

Planning Committee
10 July 2024

Planning Application
Number: 23/00402/FUL

Former Dairy Crest Site, Alexandra Road, Epsom, Surrey KT17 4BJ

Application Number	23/00402/FUL
Application Type	Full Planning Permission (Major)
Address	Former Dairy Crest Site, Alexandra Road, Epsom, KT17 4BJ
Ward	College
Proposal	Redevelopment of site to deliver a retail food store (Class E), supporting car park, access, servicing and landscaping.
Expiry Date	12 July 2024
Recommendation	Approval, subject to conditions, informatives and s106 legal agreement
Number of Submissions	129 (64 objecting, 65 supporting)
Reason for Committee	Major development
Case Officer	Gemma Paterson
Contact Officer	Simon Taylor, Interim Manager
Plans, Documents and Submissions	Available at Former Dairy Crest Site
Glossary of Terms	Found at the following link: Glossary of Terms



SUMMARY

1. Summary and Recommendation

- 1.1. The application is classified as a Major planning application and is referred to Planning Committee in accordance with Epsom and Ewell Borough Council's Scheme of Delegation.
- 1.2. The application seeks permission for the redevelopment of site to deliver a retail food store (Class E), supporting car park, access, servicing and landscaping.
- 1.3. This application follows a previously refused, and subsequently dismissed appeal scheme for the redevelopment of the site to provide a mixed use development comprising a retail food store with 6 residential units above, with associated car parking, landscaping and access arrangements in 2015 (15/01346/FUL). This application carries a degree of weight but is also nine years ago.
- 1.4. In refusing the previous scheme, the Council gave eight reasons for refusal, although four reasons (housing mix, affordable housing, external amenity and securing a safe and convenient pedestrian access) were either addressed or no longer pursued at appeal.
- 1.5. The remaining main issues for the appeal related to the effect of the proposal on the character and appearance of the surrounding area, including the adjacent Pikes Hill Conservation Area; the effect of the proposal on highway safety in terms of parking provision and traffic flows; and whether there is sufficient analysis to demonstrate there is not a sequentially preferable site.
- 1.6. The Inspector upheld the Council's reasons for refusal in relation to the impact on the character and appearance of the surrounding area, including the adjacent Pikes Hill Conservation Area and the failure to demonstrate that there is no sequential preferable site, whilst concluding that matters relating to parking provision and traffic flows to be acceptable.
- 1.7. The site comprises vacant brownfield land within a sustainable location. The site is not an opportunity site in either the adopted Local Plan or the emerging local plan.
- 1.8. In retail terms, the site is in an out of town location, as defined in Annex 2 of the NPPF 2023. The details submitted in support of this application demonstrate that the proposal meets the sequential test.

- 1.9. Although there is no national or local policy requirement for a Retail Impact Assessment to support this application, it has been demonstrated to the satisfaction of the Council's Independent Retail Consultant that the proposal would not result in a significantly adverse impact on relevant designated centres.
- 1.10. It has been demonstrated to the satisfaction of the County Highway Authority that the potential traffic effect of the proposed development, in both the immediate and future scenarios, would be unlikely to result in a severe impact on the capacity or safety of the Fiveways Junction and local highway network.
- 1.11. It has been demonstrated that the proposed development would meet the Council's Parking Standards on site.
- 1.12. Whilst the proposal would cause less than substantial harm to the setting of the Pikes Hill Conservation Area, even when giving great weight to the desirability of preserving the setting of the surrounding heritage assets, the public benefits would outweigh the less than substantial harm identified.
- 1.13. It has also been satisfactorily demonstrated that a development of this scale and nature could be provided on the site that does not have a significant harmful impact on neighbouring residential amenity, subject to conditions to secure acoustic fencing and a Servicing and Delivery Management Plan.
- 1.14. Subject to conditions in the event planning permission is granted, it has been demonstrated that the proposal would accord with Council policies in relation to ecology, sustainable design, archaeology and land contamination.
- 1.15. The Council's Tree Officer has raised concerns about the viability of new tree planting on the site. Although these concerns are noted and this forms part of the planning balance, Officers are satisfied that this can be addressed by way of conditions.
- 1.16. The Council currently does not have an up to date Local Plan. This means that the presumption in favour of sustainable development (paragraph 11 of the NPPF, also known colloquially as the 'tilted balance') is engaged, and that planning permission should be granted unless any adverse impacts significantly and demonstrably outweigh the benefits, when assessed against the NPPF as a whole.
- 1.17. Overall, whilst there are (limited) adverse effects in respect of this application, these would not significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole, or where specific policies in the Framework indicate that development should be restricted.

- 1.18. The application is therefore recommended by Officers for approval, subject to the completion of a Section 106 Agreement to secure the Travel Plan Auditing Fee.

