matter.
65. In addition to these matters, the refurbishment and improvement of the building to give it a new lease of life is a more sustainable option than redevelopment.
66. In the light of the above, the appeal proposal clearly complies with all aspects of the development plan.
67. For the reasons given above I conclude that the appeal should be allowed.

P. J. G. Ware
Inspector

Annex

Homebase Ltd, Sturlas Way, Waltham Cross EN8 7BF

Conditions

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 in accordance with the following approved drawings:

2924-COR-111K Proposed Site Plan
2924-COR-112B Proposed Ground Floor Plan
2924-COR-113A Proposed Mezz Floor Plan
2924-COR-114A Proposed Elevations
2924-VL-L01B Proposed Landscaping Plan

Reason - To ensure the development is carried out as permitted and for the avoidance of doubt.

3. Deliveries to the food store shall not take place outside the hours of 07:00 to 23:00 Monday to Saturday and 09:00 to 21:00 on Sundays.

Reason - To protect the amenities of the occupiers of neighbouring properties and the locality.

4. Prior to the food store becoming operational, full details of plant/refrigeration/air conditioning units and their location shall be submitted and approved in writing by the Local Planning Authority. Such details shall demonstrate that the plant rating level at the nearest residential façades, the rear of houses on Ruthven Avenue, when assessed using the method described in BS 4142:2014 + A1:2019, is no more than 5dBA above the pre-existing background sound levels of 47dB LA90 15min during the daytime period (07:00 to 23:00 hrs) and 42 dB LA90 15min during the night-time period (23:00 to 07:00 hrs), as established in Noise Solutions Limited report reference 89442/NIA.

Any plant/refrigeration/air conditioning units shall then be installed prior to the food store becoming operational, in accordance with the approved details, and shall be subsequently maintained thereafter.

Reason - To protect the amenities of the occupiers of neighbouring properties and the locality.

5. Prior to first use of the food store, additional plans shall be submitted to and approved by the Local Planning Authority showing the detailed design and construction of the revised vehicle access, as shown indicatively on drawing number 19094-SK220608.3. The approved work shall be constructed to the

specification of the Local Planning Authority, and completed before first use of the food store.

Reason: To ensure the provision of an access and footway appropriate for the development in the interests of highway safety, convenience, and sustainable/accessible travel.

6. Prior to first use of the food store, additional plans shall be submitted to and approved by the Local Planning Authority which show the detailed design and construction of the pedestrian accesses into the site, and a widened 3 metre footway along the northeastern corner of the site, as shown indicatively on drawing number 2924-COR-111 rev K. Other than the widened 3-metre section, these plans shall additionally show a continuous minimum footway width of 2 metres along the entire site frontage of Sturlas Way.

These works shall be undertaken to the Local Planning Authority's satisfaction, and completed before first use of the food store.

Reason: In the interests of sustainable and accessible travel.

7. Prior to first use of the food store, additional plans shall be submitted to and approved in writing by the Local Planning Authority which show the detailed design and construction of raised Kassel kerbing at the closest southbound bus stop along High Street. This work shall be fully completed before first use of the food store.

Reason: So that all users of the development can conveniently, safely and sustainably access the closest bus stops/routes to the development.

8. Prior to use of the food store hereby approved, all on-site vehicular areas shall be accessible, surfaced and marked so as to ensure satisfactory parking of vehicles outside highway limits. Arrangements shall be made for surface water from the site to be intercepted and disposed of separately so that it does not discharge into the highway. These works shall be implemented prior to the food store becoming operational and maintained as such thereafter.

Reason: In order to minimise danger, obstruction, and inconvenience to users of the highway and of the premises.

9. No development shall commence until a Parking, Delivery, Servicing & Emergency Vehicle Management Plan has been submitted to and approved in writing by the Local Planning Authority to illustrate how vehicle and cycle parking, servicing, deliveries, and emergency vehicle access associated with the development will be safely and suitably operated and managed. The plan shall also include details of the maximum duration of stay for customer vehicles and the means of enforcement. The Plan shall be implemented and adhered to in full once the food store hereby approved becomes operational.

Reason: To ensure all vehicles accessing and using the site do so safely and conveniently, causing no conflict with other vehicles or site users.

