

Agenda Item:	5.4
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Site:	Brookside Business Park Brookside Road Uttoxeter
Proposal:	Hybrid application including a full planning application for the demolition of existing buildings and structures to facilitate the erection of a Lidl food store (Class A1) and two retail units (Class A1) and associated means of access, parking, landscaping and infrastructure works, and an outline planning application for the demolition of existing buildings and structures to facilitate a drive-thru restaurant (Classes A3/A5) including details of access.

Report of Head of Service (Section 151 Officer)

This report has been checked on behalf of Legal Services by Sherrie Grant

[Hyperlink to Application Details](#)

Application Number:	P/2018/00530	
Planning Officer:	Alan Harvey	
Type of Application:	Hybrid Outline and Full	
Applicant:	Lidl UK GmbH & M J Barrett Group	
Ward:	Town	
	Councillor Mrs S J McGarry	
	Councillor P Hudson	
Date Registered:	27 June 2018	
Date Expires:	17 September 2018. Extensions of time agreed with the applicants to 25 January 2019 to provide for the resolution of technical issues and to report the application to the Planning Committee.	

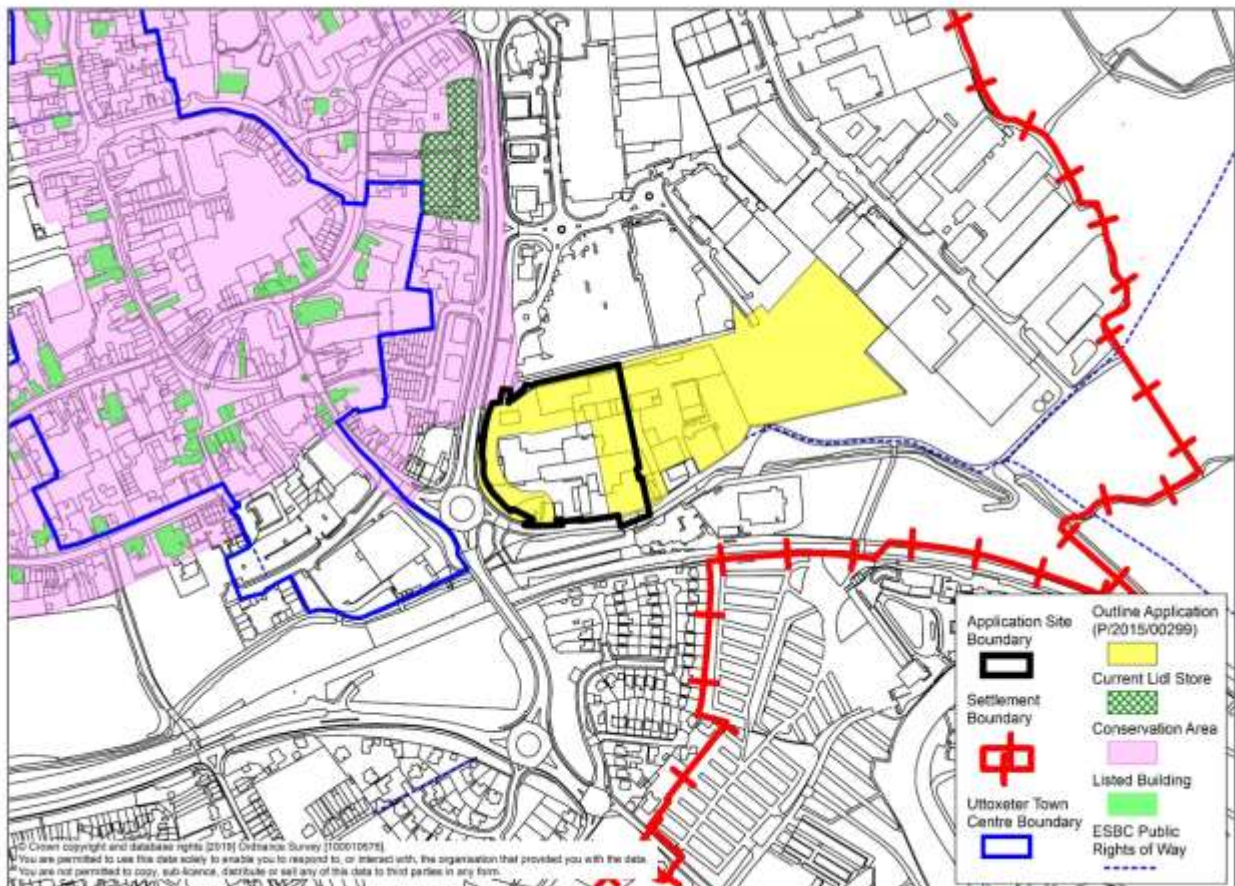
1. Executive Summary

- 1.1 The application site, which has an overall area of some 1.66 ha, is situated to the eastern side of Town Meadows Way, Uttoxeter (A518) at its roundabout junction with Brookside Road and Bridge Street. The site, which is adjoined to the north by the car parking area to the Tesco store, is presently occupied by various twentieth century built industrial buildings and has an existing vehicular access from Brookside Road. The Picknall Brook runs alongside Brookside Road to the south.

- 1.2 The application site lies within the settlement boundary but is situated outside the Town Centre boundary as defined in the adopted Local Plan. The site also lies within the Local Plan 'Brookside housing allocation' for 90 No. dwellings as set out in Strategic Policy 4.
- 1.3 The application is a hybrid scheme comprising a full planning application for the demolition of the existing buildings and structures to facilitate the erection of a Lidl food store (Class A1) and two retail units (Class A1) and associated means of access, parking, landscaping and infrastructure works and an outline planning application for the demolition of the existing buildings and structures to facilitate a drive-thru restaurant (Classes A3/A5) including details of access (only at this stage). The proposed Lidl store will replace the company's existing store which lies some 245 metres to the north of the site on the western side of Town Meadows Way. The existing Lidl store also lies outside of the Local Plan defined Town Centre boundary.
- 1.4 Statutory consultees have raised no objections that cannot be overcome via planning conditions/a Section 106 Agreement. Uttoxeter Town Council have raised objections to the scheme on the grounds that the main vehicular access route is dangerous by reason of its steep incline and restricted sightline, that it would increase the risk of accidents at the roundabout junction on Town Meadows Way and that a pedestrian crossing ought to be incorporated from the south side of the town/be installed on Bridge Street.
- 1.5 Local residents were notified of the application, a press notice published and a site notice posted. 27 No. local residents/interested parties made representations; of which 3 No. raise concerns on grounds of traffic/pedestrian access, impacts on residential amenities and its impact on the retail health of the town centre. The remaining 24 No. submissions provide support as the scheme will enhance the visual environment and retail offer of the town which will in turn encourage further visitors to Uttoxeter and its town centre.
- 1.6 It is considered that the scheme - and its Section 106 Agreement - are compliant with the provisions of the relevant development plan policies and the National Planning Policy Framework. Specifically in retail policy terms it is considered that the sequential test has been passed and the impact of the proposal as a whole will not lead to a significant adverse impact on the town centre.
- 1.7 The proposal would also not be likely to adversely affect the amenities of occupiers of any existing or proposed nearby dwellings. The proposal will not have an unacceptably adverse impact on the wider existing highway network and is considered to benefit from appropriate pedestrian connectivity to the town centre. The scheme would also provide necessary mitigation in relation to biodiversity and would not give rise to any environmental concerns.
- 1.8 The proposal would offer the opportunity to enhance the character and appearance and setting of the town's conservation area and to enhance views towards the Grade II star listed Parish Church (where the site would be integral part of any such views). Section 66(1) and Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 are therefore engaged by this scheme and have been satisfied. The scheme would also enhance the wider visual amenities of the locality around the railway station.

- 1.9 **Members are advised that the above is a brief summary of the proposals and key issues contained in the main report below which provides full details of all consultation responses, planning policies and the Officer's assessment, and Members are advised that this summary should be read in conjunction with the detailed report.**

Map of site



2. The site description

- 2.1 The application site, which has an overall area of some 1.66 ha, is situated to the eastern side of Town Meadows Way, Uttoxeter (A518) at its roundabout junction with Brookside Road and Bridge Street. The site comprises of various twentieth century built industrial buildings and hardsurfacing. There are areas of trees and vegetation to the site boundaries.
- 2.2 The site is adjoined to the north by the car parking area serving Tesco, with the store itself to the north-east. To the east are commercial premises on Brookside Road. Further to the south Station Road runs parallel to Brookside Road and serves the railway station that lies to the south-east. Vehicular access to the application site is obtained from Brookside Road.
- 2.3 Residential development and The Meadows Guest House are located opposite the site on the western side of Town Meadows Way. The

Waitrose store lies to the south-west at the roundabout junction with Bridge Street.