PROPOSAL

2. Description of Proposal

2.1. The proposal involves the following works:

- The erection of a Class E1 retail development with associated vehicle parking area, new vehicular access, and landscaping.
- The proposed retail unit would be located to the east of the site, comprising a net retail floor space of 1054m² and ancillary warehouse and staff area of 498m², creating a gross retail development of 1552m².
- The western section of the site would comprise a vehicular parking area of 66.0 spaces, 4.0 of which would be accessible. Cycle parking for 10 cycles would be located to the north and west elevation of the retail building.
- The existing access to the site would be made redundant and a new access created further eastwards along Alexandra Road. This would result in the loss of 2.0 existing on street parking bays. A new 2.0 metre wide pavement would be created to the east of Church Road, connecting the existing footpath to the Alexandra Road junction.
- A new right hand turn facility would be created with in the existing carriage way, which would result in the relocation of the existing pedestrian Island.
- Soft landscaping would be introduced around the perimeter of the proposed vehicle parking area and along the rear of the site, between the development and the rear gardens of Wyeth's Road
- There would be other ancillary site works, such as pavements, trolley bays, external lighting of the car park and delivery bay and the like.
- Advertising signage is shown on the submitted plans but does not fall within the scope of this application.

3. Key Information

	Proposed
Site Area	0.45 Hectares
Floorspace	1552m ²
Building Height	2.0 - 9.0 metres in overall height
Car Parking Spaces	66
Cycle Parking Spaces	11

SITE

4. Description

- 4.1. The site that is the subject of this application is located to the south side of Alexandra Road (A2022) on the corner with Church Road. The site has been vacant since early 2013 and was previously the site of the Dairy Crest delivery depot. The previous buildings on the site were demolished in 2017 and the site is currently surrounded by hoarding. Ground levels rise from west to east.
- 4.2. The surrounding area is predominantly residential in character. The site backs onto residential gardens of properties on Wyeth's Road which is located within the Pikes Hill Conservation Area. There are dwellings to the north on Alexandra Road and west on Church Road. To the east and north of the site are commercial uses.
- 4.3. Alexandra Road and Upper High Street form a main route into and out of Epsom Town Centre from the east. The corner of the site abuts the 'Fiveways' highway junction.

5. Constraints

- Built Up Area
- Adjacent to Pikes Hill Conservation Area
- SSSI Impact Risk Zone
- Critical Drainage Area (far south west of the site)
- Source Protection Zones 1,2 and 3
- Flood Zone 1
- Classified A road (Alexandra Road)
- Classified Road (Church Road)
- Contaminated Land

6. History

App No.	Description	Status
15/01346/FUL	Demolition of existing buildings on site. Redevelopment of site to provide a mixed use development comprising a retail foodstore with 6 residential units above, with associated car parking, landscaping and access arrangements	Refused 13.04.2016 Appeal Dismissed 03.10.2017

6.1. 15/01346/FUL was considered at Planning Committee in April 2016 and refused for the following reasons:

- 1) The applicant has failed to provide sufficient information and analysis to demonstrate that the Upper High Street and Depot Road car park areas are not suitable and available for the proposed development, which lie in a sequentially preferable location and are allocated for retail development. The proposed development is not in accordance with the development plan strategy as it promotes retail floor space outside of the town centre. The application is therefore contrary to the requirements of the Section 2 of the National Planning Policy Framework It is not in accordance with the plan read as a whole which promotes a town centre first approach to retail development in particular in Policy CS14 of the Core Strategy (2007) and Policies E3 and E14 of the Epsom Town Centre Area Action Plan (2011) and DM29 of the DMPD.
- 2) The applicant has failed to demonstrate that the level of car parking to be provided at the development is adequate to meet of the demand of the proposed store with respect to staff, customers and the loss of on-street parking associated with the construction of the access, to the detriment of on-street parking conditions in the surrounding area. The development is therefore contrary to the requirements of Policy CS16 of the Core Strategy (2007), Policy DM37 of the Development Management Policies (2015) and the overall aims of the Epsom and Ewell Parking Strategy (2012).
- 3) There would be inadequate external amenity space for the occupiers of the residential units. The units would not provide a quality environment which would adequately meet the needs or protect the living conditions of the occupiers of the site and therefore the development is not sustainable. As such the proposal does not accord with the requirements of Policy CS1 of the Core Strategy (2007) or Policies DM10 (ix) or DM12 of the Development Management Policies Document (2015).
- 4) In the absence of a completed legal obligation under Section 106 of the Town and Country Planning Act 1990 (as amended), the applicant has failed to comply the provision of affordable housing.