10. 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. The CEMP shall include details of:
- a) The phasing of construction and proposed construction programme.
 - b) The methods for accessing the site, including wider construction vehicle routing.
 - c) The numbers of daily construction vehicles including details of their sizes, at each phase of the development.
 - d) The hours of operation and construction vehicle movements.
 - e) Details of any highway works necessary to enable construction to take place.
 - f) Details of construction vehicle parking, turning and loading/unloading arrangements and storage compounds.
 - g) Details of any hoardings and security.
 - h) Details of how the safety of existing public highway users and existing public right of way users will be maintained.
 - i) Management of traffic to reduce congestion.
 - j) The control of dirt and dust on the public highway, including details of the location and methods to wash construction vehicle wheels, and how it will be ensured dirty surface water does not runoff and discharge onto the highway.
 - k) Details of construction noise mitigation measures.
 - l) The provision for addressing any abnormal wear and tear to the highway.
 - m) The details of consultation with local businesses or neighbours.
 - n) The details of any other Construction Sites in the local area.
 - o) Waste management proposals.
 - p) Signage.
 - q) 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.

11. No construction or construction deliveries shall take place outside the hours of 08:00-1800 Monday-Friday and 08:00 – 13:00 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.

13. Prior to the commencement of development, 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 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.

14. 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.

15. 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.

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

The scheme shall be fully implemented prior to the food store hereby approved coming into operation and subsequently maintained as such.

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.

17. Prior to commencement of works above ground level, details of the electric vehicle charging point installations shall be provided to the Local Planning Authority for written 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.

18. 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' (Section 4) carried out by Tyler Grange (ref. 13452_R02a_RB-HM) dated 8th April 2021.

Reason - To minimise harm to biodiversity.

-----End of conditions-----

APPEARANCES

ALDI STORES LTD

Mr Paul Tucker QC, assisted by Ms Constanze Bell of Counsel, instructed by Daniel Brown of Avison Young	
He called:	
Mr Tim Britton MCIHT	Associate Transport Planner, Connect Consultants
Mr Justin Griffiths BA(Hons) DipArch ARB RIBA	Senior Associate Architect, Harris Partnership
Mr Dan Brown BA(Hons) DipTP MRTPI	Associate Director, Avison Young

BROXBOURNE BROOUGH COUNCIL

Mr Andrew Parkinson of Counsel, instructed by the Head of Legal Services	
He called:	
Mr Martin Paine BA(Hons) MSc MRTPI	Planning Manager (Policy and Projects)
Mrs Marie Laidler BSc(Hons) MSc MRTPI	Senior Planning Officer, Development Management Service

INQUIRY DOCUMENTS

Doc 1	Appellant's opening statement
Doc 2	Council's opening statement
Doc 3	IKEA representation on draft Town Centre Framework
Doc 4	IKEA representation on draft Park Plaza North development brief
Doc 5	A1Landscape plan
Doc 6	Plan of parking facilities in town centre
Doc 7	Draft agreed conditions
Doc 8	Council's closing statement
Doc 9	Appellant's closing statement

CORE DOCUMENTS

Core Documents are available at:

	Application documents
1.1	Planning Application Form
1.2	Planning Application Covering Letter
1.3	Design and Access Statement
1.4	Supporting Planning Statemen
1.5	Arboricultural Impact Assessment
1.6	Drainage Assessment Layout Plan (Ref. B1299-S-101.P1)
1.7	Ecological Assessment
1.8	Flood Risk Assessment
1.9	Land Contamination, Phase 1 Environmental Site Assessment
1.10	Noise Impact Assessment
1.11	Transport Assessment
1.12	Travel Plan
1.13	12924-COR-100A Site Location Plan (A3)
1.14	2924-COR-101B Existing Site Plan (A3)
1.15	2924-COR-102 Existing Ground Floor Plan (A3)
1.16	2924-COR-103 Existing Mezz Floor Plan (A3)
1.17	2924-COR-104 Existing Elevations (A3)
1.18	2924-COR-111D Proposed Site Plan (A3)
1.19	2924-COR-112B Proposed Ground Floor Plan (A3)
1.20	2924-COR-113A Proposed Mezz Floor Plan (A3)
1.21	2924-COR-114A Proposed Elevations (A3)
1.22	2924-VL-L01A - Proposed Landscaping Plan (A1)
	Responses to planning application
2.1	Statutory Response - Hertfordshire County Council Flood
2.2	Statutory Response - Hertfordshire County Council Highways no.1
2.3	Statutory Response - Hertfordshire County Council Highways
2.4	Statutory Response - Environmental Health
2.5	Third party response - 44 Sawyers Court
2.6	Third party response - A Dunning
2.7	Third party response - Anonymous
2.8	Third party response - H Mustafa
	Committee report and decision notice
3.1	Case Officer Report
3.2	Decision Notice
	Appeal documents
4.1	Appellant Statement of Case (including Appendices)
4.2	Council Statement of Case
4.3	Substitute Proposed Site Plan