- 2.4 Picknall Brook runs alongside Brookside Road to the south. The land on the application site rises northwards away from Picknall Brook. Town Meadows Way is at a higher level where it adjoins the application site.
- 2.5 The site, adjoins, but is largely outside the town conservation area boundary other than a small nib to the northern boundary. There are no listed buildings adjoining the site; with the nearest properties being the Grade II listed Wheatsheaf Inn on Bridge Street and Nos. 15/17/19 Bridge Street; being respectively some 120 and 130 metres distant from the site to the north-west. From various points on the site there are views towards the tower of the Grade II (star) listed Parish Church; which is approx. 160 metres to the north-west.
- 2.6 The application site lies within the settlement boundary but is situated outside the Town Centre boundary as defined in the adopted Local Plan. The site also lies within the 'Brookside housing allocation' in the Local Plan, identified as an allocation for 90 No. dwellings. An existing Lidl store lies some 245 metres to the north of the site on the western side of Town Meadows Way and is also situated outside of the Town Centre boundary.

3. Planning history

- 3.1 As per the *Map of Site* above, Some of the site comprising this current application previously formed part of a larger site of 3.80 ha which was subject to an outline submission under application ref: P/2015/00299 for a mixed use development for up to 90 No. residential dwellings, 6 No. employment units and 4 No. trade units, including details of access (hereafter referred to as the '2015 application' in this report). A core area of the current scheme occupies an area outside the proposed developable area of the 2015 application; being notated on the (then) submitted plans as "*potential retail unit to be subject of possible subsequent application.*" The illustrative layout for the 2015 is shown below.
- 3.2 The Planning Committee resolved to conditionally approve the scheme in September 2015 although the Section 106 Agreement remains unsigned to date and therefore the planning permission has not been issued. Essentially, the planning permission can not be granted until such time as the Section 106 process has been completed.

- 3.3 In early December 2018, an application for full planning permission for an alternative development proposal (under ref: P/2018/01547) comprising proposed new Class B1, B2 and B8 use (i.e. light industrial/office, industrial and storage/warehouse uses) was submitted for the other lands the subject of the 2015 application. Whilst not yet validated (for technical reasons) the submission demonstrates the landowner's interest in the proposed re-development of the remainder of the site and a reason for the Section 106 Agreement on the 2015 application still remaining unsigned.

4. The proposal

- 4.1 The current application is a hybrid scheme comprising a full planning application for the demolition of the existing buildings and structures to facilitate the erection of a Lidl food store (Class A1) and two retail units (Class A1) with associated means of access, parking, landscaping and infrastructure works and an outline planning application for the demolition of the existing buildings and structures to facilitate a drive-thru restaurant (Classes A3/A5) including details of access only (at this stage).
- 4.2 The proposed Lidl store occupies a position in the north-east area of the site, with the two No. retail units immediately to the south. The proposed Lidl store will replace the existing Lidl store which lies some 245 metres to the north of the site on the western side of Town Meadows Way and which is also situated outside the Town Centre as defined in the Local Plan.
- 4.3 The breakdown of the gross internal retail floorspace/composition of the Class A1 development as well as the net figures taking into account the floorspace of the existing Lidl store (to be vacated) are set out in the Table below :-

	GIA (sqm)	Net (sqm)	Convenience	Comparison
Lidl	2,125	1,325	1,060	265
2 retail units	1,400	1,120		1,120
Total	3,525	2,445	1,060	1,385

- 4.4 In the Table above the reference to **Convenience goods** are those everyday essential items such as food and **Comparison goods** are those retail items not bought on a frequent basis, for example televisions and white goods (fridges, dishwashers etc).
- 4.5 The drive-thru restaurant - of 169 sq.m gross internal floorspace - would be situated in the south-eastern area of the site. The proposed car parking areas would front onto Town Meadows Way with landscaped boundaries. Where existing buildings are proposed to be demolished in

part, the relevant elevations being proposed to be re-built as blank facades in matching materials.

- 4.6 The full application submissions show that the proposed Lidl store and the retail units would present predominantly glazed shop frontages towards Town Meadows Way. The facades would otherwise be of white render at ground floor with grey panels to roofs and associated panelling.
- 4.7 The proposed retail development would be served by a car parking area comprising 206 No. parking spaces, including 11 No. spaces for persons with disabilities and 12 No. larger 'adults with children' parking spaces. The access/egress to the car parking area would be from Brookside Road, although there would also be an internal access link proposed to the existing Tesco car park. A pedestrian link by way of a ramped access is proposed down to the site from Town Meadows Way close to the existing pedestrian crossing facility. The access ramp is DDA compliant.
- 4.8 There are also 18 No. cycle spaces to be provided on the site some of which would sit beneath the canopies of the store buildings; comprising 5 No. at the Lidl storey and 13 No. outside the other two retail units. There would be a separate HGV/delivery lorry access drive from Brookside Road alongside the eastern boundary to the service yards to rear of the Lidl/retail premises. Low level landscape planting is proposed to the boundaries of the site along the road frontages. A fence is proposed to the eastern boundary.
- 4.9 The proposed car parking area would be illuminated by a mix of low level lighting bollards and floodlighting mounted on 6 metre high columns.
- 4.10 The submissions indicate that the opening hours of the Lidl Store and retail premises would be 8 am to 10 pm Monday to Saturday (inc.) and 10am to 4 pm on Sundays and Bank Holidays. The proposed units would provide the equivalent of 70 No. full time jobs; a figure that includes the retention/transfer of the equivalent of 30 No. full time jobs at the existing Lidl store in the town.
- 4.11 The outline application submissions show the drive thru restaurant would have shared access and egress (with the retail units) off Brookside Road.

List of supporting documentation

4.12 The following documents have been provided as part of the application:

- Site Location Plan
- Site Layout Plan and Access details (including visibility splays)
- Elevation Drawings for the Lidl store and retail units
- Plan layouts and roof plans for the Lidl store and retail units
- Site Section Drawings
- Design and Access Statement
- Planning and Retail Statement
- Statement of Community Involvement
- Lighting proposals and assessment
- Flood Risk Assessment (Original and Revised) and SuDs Checklist
- Archaeological Note

- Ecological assessment and survey (including bat survey)
- Highway Assessment and Technical Notes
- Framework Travel Plan (Original and Revised)
- Noise Assessment
- Air Quality Assessment
- Land contamination appraisal
- Section 106 Heads of Terms

4.13 The relevant findings are dealt with in section 8 onwards below.

4.14 During the course of the application revisions and additional submissions have been secured from the applicants in the light of the initial consultation responses received from the County Council as the Lead Local Flood Authority and the Environment Agency (who both objected on flood risk grounds), from the Council's Environmental Health (who required air and noise assessments) and from the County Highway Authority (who wished amongst other things to interrogate traffic flow data).

4.15 The applicants have also confirmed that they are agreeable to the insertion of a clause in the necessary Section 106 Agreement - to be attached to any grant of planning permission - for the prevention of food sales from the existing Lidl store on Town Meadows Way upon its vacation (as it is part of the applicants retail impact submissions that the current scheme was to be assessed on the basis of the nett increase in gross internal floorspace being brought about by the re-location of the Lidl store). These matters are also dealt with in section 8 onwards below

5. Consultation responses and representations

5.1 A summary of the consultation responses is set out below:

Statutory and non statutory consultee		Response
5.2	Uttoxeter Town Council	<p>Objects to the planning application due to the following:</p> <ul style="list-style-type: none"> • The main access route is dangerous given the steep incline at the point of access from Brookside Road and the restricted sightline along the A518 to the North and (the Town) Council request that this be redesigned at this point as part of the works associated with the proposed widening of Brookside Road. • The transport assessment indicates that there have been no incidents associated with the roundabout for the last five years, (the Town) Council believe that the change to traffic flows associated with the development would increase risk and therefore request that the Planning Authority address this matter. • The planning authority to request a pedestrian crossing be incorporated from the south side of the town. The Town Council also resolved that <i>"the Clerk writes to ESBC with respect to planning application P/2018/00530"</i>

		<p><i>to seek clarity as to the location of housing within the development as stated within ESBC Local Plan as this is not shown within the planning application.” (this matter dealt with in Sections 10 and 11 of this report below).</i></p> <p>Subsequent to their formal application response the Town Council submitted a further request to the Chief Executive for funding to be secured from this (Lidl) development scheme in relation to a new road crossing on Bridge Street.</p>
5.3	Highways England	No objection.
5.4	County Highway Authority	<p>Further to the submission of revised plans and the agreement of the Travel Plan raise no objection subject to conditions/Section 106 provisions providing <i>inter alia</i> for :-</p> <ul style="list-style-type: none"> • A Monitoring fee of £11,900 in relation to the agreed Framework Travel Plan • The implementation of a Traffic Regulation Order on Brookside Road (£6,000)
5.5	Staffordshire County Council as Lead Local Flood Authority	No objection subject to conditions
5.6	SCC Archaeology	No significant impact to the archaeological resource is anticipated
5.7	Environment Agency	No objection subject to conditions
5.8	Severn Trent Water	No objection subject to conditions
5.9	Natural England	Have no comments
5.10	Network Rail	<p>Has no objection in principle providing the scheme does not compromise the safe operation of the railway, in particular in relation to light glare/pollution.</p> <p>Network Rail also point out that having regard to the sites proximity to the towns railway station that :-</p> <ul style="list-style-type: none"> • It is likely that rail passengers will be drawn to the proposed stores and drive thru restaurant. The pedestrian facilities on Brookside Road are limited and consideration should be given to improvements to pedestrian safety and the implementation of suitable linkages and signage between the station and the proposed development.