- 5) The proposed development, in close proximity to the five ways junction, will cause an increase in the volume and nature of traffic generated that would have a severe adverse impact on the safety, convenience and freeflow of traffic using the highway, contrary to Policy CS16 of the Core Strategy 2007.
 - 6) The footpath to the east side of Church Road fails to provide a safe, convenient and attractive access for all, contrary to Policy CS16 of the Core Strategy 2007.
 - 7) The proposed development fails to provide 25% of three, or more, bedroom units to meet identified housing demand within the borough, and is therefore contrary to the requirements of Policy DM22 of the Development Management Policies Document 2015.
 - 8) The bulk, height, mass and design of the proposed development, coupled with the expanse of glazing at ground floor level, fails to respect local distinctiveness and would have a significant adverse impact on the character and appearance of the area, and the adjacent Pikes Hill Conservation Area. The proposal would therefore conflict with Policies DM8, DM9, DM10 and DM14 of the Development Management Policies Document (2015) and Policy CS5 of the Core Strategy 2007.
- 6.2. The application was appealed (APP/P3610/W/16/3160370) and some of the issues fell away during the appeal process. It was subsequently agreed that the remaining main issues were:
- 1) The effect of the proposal on the character and appearance of the surrounding area, including the adjacent Pikes Hill Conservation Area
 - 2) The effect of the proposal on highway safety in terms of parking provision and traffic flows
 - 3) Whether there is sufficient analysis to demonstrate there is not a sequentially preferable site.
- 6.3. In the appeal decision, dated 12 December 2017, the Inspector concludes that a sequentially preferable site was available that there would be harm to the character and appearance of the surrounding area, but did not agree with issues relating to highway safety. In the planning balance, the benefits did not outweigh the harm and the appeal was dismissed.
- 6.4. Aside from design changes, a clear differentiation in this scheme is the removal of the residential from the development. Consideration of the reasons for refusal and the subsequent decision of the Inspector in the appeal decision are discussed at length in the body of the report.

CONSULTATIONS

Consultee	Comments
Internal Consultees	
Conservation	Less than substantial harm to the significance of Pikes Hill Conservation Area
Ecology	No objection subject to conditions
Trees	Concerns regarding viability of new tree planting proposed
Land Contamination	No objection subject to conditions
External Consultees	
Environment Agency	No objection subject to conditions and informatives
Highway Authority	No objection subject to conditions and informatives
Lead Local Flood Authority	No objection subject to conditions and informatives
Surrey Archaeology	No objection subject to conditions
Thames Water	No comment
Public Consultation	
Neighbours	<p>The application was advertised by means of a site notice and notification to 70 neighbouring properties, concluding on 12 June 2023.</p> <p>62 submissions of objection were received. They raised the following issues:</p> <p><u>Principle</u></p> <ul style="list-style-type: none"> • Conflicts with policy and better suited for town centre which needs better shops • Brownfield site should be prioritised for remaining a green space or housing • Application will allow further urban creep • Need for more housing, not mass retail • Sufficient retail shops in walking distance – the purpose would be superfluous • No public benefit in having another discount store with same portfolio and pricing • The discount store 100m from the site provides adequate consumer choice for the area • No need for another store when Lidl already meets the needs of the demographic (Sainsbury's v Clark)

Consultee	Comments
	<p data-bbox="451 282 1382 383">Officer comment: Section 9 of the report deals with the principle of the development, including the use of the site for retail use and its relationship with other retail uses in the area.</p> <p data-bbox="451 427 592 461"><u>Highways</u></p> <ul data-bbox="520 506 1382 1816" style="list-style-type: none"><li data-bbox="520 506 1059 539">• Plans do not show enough parking<li data-bbox="520 544 1342 577">• Concerns that there would be traffic backlog at the site<li data-bbox="520 582 1342 651">• Unsuitable to build a store at busy Fiveways Junctions, which is an existing accident hotspot<li data-bbox="520 656 1283 725">• The site is on a very busy and dangerous junction, difficult for vehicles and pedestrians alike<li data-bbox="520 730 1302 763">• Junction cannot cope with additional volume of cars<li data-bbox="520 768 1310 801">• Junction is on a bend and visibility is poor for drivers<li data-bbox="520 806 1326 875">• Local side roads will become more congested as cars wait to access car park<li data-bbox="520 880 1283 949">• Leaving the driveways of properties to the north of Alexandra Road will be near impossible <li data-bbox="520 999 1278 1032">• Road is narrow and not feasible for delivery trucks<li data-bbox="520 1037 1310 1106">• Deliveries to the adjacent Jewsons already regularly cause damage to street furniture, requiring repair<li data-bbox="520 1111 1098 1144">• Lorries will add to existing congestion <li data-bbox="520 1193 1382 1285">• Highway Surveys in Transport Assessment not robust enough as Mondays and Fridays are the most congested days <li data-bbox="520 1335 1358 1404">• There is no cycle infrastructure in the immediate area to reduce car traffic <li data-bbox="520 1453 1350 1523">• If unable to use car park, customers would park on side streets, which would be horrendously unsafe<li data-bbox="520 1527 1374 1619">• The route is walked by school children, with some waling independently. The proposal will make the crossing more hazardous to these children<li data-bbox="520 1624 1382 1738">• The traffic issues are already dangerous so proposals will potentially cause issues for patients of neighbouring hospital <li data-bbox="520 1787 1310 1821">• Traffic and lorries will add to the potholes in the area <p data-bbox="451 1861 1382 2033">Officer comment: The traffic and parking requirements are discussed in Section 12. This extends to manoeuvrability into and leaving the site and the resulting implications for the nearby junctions. There are no undue safety risks to pedestrians arising as a result of these arrangements.</p>