4.4	Statement of Common Ground ('Parent')
4.5	Statement of Common Ground - Noise Impact Matters
4.6	Highways Statement of Common Ground
	National Planning Policy/Guidance
5.1	National Planning Policy Framework
5.2	National Planning Practice Guidance
5.3	National design guide
5.4	CPO Guidance
	Statutory development plan
6.1	Local Plan 2018 - 2033
6.2	Local Plan Policies Map June 2020
	Local non-statutory planning documents (adopted and draft)
7.1	Waltham Cross Town Centre Strategy 2015
7.2	Waltham Cross Town Centre Planning Framework - Draft for consultation
7.3	Waltham Cross Town Centre Planning Framework - Appendix A Plan
7.4	Park Plaza North Development Brief - Draft supplementary planning document March 2022
	Other documents
8.1	Authority Monitoring Report 2020-2021
8.2	Authority Monitoring Report Appendix E - Completions 2020-21
8.3	Authority Monitoring Report Appendix F - Commitments 2020-21
8.4	Authority Monitoring Report Appendix G - Housing Trajectory 2020-21
8.5	Broxbourne Local Plan 2018 – 2033 Draft Infrastructure Delivery Plan (January 2018)
8.6	Report on the Examination of the Broxbourne Local Plan (April 2020)
8.7	Examination of the Broxbourne Local Plan – Inspector’s Report Appendix: Schedule of Main Modifications (14 April 2020)
8.8	Planning Permission Ref. 7/383-84 (Original Planning Permission)
8.9	Planning Permission Ref. 7/0757/05/F/WX - Variation of Condition 18 of planning permission (Ref. 7/0383-84) to allow the sale of all non-food items from the existing retail unit.
8.10	Manual for Streets, Department for Transport (2007)
	Council’s Proofs of Evidence
9.1	Summary Proof of Evidence - Marie Laidler
9.2	Proof of Evidence - Marie Laidler
9.3	Proof of Evidence - Martin Paine -Reason 1 Principle of development Appendix A - 133-137 Officer report 25 May 2022 Appendix B - Gala Bingo, 88-102 High Street, Waltham Cross Appendix C - Poundland Site Appendix D - Pavilions Appendix E Cheshunt Lakeside Committee Report 5 March 2019 Appendix F - Rosedale Park masterplan Appendix G - Frederick Gibberds proposals for Council owned land

	Appendix H - High Court case - Sainsburys Appendix I - LCP submission to Local Plan Examination
9.4	Council rebuttal proof of evidence
9.5	Appendix A - LP Examination Action Points and Council Response
	Appellant's Proofs of Evidence
10.1	Mr Daniel Brown, Proof of Evidence - Planning Matters - Summary
10.2	Mr Daniel Brown, Proof of Evidence - Planning Matters - Full
10.3	Mr Daniel Brown, Planning Matters - Appendices
10.4	Mr Justin Griffiths Proof of Evidence - design
10.5	Mr Justin Griffiths Proof of Evidence - design - Appendix A
10.6	Mr Tim Britton Proof of Evidence - Highways - Summary
10.7	Mr Tim Britton Proof of Evidence - Highways - Full
10.8	Highway Matters -Rebuttal Proof of Evidence
10.9	Planning Matters - Rebuttal Proof of Evidence