		<ul style="list-style-type: none"> In relation to car parking, there is the possibility that rail passengers would use car parking on the application site as an alternative to or in addition to existing station parking facilities. To mitigate this it is suggested that a time limit is applied to the retail car parking facilities; for example for two hours.
5.11	Cadent (National Grid)	Advise that there is gas infrastructure in the proximity of the site.
5.12	Staffordshire County Council (as Mineral and Waste Planning Authority)	Have no comments.
5.13	Architectural Liaison Officer	No objection in principle.
5.14	Historic England	Have no comments on the submissions.

Internal Consultees	Response
Environmental Health	Raise no objections on air quality or noise pollution grounds further to the submission of additional reports. Also raise no objections in principle on land contamination grounds subject to mitigation measures being put in place.
Conservation Officer	<p>Comments that :-</p> <p><i>“The proposed development site is located within the setting of the Uttoxeter Conservation Area. The site makes a negative contribution to the setting of the Conservation Area being characterised by various poor quality industrial structures. Historic mapping indicates that development was restricted on the site until the early twentieth century when the site was developed as a cheese factory and has had various functions since. The built form on the site is haphazard, poor quality and of no architectural or historic merit. The demolition of these structures is considered an enhancement. The proposed development consists of a large Lidl store, two further retail units and a fast food outlet. In comparison to the haphazard nature and development of the existing structures, the proposed layout is more cohesive and responds to large scale stores and development found elsewhere within this part of the town. The proposal therefore is considered to preserve/enhance the setting of the Conservation Area and in line with Local Plan Policies SP25 and DP5.”</i></p>
Planning Policy	Dealt with in the assessment below - in particular Sections 9-11 below.

6. Neighbour/Interested Party responses

6.1 The application was advertised on the site and in the press and adjoining residents/properties consulted. A total of 27 No. representations were received in relation to the proposed development; with 3 No. local residents raising concerns and 24 No. local residents/interested parties supporting the application.

6.2 The three No. local residents/interested parties raise concerns for the reasons summarised below :-

Local residents/interested party responses	
The principle of development	<ul style="list-style-type: none"> Although an enlarged Lidl store would be valued it is considered that an extra two retail units alongside is not a good idea for the wellbeing of the town centre, which at present has too many empty shops.
Highways/Pedestrian access	<ul style="list-style-type: none"> It is hoped that if the development is progressed that the traffic impact will be addressed thoroughly as the present access is definitely not straightforward and high volumes of traffic could be very dangerous It contended that the existing crossings on Town Meadows Way and Bridge Street are not really good enough at present - and non-existent on Bridge Street - and it is questioned whether there are any considerations being given to improve this. there are concerns that the drive thru restaurant could be very busy and along with Lidl at peak flow would be likely to exacerbate traffic problems on race days (generating 5,000 cars) to the inconvenience of racegoers and other road users. the applicants traffic report ought to recognise and measure the dramatically increased traffic flows on a raceday at what is one of the main entrances to Racecourse car parks and the route along which all coaches travel. It is thus questioned whether traffic data on a raceday should be requested. It is questioned how far down Brookside the improvements would go as the 'bottom end' near the racecourse is in a terrible state of repair and it would certainly help knowing that the improvements would actually significantly enhance the approach to the racecourse car parks.
Impact on Amenities	<ul style="list-style-type: none"> It is questioned as what consideration is being given to protect against excess noise pollution (eg. boy racers which is already a problem) and litter in the area especially from the drive through restaurant

6.3 The 24 No. letters provide support for the scheme for the reasons summarised below :-

Local residents/interested party responses	
Planning	<ul style="list-style-type: none"> • The larger Lidl store will give more customer choice to the people in and around the town and, as long as the retail units do not remain empty, the proposed development will give a new dimension to the area and offer an enhanced shopping experience. • The new Lidl store would create job opportunities for local people. The provision of the other premises will also promote the creation of employment opportunities. • It is pointed out that since the arrival of Lidl, there has been an increased footfall in the town. It is appreciated that the site is on the periphery of the town, but it is believed that it will further increase the footfall.
Impact on Visual Amenities	<ul style="list-style-type: none"> • The development would remove unsightly buildings in this part of the town and visually improve the area. • A new development will improve the appearance of the town for the train passengers and encourage more people to stop over.

6.4 There have been no representations have been received from the Ward Members.

7. Policy Framework

7.1 The relevant national and local planning policies are set out below. Policy NP1 of the Local Plan sets out the role of Neighbourhood Plans and where relevant the policies of the made Uttoxeter Neighbourhood Plan are addressed alongside Local Plan policies in the assessment of the proposal in Section 8 onwards.

National Policy

- National Planning Policy Framework (as revised July 2018)
- National Planning Policy Guidance

Local Plan

- Principle 1: Presumption in Favour of Sustainable Development
- SP1 East Staffordshire Approach to Sustainable Development
- SP2 Settlement Hierarchy
- SP4 Settlement Hierarchy for residential development
- NP1 Role of Neighbourhood Plans
- SP9 Infrastructure Delivery and Implementation
- SP20 Town and Local Centres Hierarchy

- SP21 Managing Town and Local Centres
- SP24 High Quality Design
- SP25 Historic Environment
- SP27 Climate Change, Water Body Management and Flooding
- SP29 Biodiversity and Geodiversity
- SP35 Accessibility and Sustainable Transport
- DP1 Design of New Development
- DP2 Designing in Sustainable Construction
- DP5 Protecting the Historic Environment: All Heritage Assets
- DP6 Protecting the Historic Environment: Other Heritage Assets
- DP7 Pollution and Contamination
- DP8 Tree Protection

'Made' Uttoxeter Neighbourhood Plan

- Policy D2 - Non-residential development
- Policy D3 - Space between buildings
- Policy D4 - Heritage Assets
- Policy T1 - Sustainable Transport
- Policy T2 - Links to the Town Centre
- Policy T3 - Parking Standards
- Policy T4 - Traffic and Town Centre
- Policy T5 - Railway Station
- Policy E2 - Landscape and Setting

Supplementary Planning Documents/Guidance

- East Staffordshire Design Guide
- Parking Standards
- Waste Storage and Collection Guidance for New Developments

8. Assessment

8.1 It is considered that the key issues relevant to the determination of this application are as follows:-

- Principle of the Development/Development Plan Policies
- Design and Impact on the character and appearance of the area
- Residential Amenity (including noise and pollution)
- Highway Matters (including pedestrian safety)
- Impact on Heritage Assets
- Flood Risk/Drainage and Land Contamination
- Biodiversity Impacts/Impact on Protected Species
- Section 106 Agreement

9. Principle of the Development

9.1 The National Planning Policy Framework (NPPF) states that plans and policies should apply a presumption in favour of sustainable development. Paragraph 11 of the NPPF states that for decision-taking this means:

- approving development proposals that accord with an up to date development plan without delay; and
 - where there are no relevant development plan policies, or the policies which are most important for determining the application are out of date, granting permission unless:
 - the application of policies in the Framework that protect areas of assets of particular importance provides a clear reasons for refusing the development proposed; or
 - any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole;
- 9.2 Annex 1 of the NPPF states that *‘existing policies should not be considered out of date simply because they were adopted or made prior to the publication of the Framework (July 2018). Due weight should be given to them, according their degree of consistency with the NPPF. The closer the policies in the plan to policies in the framework, the greater the weight that may be given.’*