Consultee	Comments
	<p>The surrounding roads are capable of accommodating cycles and this does not lessen the attractiveness of riding to the site. The surveys are appropriate in scope and the methodology (including days of the surveys) has been reviewed by the Highways Authority and no issue raised.</p> <p>Potholes remain the remit of SCC.</p> <p><u>Amenity</u></p> <ul style="list-style-type: none"> • Noise levels caused by deliveries day and night • Night noise from generators/ loading/shutters • Proposed Sunday/Bank Holiday opening hours are 10:00 to 17:00, which is longer than Lidl, Sainsbury's M&S and Waitrose • The Dairy Crest Site did not operate outside of the 06:00 – 22:00 window, and consequently no out of hours disturbances were experienced • Unloading quoted at 40 minutes with an average of 58dB is too noisy during night hours and should not be allowed by the Council • The Environmental Noise Report needs to specify the operation of machinery and requires a third survey point at 23 Wyeth's Road. <ul style="list-style-type: none"> • Increased noise, traffic and air pollution • Unreasonable amount of light pollution • The nearby residents will be adversely impacted • Movements of customers would turn a quiet road into a nightmare <ul style="list-style-type: none"> • Littering and abandoned trolley blowing into adjacent residential gardens <ul style="list-style-type: none"> • Noise and disturbance during construction <ul style="list-style-type: none"> • No plan for regular boundary fence maintenance and upkeep <p>Officer comment: Section 14 details the likely noise and light spill issues with the scheme, including plant, deliveries and vehicular and customer movements. There is no in-principle objection on either grounds though further details of lighting and compliance with noise measures are required by condition. The proposal is also conditioned so that deliveries and opening hours are limited to 6am-10pm.</p>

Consultee	Comments
	<p>With respect to the comments relating to the Noise Report, this has been fully scrutinised by the Council's Environmental Health Team and found to be acceptable in methodology. A third survey at 23 Wyeths Road is not necessary to demonstrate whether the proposal is acceptable.</p> <p>The trolley bay at the store entrance will appropriately secure trolleys. This central location is appropriate relative to the size of the car park (66 spaces) and as the trolleys are coin operated.</p> <p>Construction impacts are primarily unavoidable consequences of the redevelopment of the site and a Construction Management Plan is conditioned to ensure that this is appropriately managed.</p> <p>A Landscape Management Plan is included and this extends to boundary treatments. Elsewhere, conditions are applied to ensure retention of acoustic measures.</p> <p><u>Heritage</u></p> <ul style="list-style-type: none">• Not in keeping with Pikes Hill Conservation Area Article 4 Directive <p>Officer comment: See Section 10.</p> <p><u>Character</u></p> <ul style="list-style-type: none">• The area is mostly residential, small character cottages and housing. A massive superstore is out of keeping.• Imposing modern commercial building with no windows on north elevation, and ugly grey and glass East and West Elevation, with a vast expanse of dark roof space, light pollution and tarmac <p>Officer comment: See Section 10.</p> <p><u>Ecology</u></p> <ul style="list-style-type: none">• The site has seen badgers, butterflies and bluebells, so would be better left as a wildlife space• Proposal does not achieve 10% biodiversity net gain on site• With an allotment 100m from the site, reptiles have been observed which may have migrated to existing habitat within the proposed development• Species Survey out of date

Consultee	Comments
	<p data-bbox="451 282 1385 387">Officer comment: See Section 15 for a full assessment of ecology impacts, including that this surveys provided with the application are satisfactory.</p> <p data-bbox="451 427 536 461"><u>Other</u></p> <ul data-bbox="520 506 1382 763" style="list-style-type: none"><li data-bbox="520 506 1382 645">• The creation of 50 new jobs is laughable. There are plenty of supermarket jobs. There is no case for the demand of supermarket jobs outweighs the supply of them<li data-bbox="520 651 1382 723">• Siting the store in Horton would be better for delivery and supply logistics<li data-bbox="520 730 1382 763">• Loss of a view/impact on wellbeing <p data-bbox="451 797 1382 947"><u>Officer Comment:</u> Officers can only consider the application put before them and therefore a preferred use of the site or preferred location for new retail development cannot be considered as part of this application.</p> <p data-bbox="451 981 1382 1086">The loss of a view and the subsequent impact on well-being as a result of that loss is not a material planning consideration for this application.</p> <p data-bbox="451 1133 1270 1196">65 submissions of support were received for the following reasons:</p> <ul data-bbox="520 1245 1382 2000" style="list-style-type: none"><li data-bbox="520 1245 1382 1279">• The proposal would deliver a number of public benefits<li data-bbox="520 1285 1382 1319">• Up to 50 new jobs in the area<li data-bbox="520 1326 1382 1359">• Epsom desperately needs retail investment<li data-bbox="520 1366 1382 1400">• Significant investment into the local economy<li data-bbox="520 1406 1382 1440">• Proposal will revitalise a currently disused site<li data-bbox="520 1447 1382 1509">• Lidl has rejuvenated the Upper high Street area, a new Aldi can only help keep this poorly managed town alive<li data-bbox="520 1516 1382 1550">• A local Aldi store that reduces travel time<li data-bbox="520 1556 1382 1590">• Will save residents time travel/cost<li data-bbox="520 1597 1382 1630">• Ideal location to enable local community to walk to shop<li data-bbox="520 1637 1382 1700">• There is ample additional parking and Depot Road/Upper High Street <li data-bbox="520 1744 1382 1778">• Greater affordable produce would be available to the area<li data-bbox="520 1785 1382 1818">• Proposal will give shoppers more choice<li data-bbox="520 1825 1382 1888">• Will reduce pressure on Aldi Ewell Store, which is currently very busy <li data-bbox="520 1933 1382 2000">• In this time of ever increasing rises in cost of living, this would significant help those struggling financially

Consultee	Comments
	<ul style="list-style-type: none"> • Plan well thought out and building has been landscaped to fit in with the surrounding area and not appear to overbearing. <p><u>Officer comment:</u> The above comments are noted and weigh in the overall planning balance.</p> <p>4 comments were received identifying the following:</p> <ul style="list-style-type: none"> • Feel that more than 4 disabled spaces are needed • Junction seems poorly planned • Query why neighbour letters were not sent to Mill Road, who would be affected if roadworks affected one way system <p><u>Officer comment:</u> The junction and accessible parking spaces comments have been addressed in the report below.</p> <p>In respect of the query relating to third party notification, Officers are satisfied that this has been carried out in accordance with the statutory procedure. A site notice has been displayed at the site since 22 May 2023.</p>
College Ward Residents Association	<p>Objection</p> <ol style="list-style-type: none"> 1. The borough needs residential, not more grocery retail. 2. This will be a new retail development in a residential area. It is not suitable for the area. 3. Traffic congestion will create a major disturbance to the area and cause car-park queuing spill-over blockages into the highway, as it does at Aldi Ewell. 4. There will be massive impact on the residents opposite in Alexandra Road and in Church Road. Access and egress to their properties will be adversely affected. 5. The retail offer does not seem to include self-service checkouts for small basket purchases. This will mean that the proposed walking, cycling and public transport customers may not materialise, leading to overstatement of Aldi's sustainable transport offer. 6. The removal of two highway parking spaces on the north-east border of the site to allow for the relocation of the traffic island further east. This will make parking for the Old Cottage Hospital even more difficult than now. 7. The new road layout will make it impossible to overtake cyclists, which will make traffic slow to a crawl. 8. The location of Stane Street, the ancient Roman Road, through Epsom is unknown but is known to pass in the vicinity. It should not be assumed to pass to the east of the site, but could pass through it, more along the line of Downs Road, Church Road, Mill Road, and then to Ewell High Street and the A24 by Nonsuch.

Consultee	Comments
	<p>Traffic congestion – the Aldi Ewell store promotes congestion in the first lane of the A24. Their transport report at the time probably did not predict this and so their current reports need to be examined and challenged very closely. This congestion is even demonstrated on the Google Maps satellite photo, which shows in excess of 20 queuing cars. Were this to happen in Epsom, a major artery into Epsom would be blocked. The right-hand turn lane proposed only has space for 4-5 cars. When this is full, the Fiveways junction will be effectively blocked.</p> <p>Trip underestimation – Appendix 7 to the Transport Assessment includes a comparison of the Lidl store movements and extrapolates this to the smaller Aldi store.</p> <p>However, the gross retail area is used, where Lidl has much larger back of house and ancillary space. Only direct retail floor space should be used, as this will be the attractor to customers, not staff welfare rooms. The net floor areas that should be used for each are 1352sqm and 1054sqm respectively (as seen in their respective planning applications). This means that the comparator ratios should not be 1.83, but 1.28. This gives much higher trip numbers, and much closer to Lidl's, which seems intuitively logical, as Aldi seeks to compete with Lidl, not to have nearly half the customers.</p> <p>The Transport Assessment suggests that the TRICS data be used. Lidl-extrapolated data indicates that trips will be greater than what Aldi proposes to use for its transport assessment. In the case of weekday morning arrivals, the revised trip data is 71% higher than what Aldi suggests. On this basis, the Transport Assessment should be disregarded as being wilfully understated.</p> <p>Traffic survey unrepresentative - It is immediately obvious to any sane person that the 2022 traffic flows are still heavily reduced due to the COVID-19 effect and homeworking. They should be completely disregarded as unrepresentative of the future. Nevertheless, the Transport Assessment states “the 2022 flows will nonetheless be continued to be used in this assessment as they represent current traffic conditions”. It is becoming clear that the Transport Assessment cannot be relied upon to give a fair and undistorted view. Everything else that follows from these fabricated and understated base assumptions must be disregarded.</p> <p>Use of old census data - Paragraph 4.6.21 of the Transport Assessment refers to use of the 2011 census population data. We now know from the 2021 census that the Epsom & Ewell population has grown by 7.7% (see www.ons.gov.uk).</p>