10. Development Plan

- 10.1 The Council has adopted a positive approach in seeking to meet objectively assessed development needs of the Borough. As set out in Principle 1: Presumption in Favour of Sustainable Development the policies in the plan provide a clear framework to guide sustainable growth and the management of change, thereby following the Government’s presumption in favour of sustainable development.
- 10.2 Strategic Policy 1 sets out the East Staffordshire Approach to Sustainable Development. Principles listed in the policy include social, environmental and economic considerations to be taken into account in all decision making where relevant. The principles are:
- located on, or with good links to, the strategic highway network, and should not result in vehicles harming residential amenity, causing highway safety issues or harming the character of open countryside;
 - it is convenient and safe to walk, cycle and travel by public transport between (and for larger sites, around) the site and existing homes, workplaces, shops, education, health, recreation, leisure, and community facilities and between any new on-site provision;
 - retains, enhances, expands and connects existing green infrastructure assets into networks within the site and within the wider landscape;
 - re-uses existing buildings where this is practicable and desirable in terms of the contribution the buildings make to their setting
 - integrated with the character of the landscape and townscape, provides for archaeological investigation where this is appropriate and conserves and enhances buildings of heritage importance, setting and historic landscape character;
 - designed to protect the amenity of the occupiers of residential properties nearby, and any future occupiers of the development through good design and landscaping;
 - high quality design which incorporates energy efficient considerations and renewable energy technologies;

- developed without incurring unacceptable flood risk or drainage problems and uses Sustainable Drainage Systems (SUDS) where appropriate;
- does not harm biodiversity, but rather enhances it wherever possible, including increasing tree-cover, especially as part of the National Forest;
- creates well designed and located publicly accessible open space;
- would demonstrably help to support the viability of local facilities, businesses and the local community or where new development attracts new businesses and facilities to an area this does not harm the viability of existing local facilities or businesses;
- would contribute towards the creation of sustainable communities through the provision of a mix of housing types and tenures;
- uses locally sourced, sustainable or recycled construction materials (including wood products from the National Forest where this is appropriate), sustainable waste management practices and minimises construction waste;
- safeguards the long term capability of best and most versatile agricultural land (Grade 1, 2 and 3a in the Agricultural Land Classification) as a resource for the future; and
- would result in the removal of contamination and other environmental problems associated with the site.

10.3 The Local Plan sets out in Strategic Policies 2 and 4 a development strategy directing housing growth to the most sustainable places; and the site is part of a housing allocation in the Local Plan. Strategic Policy 5 sets out the employment strategy, which also directs employment development to Burton Upon Trent, Uttoxeter and employment sites identified in the Employment Land Review.

10.4 Strategic Policy 20 of the Local Plan identifies the requirement for 21,100 sq.m of comparison goods floorspace and 5,750 sq m of convenience goods floorspace, of which Uttoxeter is expected to deliver comparison goods floorspace of approximately 4,200 sq m across the whole plan period and a share of 4,025 sq m of convenience goods floorspace.

10.5 With relation to land allocations, the NPPF states that where the local planning authority considers there to be no reasonable prospect of an application coming forward for the use allocated in a plan:

- a) they should, as part of plan updates, reallocate the land for a more deliverable use that can help to address identified needs (or, if appropriate, deallocate a site which is undeveloped); and
- b) in the interim, prior to updating the plan, applications for alternative uses on the land should be supported, where the proposed use would contribute to meeting an unmet need for development in the area.

10.6 Policy B1 (Employment Land) of the Neighbourhood Plan states that

“Existing Employment Land:

For land currently in employment use (including offices, retail and other commercial uses) changes of use will be permitted to other employment uses insofar as planning permission is required. The partial use of land in employment use for residential purposes will only be permitted if it is

necessary to enable the development or change of use of the site to an employment use, and should not normally occupy the majority of the site.

Using Brownfield Land:

Applications for employment uses on brownfield sites within or adjacent to the town centre, and those within easy access of the A50, will be supported subject to ensuring the amenity of neighbouring uses is protected and in compliance with development plan policies. Storage and distribution uses will not be supported within and adjacent to the town centre.”

11. Principle of Retail Development

- 11.1 The NPPF states that Local planning authorities should apply a sequential test to planning applications for main town centre uses which are neither in an existing centre nor in accordance with an up-to-date plan. Main town centre uses should be located in town centres, then in edge of centre locations; and only if suitable sites are not available (or expected to become available within a reasonable period) should out of centre sites be considered.
- 11.2 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.
- 11.3 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. 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).
- 11.4 Where an application fails to satisfy the sequential test or is likely to have significant adverse impact, it should be refused.
- 11.5 Policies SP20 and SP21 aim to see new leisure and retail uses be delivered within the town centres of Burton Upon Trent and Uttoxeter with existing town centre uses protected where this would affect the viability. Policy SP21 states that sequentially the Council will expect proposals for town centre uses to be sited within defined town centres. Applications for such uses on sites outside town centres will be subject to the sequential test.

- 11.6 Strategic Policy 21 sets out a different set of criteria for proposals in town centres, local centres and rural centres. The policy highlights that impact assessments will be required for town centre uses outside town centre boundaries when the floorspace proposed meets the following threshold:
- Uttoxeter – 750 sq.m or more of convenience retail floorspace, or 500 sq. m gross or more of comparison retail floorspace.
- 11.7 The application scheme is for a replacement Lidl store (use class A1) with a net floorspace of 1,325 sq.m, two comparison goods Class A1 retail units with a net floorspace of 1,120 sq.m and a drive-thru restaurant (Use classes A3/A5) with a gross internal floorspace totalling 169 sq.m. The Lidl store will sell 80% convenience shopping and 20% comparison, non household items.
- 11.8 The Lidl store is a replacement store with an increased floorspace of 608 sq.m in comparison with the existing store. Therefore, as set in the table at paragraph 4.3 above, the Lidl store element of the proposal would contribute 1,060 sq.m of net convenience goods floorspace and 265 sq.m net comparison goods floorspace. Taking the 80/20% split model adopted by Lidl's business model, this results in a difference of an additional 486.4sqm convenience and 121.6 sqm comparison sales floorspace area.
- 11.9 Lidl wishes to relocate in order for customers to experience a better laid out store with a greater range of products which could not be achieved at the current store. The applicant also considers that the proposal will result in better access and parking for customers. In terms of economic benefits, the application proposes retention of 30 full and part-time Lidl jobs and the creation of approximately 40 jobs from the other retail and drive thru elements.
- 11.10 The site is located outside of the town centre boundary as defined by the Local Plan, separated by Town Meadows Way. The site is located to the south of an existing retail and leisure development.
- 11.11 The sequential test should be considered first as this may identify that there are preferable sites in town centres for accommodating main town centre uses (and therefore avoid the need to undertake the impact test). The sequential test will identify development that cannot be located in town centres, and which would then be subject to the impact test. The impact test determines whether there would be likely to be significant adverse impacts of locating main town centre development outside of existing town centres (and therefore whether the proposal should be refused in line with policy).
- 11.12 The application is accompanied by a sequential test, identifying three sites within the town centre. The sites considered were (1) the former JCB factory site off Pinfold Street/Hockley Road, an allocated site for housing in the Local Plan where a Waitrose Store has been implemented (as the only part of an earlier larger mixed residential/commercial development), (2) the former Co-Op Store adjacent to The Maltings; and (3) the Maltings shopping precinct. None of these sites are considered by the applicant to be available in a reasonable timescale or suitable to accommodate the whole application proposal and officers concur with this conclusion.

- 11.13 Whilst the convenience goods element of the application scheme falls below the threshold where an impact assessment is required, the total comparison goods element does not and therefore the applicant has undertaken a town centre health check and also, using up to date financial information, analysed the expected expenditure for the town centre and edge of centre current stores along with the expected turnover in order to assess potential impact from the proposal.
- 11.14 The results of the health check conclude that compared to level of 19% in 2013, the vacancy rate for Uttoxeter town centre units is now 15% and that retailer representation has improved. In addition, two new food stores have been completed; Asda at Carters Square and Waitrose on Bridge Street. This has improved expenditure retention and activity locally.
- 11.15 The financial analysis of the applicants estimates that the impact of the proposal on the town centre will be a reduction of 5.3% in local expenditure, which is not considered to represent a significant adverse impact. The applicant also considers that there will be some clawback from other stores outside of the study area, ensuring that the retail needs of Uttoxeter residents are met in the town, and the need to travel to stores elsewhere, outside of the town or catchment area will be reduced.
- 11.16 It is pointed out that ‘out of town’ stores are not protected by policy and so whilst the applicant has assessed the impact of the proposal on such stores, there is no planning policy requirement to do so.
- 11.17 The applicant has not carried out an impact assessment on ‘*planned development*’, in particular the Maltings redevelopment approved under application reference P/2016/00083 which includes an additional 217 sq.m of retail floorspace (from 1385 sq.m up to 1602 sq.m).
- 11.18 Overall, however, given that some town centre use classes can change under permitted development, or prior approval, it is considered that the impact on the additional retail space proposed by the approved Maltings redevelopment (ref: P/2016/00083) would be adequately considered under the impact assessment of the town centre as a whole, as set out in the applicant’s submissions.
- 11.19 As outlined above at paragraph 10.4 above, Strategic Policy 20 of the Local Plan expects Uttoxeter to deliver comparison goods floorspace of approximately 4,200 sq m across the whole plan period and a share of 4,025 sq m of convenience floorspace across the Overall Catchment Area (OCA).
- 11.20 In arriving at these figures, the planned stores (now complete) at Waitrose and Asda were taken into account. Therefore, taking into consideration commitments since the plan was adopted, there does remain a need for additional comparison and convenience floorspace.
- 11.21 In coming to a recommendation, the following considerations have been taken into account;
- there are no suitable, available sites to accommodate the proposal as a whole,

- the policy expectation that there is a need for additional retail (both comparison and convenience) in Uttoxeter and in the overall catchment area,
- the improvement made to the town centre following the opening of the two recent foodstores and
- the nature of the store operating a deep discount store with limited offer is likely to be complemented by visits to other stores offering a wider produce choice.

11.22 In conclusion, it is considered that the sequential test has been passed and the impact of the proposal as a whole will not lead to a significant adverse impact on the town centre.

11.23 Section 11 of the NPPF states that Planning policies and decisions should promote an effective use of land in meeting the need for homes and other uses, while safeguarding and improving the environment and ensuring safe and healthy living conditions. Strategic policies should set out a clear strategy for accommodating objectively assessed needs, in a way that makes as much use as possible of previously-developed or 'brownfield' land.

11.24 Paragraph 118 of the NPPF states that planning decisions should:

a) encourage multiple benefits from both urban and rural land, including through mixed use schemes and taking opportunities to achieve net environmental gains – such as developments that would enable new habitat creation or improve public access to the countryside;

c) give substantial weight to the value of using suitable brownfield land within settlements for homes and other identified needs, and support appropriate opportunities to remediate despoiled, degraded, derelict, contaminated or unstable land;

11.25 With relation to land allocations, the NPPF states that where the local planning authority considers there to be no reasonable prospect of an application coming forward for the use allocated in a plan:

a) they should, as part of plan updates, reallocate the land for a more deliverable use that can help to address identified needs (or, if appropriate, deallocate a site which is undeveloped); and

b) in the interim, prior to updating the plan, applications for alternative uses on the land should be supported, where the proposed use would contribute to meeting an unmet need for development in the area.

11.26 The site is currently part of larger site used for a range of employment uses, with an assembly of buildings of different ages, styles, condition and occupancy. The Local Plan Evidence base document, the Employment Land Review (ELR) recognises the function of the estate is one of providing secondary industrial premises, considered to be lacking in Uttoxeter. However, the ELR also recognises the opportunity for office/residential development due to the location, adjacent to the town centre and railway station, and questions whether the site should be retained for employment

use. As a result of the ELR the Local Plan allocated the area for residential development and the provision of 90 No. dwellings.

- 11.27 As set out in paragraph 3.1 above in September 2015, the planning committee resolved to permit an outline scheme for the erection of 4 No. trade units, 6 No. employment units and up to 90 No. dwellings with all matters reserved apart from access (albeit the Section 106 Agreement remains unsigned). The red line of the 2015 application scheme accords approximately with the housing allocation site boundary in the Local Plan.
- 11.28 The current application overlaps to some degree that of 2015 application site boundary (as is evident on the plan in Section 3 above).
- 11.29 The submissions for the 2015 application relating to the surrounding/adjacent lands to this current application site, were considered by the Planning Committee in terms of the potential loss of up to 2.4 ha of employment land. This was not considered to be significant when weighed against the employment strategy for Uttoxeter as set out in the Local Plan and the consideration of employment units being provided as part of the new scheme. It was also recognised in relation to the 2015 application that the sites redevelopment would remove dilapidated and unsympathetic industrial and commercial premises, and this benefit also applies to the current application (as is set out in greater detail in Sections 12 and 15 below). The present application scheme will lead to the transfer/retention of existing Lidl staffing levels in the new store (the equivalent of 30 No. full time jobs) and it is estimated as being likely to generate the equivalent of 40 No. new full time positions in connection with the development of the other new premises.
- 11.30 Taking into account the above, the principle of redeveloping the wider site was supported in 2015. The 2015 application decision also considered the degree of conflict with the Local Plan in that the application for the wider site was for a mix of units, not just residential use, as envisaged in the plan. Like the 2015 decision, it is not considered that this conflict warrants a refusal in this instance, given the visual improvement that will again be brought about to the area (again as set out in more detail in Sections 12 and 15 below). This current application will utilise more of the allocation for non-residential uses, however, it is considered that any approval of this current application (under ref: P/2018/00530) would not conflict with the overall aims of the housing development strategy for Uttoxeter envisaged by Policy SP4 of the Local Plan.
- 11.31 As per paragraph 3.3 above a new application (ref: P/2018/01547) for Class B1, B2 and B8 industrial development on the substantive part of the 90 No. dwelling housing allocation site (of the Local Plan) has been submitted and whilst the current application - under ref: P/2018/00530 - does (as stated in paragraph 11.30) take up some of the lands that formed part of the 2015 residential any substantive 'loss' of such an adopted Local Plan 'housing allocation' will fall to be determined under **that** new application (which will be reported to the Planning Committee in due course). The assessment of this current application therefore still has full due regard to the fact that a residential application scheme could proceed on the adjoining site as well as any potential new alternative industrial development scheme.

12. Design and Impact on the character and appearance of the area

- 12.1 The NPPF expects the creation of high quality buildings and places, which are fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable development, creates better places in which to live and work and helps to make development acceptable to communities. The NPPF states that permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions, taking into account any local design standards or style guides in plans or supplementary planning documents. Conversely, where the design of a development accords with clear expectations in plan policies, design should not be used by the decision maker as a valid reason to object to development.
- 12.2 Strategic Policy 1 and 24 state that development proposals must contribute positively to the area in which they are proposed. The policy lists a number of criteria developments are expected to achieve including creating a sense of place, reinforcing character, reflecting densities and where possible minimise the production of carbon through sustainable construction.
- 12.3 Policy DP1 of the Local Plan re-iterates the design principles set by SP24 stating that development must respond positively to the context of the surrounding area, exhibit a high quality of design and be compliant with the East Staffordshire Design Guide.
- 12.4 The East Staffordshire Design Guide requires the design of development to demonstrate a strong, considered and sensitive response to its context. Design which is relevant to the site and wider context will be important, as this can support local distinctiveness. The Guide allows for development which employs a more modern architectural style but in terms of its proportions and siting it should still complement its surroundings.
- 12.5 Detailed Policy 2 of the Local Plan aims for development to achieve high sustainability and environmental credentials adopted energy efficiency techniques and other standards where possible.
- 12.6 Policy D2 (Non residential development) of the Neighbourhood Plan seeks for applications for non-residential development to demonstrate that they meet appropriate levels of quality in terms of design and layout, materials and sustainability whilst meeting parking provision requirements (as per Policy T3) and ensuring there will be no significant detrimental impact on residential amenities in the immediate locality. Policy D3 (Space between buildings) aims to see quality public realm between developments, that routes and spaces are well lit and subject to passive surveillance and that applications must provide a materials palette consistent with that found in the Uttoxeter vernacular.
- 12.7 Policy E2 of the Neighbourhood Plan states that new development should protect and where appropriate enhance the landscape setting of the town, and with a particular emphasis on the Picknall, Tean and Dove valleys. Policy T5 (Railway Station) of the Neighbourhood Plan advises *inter alia*

that proposals for enhancements to Uttoxeter railway station will be supported.

- 12.8 The application as a whole will provide for the proposed demolition of all the existing former industrial buildings on the site which would be to the visual benefit of the locality.
- 12.9 The proposed full application provides for buildings of a scale and of construction materials which reflect those of the existing retail development on the eastern side of Meadows Way and as such it is considered that the development itself would complement the established streetscape as well as enhancing the wider environs of the area around the railway station. The scheme would not detract from the character of the Picknall Valley. The development in its construction details, and the operation of the Lidl store, incorporates energy efficiency techniques.
- 12.10 Accordingly, it is considered that the scheme complies with Policies SP1, SP24 and DP2 of the Local Plan and Policies E2 and T5 of the Neighbourhood Plan.