Consultee	Comments
	<p>Customers may also come from the nearby local boroughs of Sutton (+10.2%) and Reigate & Banstead (+9.5%).</p> <p>PICADY summary - Because of the above understated base assumptions, the PICADY computer program is tarnished by GIGO (“Garbage In, Garbage Out”). Accordingly, the conclusions of the Transport Assessment should also be treated as unreliable and likely to be over-optimistic over the traffic congestion.</p> <p>Narrowing of road lanes and effect of and on cyclists - The road lanes are proposed to narrow with significant areas being hatched with white diagonal lane divider markings. This will slow traffic down in this area, which is not a bad thing but will increase congestion.</p> <p>Cars will no longer be able to overtake cyclists in this area. This will not be so much of a problem as the cyclists descend the hill but will be a problem as cyclists ascend the hill. Traffic will likely be slowed to 5mph behind cyclists here. This will most certainly cause traffic tailbacks behind cyclists, which may feed back to the Fiveways Junction. Cyclists themselves will no longer feel secure in using this route.</p> <p><u>Officer Comment:</u> As set out in the following report, the County Highway Authority are satisfied that the methodology used to support the surveys and assessments within the Transport Statement are robust and provide a realistic assessment of the likely impact of the proposed development on the highway network and that the potential traffic effect of the proposed development, in both the immediate and future scenarios, is unlikely to result in a severe impact on the capacity or safety of the local highway network.</p> <p>Concerns relating to archaeology and principle (reasonableness of a retail offering on this site) are discussed in the body of the report.</p>
Epsom Civic Society	<p>Objection</p> <p>A very similar proposal was previously presented by Aldi (Planning Application 15/01346/FUL), which was subsequently refused by the Council. Many of the refusal comments are still applicable.</p> <p>Since Aldi’s previous Planning Application, a new Lidl has been opened in Upper High Street, approximately 400m from this site. The Lidl complex includes residential units and is adjacent to the Town Centre retail area. The Lidl supermarket is mainly used by</p>

Consultee	Comments
	<p>shoppers walking from within the town centre shops. We suggest that this site is more suited for a residential development rather than a food retail unit. It is noted that recent the Draft Local Plan did not allocate this site for housing. This was a mistake as the location would lend itself extremely well for flats and possibly affordable housing. Also, there would be a valuable contribution to our current housing targets.</p> <p>The site is located adjacent to the Pikes Hill Conservation Area. This presents a similar situation to the proposed Police/Ambulance site in Church Street, which is located adjacent to the Church Street CA. The Council has recommended that the proposed residential development would adversely affect the CA. The Aldi site is identical in its nature and juxtaposition.</p> <p>The previous Aldi scheme was refused based on the following:</p> <ul style="list-style-type: none">• The proposed development is not in accordance with the development plan strategy as it promotes retail space outside of the town centre. The Application is contrary to the requirements of Section 2 of the National Planning Policy Framework. It does not promote a town centre first approach to retail development in particular to Policy CS14 (Core Strategy 2007) and Policies E3 & E14 of the Epsom Town Centre Action Plan (2011).• The proposed development is in close proximity to the five ways junction and will cause an increase in the volume and nature of traffic generated. Contrary to Policy CS16 of the Core Strategy 2007• The footpath to the east side of Church Road fails to provide a safe, convenient and attractive access for all, contrary to Policy CS16 of the Core Strategy 2007. <p>The major problem of operating an Aldi site in this location is the vehicle trafficking for shoppers, staff and deliveries. The only access identified is from Alexandra Road close to the five way junction, at 12m distance. At present it is one of the most challenging junctions for the motorist. Views are impaired by parked cars and traffic proceeding at speed down Alexandra Road. The addition of the Aldi store entry/exit can only further complicate this dangerous junction.</p> <p>Our other local Aldi stores generate high traffic levels resulting in queuing traffic e.g. Kingston Road, Ewell Aldi store. Where and how will the traffic form queues? Surrey Council Highways need</p>

Consultee	Comments
	<p>to fully review the traffic challenge before any approvals can be considered.</p> <p>The construction works are planned to be completed in 2 stages ie Enabling Works and main construction activities. We note that the attached Construction and Environmental Management Plan does not explain the contractor's approach to the sheet piling works at the east boundary of the site. These works could create ground movements to the Old Cottage Hospital and houses in Wyeth's Road. There is no explanation of proposed piling plant, height of reduce level excavations, temporary supports, ground water containment, noise and vibration levels.</p> <p><u>Officers Comment:</u> In concluding the previous appeal relating to 15/01346/FUL, the Planning Inspector found the reasons relating to highways, traffic generation, pedestrian access and vehicle parking to have no conflict with national and local policy and therefore acceptable.</p> <p>For clarity, the Inspector dismissed the appeal for reasons relating to the failure of the sequential test and harm to the Conservation Area, which was not outweighed by the public benefits identified.</p> <p>Whilst a condition securing details relating to piling have been requested by the Environment Agency and applied in relation to ground water contamination, matters relating to ground movement would be a matter for Building Regulations. Issues such as noise and vibration are transient and it would be unreasonable to recommend a refusal on these grounds.</p> <p>With respect to the Police/Ambulance site in Church Street, to clarify, whilst Council has recommended that the proposed residential development would adversely affect the Conservation Area, this harm is outweighed by the public benefits, in accordance with paragraph 208 of the NPPF.</p> <p>Notwithstanding that applications must be assessed on their own merits; Officers would refute the suggestion that the site is identical in its nature and juxtaposition to the respective Conservation Areas.</p> <p>To confirm, Surrey Council Highways have fully reviewed the traffic challenge as suggested and raised no objection on any highway grounds, subject to conditions and informatives.</p> <p>Concerns relating to the principle of the development (reasonableness of a retail offering on this site) are discussed in the body of the report.</p>