13. Residential Amenity (including noise and pollution)

- 13.1 The NPPF (in particular paragraph 127) and Policy DP1 of the Local Plan seeks to ensure new development will not have an adverse impact on the amenities of new or existing residents by way of loss of light, overlooking or overbearing. Policy DP7 seeks to ensure that pollution and contamination issues are addressed.
- 13.2 In terms of the siting - and in relation to the full scheme the scale - of the proposed buildings and the degree of physical separation from any existing residential properties, it is considered that this would ensure that the scheme does not give rise to any significant overbearing, overshadowing or overlooking concerns. Any future detailed application for residential development on the remainder of the lands within the area the subject of planning permission ref: P/2015/00299 would necessary have to take into account the present scheme (if it is approved).
- 13.3 In terms of noise and disturbance it is considered that the activities generated by the proposed development, including traffic movements and delivery operations, would not be sufficiently detrimental to any existing or potential residents in the locality of the site subject to a condition providing for necessary noise mitigation measures being put in place and retained. Any issues arising as result of 'boy racers' is matter for the police and falls outwith the factors to be reasonably considered under the Planning Acts.
- 13.4 With regard to the concerns by local residents in relation to pollution the Environmental Health Section are satisfied the scheme would not give rise to significant air quality concerns. In relation to the issue of potential litter in the area, especially from the drive through restaurant, a condition of any approval will necessarily require the provision, and retention, of litter bins within the application site. There would no significant lighting pollution generated as a consequence of the approved development.

13.5 The proposals therefore comply with the aims of Policies DP1 and DP7 of the Local Plan.

14. Highway Matters (including pedestrian safety)

14.1 The NPPF in section 9 sets out the role transport policies play in facilitating sustainable development which contributes to wider sustainability and health objectives. Decisions should ensure development proposals have taken the opportunities for sustainable transport modes, ensure safe and suitable access to the site can be achieved for all users and any significant impacts from the development on the transport network, or on highway safety, can be cost effectively mitigated to an acceptable degree. 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.

14.2 Policies SP1 and SP35 of the Local Plan aim to ensure development is located on sites with good links to the highway network, development is convenient and safe to walk, cycle and travel by public transport. Developments should not result in vehicles harming residential amenity, causing highway safety issues or harming the character of the open countryside. For those developments likely to have an impact on the wider highway infrastructure, proposals should be accompanied by a transport assessment clearly setting out how the likely impacts of the development will be addressed.

14.3 Policy T4 (Traffic and the Town Centre) of the Neighbourhood Plan requires the following:

“All major applications should take account of the consequent traffic impact on the town centre. Where appropriate major planning applications should be designed to reduce and manage journeys and reduce environmental and road safety impacts.

Applications that are likely to generate heavy commercial vehicle movements will only be supported if they commit to a routing strategy that avoids the town centre. Applications that through their location or design are able to help reduce the number of heavy commercial vehicles through the town centre will also be supported.”

14.4 Policy T1 (Sustainable Transport) of the Neighbourhood Plan states that all applications, regardless of scale, should consider their wider impact on traffic and road safety. It also states that all new developments, excluding householder applications should seek to encourage a modal shift (or transition) by integrating into existing walking/cycling links and bus routes and provision of bike storage. Policy T5 (Railway Station) of the Neighbourhood Plan advises inter alia that *“adjacent developments should seek to respect and safeguard the railway station in a manner that will improve its accessibility to the rest of the town, including improved walking routes.”*

14.5 The Council’s parking standards SPD sets out standards for different uses including space size, accessibility and the quantity of car parking spaces required for different uses. Policy T3 of the Neighbourhood Plan deals with parking standards and seeks that the level of provision within the site

is appropriate for the development being proposed and meets the standard set out in the recently updated District Council's Parking SPD.

- 14.6 The Town Council have raised objections to the scheme on the grounds that the main vehicular access route via Brookside Road is dangerous by reason of its steep incline and restricted sightline and on the basis that it would increase the risk of accidents at the roundabout junction on Town Meadows Way.
- 14.7 The highway concerns of the Town Council have been recognised and the technical elements of the scheme have been subject to the revision during the application in order to address the requirements of the County Council as the Highway Authority. The Highway Authority are now, however, satisfied that the access arrangements to serve the development are acceptable in highway safety terms and that adequate levels and alternative types of parking provision can be accommodated to serve the proposed development on the site. On the specific issue of parking provision, the County Highway Authority advise that whilst the proposed 206 No. space parking provision for the development scheme does not meet the revised (2017) East Staffordshire parking standards (for which the provision should be 235 No. spaces), it was concluded in the Transport Assessment that the level of parking is appropriate given the accessibility of the site and the likelihood of shared trips.
- 14.8 With regard to the use of the car parking area itself, Network Rail raise concerns that rail passengers would use car parking on the application site as an alternative to, or in addition to, existing station parking facilities. To mitigate this concern Network Rail suggest that a time limit (for example 2 hours) is applied to the retail car parking facilities, however, it is considered that this will be a matter which will be self-regulated if necessary by the owners/occupiers of the retail units as it is in their best interests to do so. As such it is considered a condition requiring formal regulation of the car parking areas would not be necessary in this case.
- 14.9 The application scheme will also provide for off-site measures to be secured by a Section 106 Agreement by the way of the imposition of a Traffic Regulation Order on Brookside Road to provide for road widening and the provision of a footpath to the frontage of the application site (for which a implementation fee of £6,000 is payable). A Financial contribution (of £11,900) is also required in respect of a monitoring fee for the agreed Framework Travel Plan. The Section 106 Agreement being proposed (see also Section 19 below), along with the relevant conditions, are designed to reduce and manage journeys and reduce environmental and road safety impacts.
- 14.10 Policy T2 of the Neighbourhood Plan states that new development, where appropriate, should contribute towards the provision and enhancement (including servicing and lighting) of pedestrian and cycle links to the wider town and to routes identified under Policy E3 (Green Links). The policy also seeks improvements to existing key walking and cycling routes, including from development sites to the town centre.
- 14.11 There have been concerns raised by the Town Council and a local resident in relation to the adequacy of pedestrian linkages/crossings to the

site from the town centre to serve the proposed development. These concerns have been assessed by the County Highway Authority during the application process - including the specific requests from the Town Council for a Bridge Street/Chamberlain Close pedestrian crossing to be funded by Lidl - who have concluded that *“(the) seeking direct funding of the (pedestrian crossing) works via the Lidl application could not be supported by highways (as) this is due to the distance from the application site and the availability of other existing/proposed pedestrian routes.”* It is considered the scheme will respect the accessibility of the railway station to the rest of the town; and with the provision of the additional footway along Brookside Road would actually enhance pedestrian linkages.

14.12 Accordingly, it is considered that the scheme would successfully address issues as they relate to vehicular and pedestrian safety issues in the line with the relevant development plan policies and SPD guidance.

15. Impact on Heritage Assets

15.1 Paragraph 184 of the NPPF states that Local Planning Authorities should recognise that heritage assets are an irreplaceable resource and conserve them in a manner appropriate to their significance, so that they can be enjoyed for their contribution to the quality of life of existing and future generations.

15.2 In determining planning applications with respect to any building or other land in a conservation area, local planning authorities are under a statutory duty under Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 to pay special attention to the desirability of preserving or enhancing the character or appearance of the conservation area. Case law has established that this means that considerable importance and weight has to be given to that statutory duty when balancing the proposal against other material considerations.. Where a proposed development will lead to substantial harm to or total loss of significance of a designated heritage asset, local planning authorities should refuse consent, unless it can be demonstrated that the substantial harm or loss is necessary to achieve substantial public benefits that outweigh that harm or loss.

15.3 Section 66 (1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 provides that in considering whether to grant planning permission for development which affects a listed building or its setting, the local planning authority or, as the case may be, the Secretary of State shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses. Again, as for the Section 72 duty referred to above, case law has established that this means that considerable importance and weight has to be given to that statutory duty when balancing the proposal against other material considerations.

15.4 Strategic Policy 25 states that Development proposals should protect, conserve and enhance heritage assets and their settings, taking into account their significance, as well as the distinctive character of the Borough’s townscapes and landscapes.