PLANNING LEGISLATION, POLICY, AND GUIDANCE

7. Planning Policy

7.1. National Planning Policy Framework 2023 (NPPF)

- Section 2: Achieving Sustainable Development
- Section 6: Building a Strong, Competitive Economy
- Section 7: Ensuring the Vitality of Town Centres
- Section 8: Promoting Healthy and Safe Communities
- Section 9: Promoting Sustainable Transport
- Section 11: Making Effective Use of Land
- Section 12: Achieving Well-Designed Places
- Section 14: Meeting the Challenge of Climate Change, Flooding and Coastal Change
- Section 15: Conserving and Enhancing the Natural Environment
- Section 16: Conserving and Enhancing the Historic Environment

7.2. Epsom and Ewell Core Strategy 2007 (CS)

- Policy CS1: Sustainable Development
- Policy CS3: Biodiversity and Designated Nature Conservation Areas
- Policy CS5: The Built Environment
- Policy CS6: Sustainability in New Development
- Policy CS11: Employment Provision
- Policy CS16: Managing Transport and Travel

7.3. Epsom and Ewell Development Management Policies Document 2015 (DMPD)

- Policy DM4: Biodiversity and New Development
- Policy DM5: Trees and Landscape
- Policy DM8: Heritage Assets
- Policy DM9: Townscape Character and Local Distinctiveness
- Policy DM10: Design Requirements for New Developments
- Policy DM17: Contaminated Land
- Policy DM19: Development and Flood Risk
- Policy DM24: Employment Uses Outside of Existing Employment Policy Areas
- Policy DM25: Development of Employment Premises
- Policy DM29: Major New Retail Developments
- Policy DM35: Transport and New Development
- Policy DM36: Sustainable Transport for New Development
- Policy DM37: Parking Standards
- Policy DM38: Rear Servicing

7.4. Supplementary Planning Documents and Guidance

- Council's Retail and Commercial Leisure Needs Assessment 2020
- Council's Retail and Commercial Leisure Needs Assessment Update 2021
- Parking Standards for Residential Development Supplementary Planning Document 2015
- Surrey County Council Vehicular and Cycle Parking Guidance 2018
- Surrey Transport Plan 2022–2032
- Sustainable Design Supplementary Planning Document 2016

7.5. Other Documentation

- Pikes Hill Conservation Area Character Appraisal

PLANNING ASSESSMENT

8. Presumption in Favour of Sustainable Development

- 8.1. Paragraph 11 of the NPPF stipulates that development proposals which accord with an up-to-date development plan should be approved and where a proposal conflicts with an up-to-date development plan, permission should not usually be granted.

9. Principle of Development

9.1. Location of Development

- 9.2. The site is located within the built-up area of Epsom and outside of the Epsom Town Centre boundary as defined in Plan E Epsom Town Centre Area Action Plan 2011. Although currently vacant, the site last operated as a milk depot, and is therefore in a lawful Class B8 Storage and Distribution use, as defined under the Town and Country Planning (Use Classes) Order 1987.
- 9.3. Policy CS11 of the CS sets out that a cautionary approach will be adopted to the loss of employment land outside of strategic employment area
- 9.4. This approach is reflected in Policy DM24 of the DMPD, which sets out a requirement for robust marketing justification for the loss of any employment floor area outside of existing employment areas.
- 9.5. However, whilst Policy DM24 of the DMPD seeks to protect employment uses outside of existing employment areas, it does not prevent the loss of Class B8 employment floor space. The loss of the existing Class B8 use from the site is therefore acceptable.