- 15.5 Detailed Policy 5 goes into more detail regarding Historic Assets, Listed Buildings, Conservation Areas and Archaeology. Detailed policy 6 aims to protect other heritage assets which are not necessarily covered by listed building or conservation area status, such as shopfronts and the setting of important historic landscapes.
- 15.6 Policy D4 (Heritage Assets) of the Neighbourhood Plan indicates that all new development must take account of its impact on heritage assets across the Neighbourhood Plan Area - both designated and non-designated - seeking to protect and enhance them.
- 15.7 The proposed development site is located largely outside (other than a small nib at the northern boundary), but adjacent to, the boundary of the Uttoxeter Conservation Area. The site in its present form makes a negative contribution to the character and appearance and setting of the Conservation Area being characterised by various poor quality industrial structures of no architectural or historic merit. The demolition of these structures would be considered to represent an opportunity for enhancement.
- 15.8 Further, in comparison to the haphazard nature and development of the existing structures, the proposed development and its layout is more cohesive and responds to large scale stores and development found elsewhere within this part of the town.
- 15.9 The proposal therefore is considered to preserve/enhance the character and appearance and setting of the Conservation Area in line with Local Plan Policies SP25 and DP5 and the requirements of Section 66(1).
- 15.10 With regard to the setting of listed buildings the proposed development would have no direct inter-visibility with the nearest listed buildings on Bridge Street some 120 metres distant to the north-west. There are views towards the tower of the Grade II star listed Parish Church - some 160 metres away to the north-west - from various parts of the site, although it is considered that the scheme would not materially impact on the setting of the church which is derived from its position within the streetscape of the historic core of the town.
- 15.11 Where there are distant views towards the Parish Church from Brookside Road and Station Road it is considered that the re-development of site will enhance those by the visual improvement to the townscape that would be provided by the new buildings. As such Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 has been engaged by this scheme and has been satisfied.
- 15.12 In relation to archaeological matters, the County Archaeologist comments that no significant impact to the archaeological resource is anticipated. As such no archaeological mitigation condition is required in this instance.

16. Flood Risk/Drainage and Land Contamination

- 16.1 Section 14 of the National Planning Policy Framework seeks to ensure that new development is not at risk from flooding, or does not increase

flood risk elsewhere. It advocates the use of a sequential test with the aim of steering new developments to areas with the lowest risk of flooding. The Environment Agency produces flood risk maps which classifies land according to probability of flooding. The areas of highest risk are classified as Flood Zone 3, with a 1 in 100 or greater annual probability of flooding, and the areas of lowest risk are classified as Flood Zone 1, with a less than 1 in 1000 annual probability of flooding.

- 16.2 Strategic Policy 27 expects all new development to incorporate Sustainable Drainage Systems (SUDS). Systems will discharge clean roof water to ground via infiltration techniques, limit surface water discharge to the greenfield run-off rate and protect and enhance wildlife habitats, heritage assets, existing open space, amenity areas and landscape value.
- 16.3 The Environmental Agency raise no objections in principle on flood risk grounds further to the applicants' submission of a revised Flood Risk Assessment during the application process. A condition will be applied to any approval to ensure compliance with the revised Assessment.
- 16.4 The County Council as the Local Lead Flood Authority and Severn Trent Water raise no objections in principle to the scheme in terms of foul and surface water drainage - in the light of the submission of the revised proposals - subject to conditions of any approval. The Borough Council's Environmental Health do not raise any objections in principal on land contamination grounds with the relevant mitigation measures also to be secured by condition. An informative would be attached to any approval drawing the applicants' attention to the fact that there is gas apparatus in the vicinity of the site as referred to by Cadent (National Grid).

17. Biodiversity and Protected Species

- 17.1 Paragraph 175 of the NPPF states that if significant harm to biodiversity resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort, compensated for, planning permission should be refused.
- 17.2 The Natural Environment and Rural Communities Act 2006 states that public authorities in England have a duty to have regard to conserving biodiversity as part of policy or decision making.
- 17.3 Strategic Policy 29 lists criteria including development retain features of biological interest produces a net gain in biodiversity in line with Staffordshire biodiversity action plan species and supporting developments with multi-functional benefits. Policy DP8 seeks that protection is provided for trees on development schemes.
- 17.4 The scheme, including the provision of the car parking, access drives and associated infrastructure will necessarily result in the loss of some existing mature trees. In the short term the loss will be noticeable, however, the application scheme proposes compensatory replacement planting and this will necessarily be secured by condition. It is considered this loss whilst to some extent negative in itself would be outweighed by the wider benefits of the scheme as a whole will bring to this locality.

17.5 With regard to the impacts on protected species the scheme will not result in the loss of any bat roosts, however, as there is bat activity across the site mitigation measures are recommended to protect the habitats for bats - for example bat boxes - which will be secured by a condition. Similar

Item	Planning Obligation	Cost (where applicable)
Off-site Highways Works	<ul style="list-style-type: none"> The implementation of a Traffic Regulation Order on Brookside Road 	£6,000
Monitoring Fee	<ul style="list-style-type: none"> Monitoring fee in relation to the agreed Framework Travel Plan 	£11,900
Occupation of Existing Lidl Store	<ul style="list-style-type: none"> To provide for the prevention of food sales from the existing Lidl store on Town Meadows Way (upon its vacation by Lidl). 	-

provisions to be secured by condition will be made for nesting birds.

17.6 Accordingly, along with the provision of necessary landscaping, which would also be secured by any condition, it is considered that the submissions would meet the aims of national and local planning policies in terms of biodiversity and ecological mitigations.

18. Section 106 Contributions

18.1 Paragraph 56 of the Framework and Regulation 122 of the Community Infrastructure Levy Regulations 2011 (as amended) set tests in respect of planning obligations. Obligations should only be sought where they meet the following tests:

- Necessary to make the development acceptable in planning terms;
- Directly related to the development; and
- Fairly and reasonably related in scale and kind to the development.

18.2 National Planning Practice Guidance states that when CIL is introduced (and nationally from April 2015), the regulations restrict the use of pooled contributions towards items that may be funded via the levy. At that point, no more may be collected in respect of a specific infrastructure project or a type of infrastructure through a section 106 agreement, if five or more obligations for that project or type of infrastructure have already been entered into since 6 April 2010, and it is a type of infrastructure that is capable of being funded by the levy.

18.3 The financial contributions being sought in relation to highway matters (as per paragraph 14.9 above) are set out in the table below and do not take the pooling threshold above five. A further clause of the Section 106 will provide for the prevention of the food sales from the existing Lidl store on Town Meadows Way (upon its vacation) as it was part of the applicant's retail impact submissions for this application to take into account the nett impact of the new store floorspace.

19. Conclusions

- 19.1 Having due regard to the retail development criteria set out in Policies SP20 and SP21 of the Local Plan it is considered that the sequential test has been passed in terms of the location of new development and it is thus concluded that the overall impact of the proposal will not lead to a significant adverse impact on the town centre given that it will not result in a significant reduction in local expenditure. It is also considered that any approval of this scheme would not conflict with the overall aims of the housing development strategy for Uttoxeter envisaged by Policy SP4.
- 19.2 There are no objections raised to the scheme by Highways England or the County Highway Authority and as such the proposal will not have an unacceptably adverse impact on the wider existing highway. The County Highway Authority are also satisfied that the development enjoys satisfactory pedestrian links to the town centre. Relevant off-site highway works implementation and the travel plan monitoring fee contributions will be secured by way of a Section 106 Agreement. The Section 106 Agreement will also provide for the prevention of food sales from the existing Lidl store on Town Meadows Way (upon its vacation by Lidl).
- 19.3 The proposal would also not be likely to adversely affect the amenities of occupiers of any existing or future residential properties. The scheme would also provide necessary mitigation in relation to biodiversity and would not give rise to any environmental concerns. There are no flood risk concerns.
- 19.4 The proposal would enhance the character and appearance and setting of the town's conservation area and provide the opportunity to enhance views towards the Grade II star listed Parish Church where the site would be an integral part of any such views. Section 66(1) and Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 are therefore engaged by this scheme and have been satisfied. The scheme would also enhance the wider visual amenities of the locality at the roundabout junction of Town Meadows Way with Brookside Road/Bridge Street and in terms of the wider environs of the railway station.
- 19.5 Accordingly, having regard to the above planning issues it is recommended that the application should be approved subject to conditions and the Section 106 Agreement requirements set out in this report.
- 19.6 **RECOMMENDATION - THAT PLANNING PERMISSION BE GRANTED subject to a Section 106 Agreement and the following summary conditions**

19.7 Summary Conditions

Outline Planning Permission for drive-thru restaurant (Classes A3/A5))

Condition 1 - Reserved matters submissions to be provided before development commences (other than any demolition/site clearance works shown on the relevant approved drawings in condition 3 below) in relation to layout, scale, appearance and landscaping. (bespoke)

Condition 2 - Application for approval of the reserved matters shall be made to the Local Planning Authority before the expiration of three years from the date of this permission. (standard condition - 00001b)

Condition 3 - List of approved plans (standard condition - 00002)

Condition 4 - The development hereby permitted shall be begun before the expiration of two years from the date of the approval of the last reserved matter(s) to be approved. (standard condition - 00001d)

Condition 5 - The floor area of the building to occupy the site shall not exceed 169 square metres (Gross Internal Area) and the site shall only be used in connection with a Class A3 and/or A5 use (bespoke)

Condition 6 - The details to be provided under condition 1 shall include details of secure and covered cycle parking/the finish materials to the parking, access and turning areas (including delineation of parking spaces/pedestrian paths)/pedestrian and cycle access to the development site. The details shall be delivered in line with an agreed timetable and thereafter maintained. (bespoke)

Condition 7 - Details of the proposed finished floor/slab levels and finished ground levels to be provided before new build development first commences. (bespoke)

Condition 8 - Details of the proposed foul and surface water drainage systems to be provided before new build development first commences. Before first bringing into use the scheme shall be completed in accordance with the approved details and the measures set out in the submitted flood risk assessment (bespoke)

Condition 9 - Details of the sample materials before any development works progress above slab level. (bespoke)

Condition 10 - Details of the lighting to serve the development to be submitted to the LPA prior to the development being first brought into use. (bespoke).

Condition 11 - Details of the provision of waste facilities/litter bins to serve the development to be submitted to the LPA prior to the development being first brought into use. (bespoke).

Condition 12 - The approved landscaping to be undertaken in the first planting season following the completion of the development. (standard condition)

Full Planning Permission (for Lidl and Two No. Retail Units)

Condition 13 - Three year commencement condition (standard condition - 0000001a)

Condition 14 - List of approved plans (standard condition - 00002)

Condition 15 - Details of any phased programme of development shall be agreed with the LPA prior to the commencement of any development (including demolition works on any part of the application site) and shall include a phasing timetable and details of the treatment of any lands that may remain vacant upon the occupation of any retail unit(s) on other areas of the site (including that the subject of the outline approval). The agreed phasing of any approved scheme shall be adhered to at all times unless otherwise agreed in writing by the LPA. (bespoke)

Condition 16 - Details of a Construction Vehicle Management Plan (CVMP) to be submitted before commencement of development (including demolition works on any part of the application site) to comprise the routing of demolition/delivery vehicles to and from the site including timing of movements to minimise congestion/arrangements for the parking of site operatives/arrangements to ensure vehicular access to the eastern extent of Brookside Road at all times/loading and unloading of plant and materials/storage of plant and materials used in constructing the development/construction and delivery hours/delivery routing and hours/recorded daily inspections of the highway adjacent to the site access/measures to mitigate/remove mud or debris carried onto the highway/hours and days of operation. (bespoke)

Condition 17- Details of a scheme of dust mitigation during the construction phase to be submitted prior to the development (including demolition works on any part of the application site) commencing. (bespoke)

Condition 18 – All making good of retained buildings on the site shall be by way of blank elevations using matching materials with bonding and coursing of any brickwork to match that of the existing building. (bespoke)

Condition 19 - Details of all off site highway works to be submitted prior to the new build development commencing including provision for revised customer access and new service access/provision of new footway/road widening and resurfacing works on Brookside Road; all of which shall be completed in accordance with the approved details prior to first occupation of any new retail units unless otherwise agreed in writing by the LPA. (bespoke)

Condition 20 - Details of a land contamination mitigation scheme to be submitted to the LPA prior to the commencement of new build development and completed prior to the first occupation of any retail unit (bespoke)

Condition 21 - Details of a foul drainage scheme to be submitted prior to the commencement of new build development and completed prior to the first occupation of any retail unit (bespoke)

Condition 22 - Details of a surface water drainage scheme to be submitted prior to the commencement of new build development and completed prior to first occupation of any retail unit. The scheme shall ensure no infiltration of surface water drainage into the ground is permitted other than where it has been demonstrated that there is no resultant unacceptable risk to controlled waters (bespoke as per the requirements of the Lead Local Flood Authority and the Environment Agency)

Condition 23 - Details of the retaining walls to car parking areas/access (including external finishes) to be submitted prior to the commencement of new build development and completed prior to the first occupation of any retail unit (bespoke).

Condition 24 – Any approved tree/hedgerow removals works shall be undertaken outside the bird breeding/nesting season unless otherwise first agreed in writing by the LPA (bespoke)

Condition 25 – All ecological enhancement/mitigation measures in relation to the construction phase of the development and in respect of the long term retail use of the site shall be undertaken in accordance with the details set out in the submitted ecological/protected species reports. Mitigation measures shall be retained (bespoke)

Condition 26 - Details of boundary treatments (including materials/finishes) to be submitted prior to any first occupation and completed prior to the first occupation of any retail unit (bespoke)

Condition 27 - Details of a scheme for the provision for electric charging points to be submitted before the first occupation of any retail unit including a timetable for installation. (bespoke)

Condition 28 - Details of covered and secure cycle storage facilities for staff and customers to be submitted prior to the first occupation of any retail units which is to be retained thereafter (bespoke).

Condition 29 - Details of a scheme to provide a Traffic Regulation Order on the south side of Brookfield to be submitted prior to any first occupation of any retail unit. Unless another timetable of implementation is otherwise agreed in writing by the LPA the approved scheme shall be completed prior to the first use of any new retail unit and shall be retained thereafter. (bespoke)

Condition 30 - Prior to first occupation of any retail unit a scheme of noise mitigation measures shall be provided to be implemented. (bespoke)

Condition 31 - Prior to first occupation of any retail unit the access drive(s) and associated visibility splays shall be provided and shall thereafter be kept free of all obstructions. (bespoke)

Condition 32 - Prior to first occupation of any of the retail units the shared parking and manoeuvring area shall be provided in a bound material with the individual bays clearly delineated and retained thereafter (bespoke).

Condition 33 - Prior to first occupation of any of the retail units the pedestrian ramped access from Town Meadows Way shall be provided and all pedestrian accesses/paths clearly delineated and retained thereafter (bespoke).

Condition 34 - The development shall be completed in accordance with the measures set out in the submitted flood risk assessment prior to any first occupation of a retail unit and maintained thereafter throughout the lifetime of the development (bespoke).

Condition 35 - Approved boundary treatment scheme to be implemented prior to first occupation of any retail unit (bespoke).

Condition 36 - The approved landscaping scheme shall be implemented following the first completion of the development/development phase.
(bespoke)

Condition 37 - Any soakaway to serve the development scheme shall be located a minimum distance of 4.5 metres to the rear of the adopted highway boundary (bespoke).

Condition 38 - The two No. (smaller) Class A1 retail units shall only be used for the sale of comparison goods and no more than 20 per cent of the available sales area of the Lidl retail unit (i.e 121.6 sqm) shall be used for the sale of comparison goods unless planning permission has otherwise been first been approved by the LPA. (bespoke)

Condition 39 - No retail unit shall be sub-divided, no mezzanine floor shall be inserted and nor shall any additional retail floorspace be created above that shown on the approved plans/specified in the application submission unless planning permission has otherwise been first been granted by the LPA.
(bespoke)

Condition 40 - No gates or barriers are to be installed at the vehicular access to the customer parking areas at any time unless first agreed with the LPA under the current application prior to the occupation of any retail unit or unless thereafter planning permission has otherwise been first been granted by the LPA (bespoke).

Condition 41 - Any gates or barriers to be installed to the HGV/delivery access shall be set a minimum distance of 18 metres back from the edge of the public highway and shall open away from the highway at all times. (bespoke)

Informative Notes

1. Standard engagement note.
2. Condition discharge timetables.
3. The applicant's attention is drawn to the comments of the Environment Agency in relation to water environment pollution.
4. The applicant's attention is drawn to the comments of the Network Rail on lighting provision at the site and the operation of the railway.
5. The applicant's attention is drawn to the comments of Cadent on the existence of gas mains in the locality.
6. The conditions requiring off-site highway works shall require a Highway Works Agreement with Staffordshire County Council etc.
7. This permission is subject to a Section 106 Agreement in relation to an approved Framework Travel Plan and associated Travel Plan monitoring Sum of £11,900; in respect of a Traffic Regulation Order on Brookside Road (for which there is fee payable of £6,000); and in respect of an undertaking not to

use the existing Lidl store on Town Meadows Way for food retail sales (upon its vacation by Lidl).

8. You are advised that a separate application would be required for advertisement consent and the approval of this planning application does not imply any approval for any signage shown on the submitted plans.

Background papers

19.8 The following papers were used in the preparation of this report:

- The Local and National Planning policies outlined above in Section 7
- Papers on the Planning Application file reference P/2018/00530
- Papers on the Planning Application file reference P/2015/00299

20. Human Rights Act 1998

20.1 There may be implications under Article 8 and Article 1 of the First Protocol regarding the right of respect for a person's private and family life and home, and to the peaceful enjoyment of possessions. However, these potential issues are in this case amply covered by consideration of the environmental impact of the application under the policies of the development plan and other relevant policy guidance.

21. Crime and Disorder Implications

21.1 It is considered that the proposal does not raise any crime and disorder implications.

22. Equalities Act 2010

22.1 Due regard, where relevant, has been had to the East Staffordshire Borough Council's equality duty as contained within the Equalities Act 2010.

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