- 9.6. The proposal is for retail food store, which falls within Class E of the Town and Country Planning (Use Classes) Order 1987 (as amended). The proposal would therefore not result in the loss of an employment site, as it would create up to 50 employment opportunities.
- 9.7. Furthermore, the proposal would represent economic growth, as it would bring a currently vacant employment site back into use, thereby satisfying Policy DM24 of the DMPD.
- 9.8. Policy DM25 of the DMPD encourages the development of employment premises, subject to compliance with a criteria based assessment, noting that whilst Epsom Town Centre is the most sustainable location for offices and higher density employment uses, other locations will be considered on their merits and having regard to the policies contained within the local plan.
- 9.9. Paragraph 90 of the NPPF highlights that planning decisions should support the role that town centres play at the heart of local communities, by taking a positive approach to their growth, management and adaptation.
- 9.10. In order to support growth of Town Centres, paragraph 91 of 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.
- 9.11. Annex 2 of the NPPF includes retail development within the definition of main town centre uses and defines edge of centre, for retail purposes, to be a location that is well connected to, and up to 300 metres from, the primary shopping area. Out of centre is defined as a location which is not in or on the edge of a centre but not necessarily outside the urban area.
- 9.12. Paragraph 92 of the NPPF states that 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.
- 9.13. Paragraph 94 of the NPPF states that when assessing applications for retail and leisure development outside town centres, which are not in accordance with an up-to-date plan, local planning authorities should require an impact assessment if the development is over a proportionate, locally set floorspace threshold (if there is no locally set threshold, the default threshold is 2,500m² of gross floorspace).

- 9.14. 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)
- 9.15. Paragraph 95 of the NPPF states that where an application fails to satisfy the sequential test or is likely to have significant adverse impact on one or more of the considerations in paragraph 94, it should be refused.
- 9.16. Policy DM29 of the DMPD states that major retail development will only be permitted within Epsom Town Centre shopping area, Where it has been demonstrated that there are no suitable sites, preference will be given to a site on the edge of Epsom Town Centre Primary Shopping Area or within the Borough's other retail centres and only then to local centres that are in locations accessible by a choice of means of transport.
- 9.17. Policy DM29 of the DMPD continues in sites outside of the Epsom shopping area, and states that permission will only be granted provided that:
- i. either in isolation or in combination with similar developments in the vicinity, the proposed development would not have a significant impact on the vitality or viability of other shopping centres
 - ii. a demonstrable need exists in terms of estimated growth in expenditure within the catchment area; and
 - iii. the impact on overall travel patterns and car use is to reduce the need to travel, to reduce reliance on the car and to facilitate multi-purpose trips
- 9.18. The site is located 308 metres from the Primary Shopping Area as defined in Plan E Epsom Town Centre Area Action Plan 2011 and only just located beyond the maximum 300 metres that could consider the site as an edge of centre site. The site is therefore defined by the NPPF as out of centre. This remains consistent with the conclusions of planning application 15/01346/FUL, a position which was not questioned by the Inspector at the subsequent appeal.
- 9.19. Retail Sequential Test**
- 9.20. As set out above, as the site is not located within a defined town centre, it is necessary for the sequential test to demonstrate that there are firstly no town centre location available for the proposed use and secondly, no edge of centre locations where the use can be accommodated. If neither town centre nor edge of centre locations are available, then out of town

centres, with preference for accessible sites which are well connected to the town centre, may be considered.

- 9.21. The application is supported by a Planning and Retail Statement, prepared by Planning Potential, dated March 2023, which sets out the sequential approach for the site. The Council has engaged an independent assessment of the retail planning issues, namely the retail impact and sequential test, raised by the Planning Application. The full analysis and conclusions of the Council's Independent Retail Consultant, (Litchfields) can be found in the Retail Critique, prepared by Litchfield's, reference W 32182333v2 and dated June 2024.
- 9.22. Flexibility and Disaggregation
- 9.23. The PPG provides relevant guidance on the sequential test. Paragraph 011 Reference ID: 2b-011-20190722 advises that 'the application of the test will need to be proportionate and appropriate for the given proposal' and highlights the requirement of paragraph 92 of the NPPF to demonstrate a degree of flexibility in relation to format and/or scale of a proposal when undertaking the sequential site assessment.
- 9.24. Two legal decisions consider on what is mean by 'flexibility' within the NPPF. The Dundee Supreme Court Judgement (Tesco Stores Limited v Dundee City Council (Scotland) March 2012), established that if a site is not suitable for the commercial requirements of the proposal, then it is not a suitable site for the purposes of the sequential approach and, that in the matter of flexibility, provided that an applicant has demonstrated flexibility with regards to format and scale, the question is whether the alternative site is suitable for the proposed development, not whether the proposed development could be altered or reduced so it can be made to fit the alternative site. It is important to highlight at this point that whilst the Dundee case was a Scottish case, the Supreme Court's decision applies in England.
- 9.25. This judgement is further reinforced in Secretary of State in Rushden Lakes (Pins Ref. APP/G2815/V/12/2190175, 2014) and Inspectorate appeal decisions at Vulcan Way, Sheffield (Pins Ref. APP/J4423/A/13/2189893, 2013) and Stoke on Trent (Pins Ref: APP/M3455/A/13/2195541, 2014).
- 9.26. The second legal decision is Aldergate Properties Ltd v Mansfield District Council (8 July 2016), in which the judgement noted that the application of the sequential test 'should not depend on the individual corporate personality of the applicant or intended operator, but on the content of the applications. Paragraph 24 [now paragraphs 91 and 92 of the NPPF] does not require the suitability and availability of sites to be judged simply from a retailer's perspective, but according to the type of retail use for which permission was sought'.

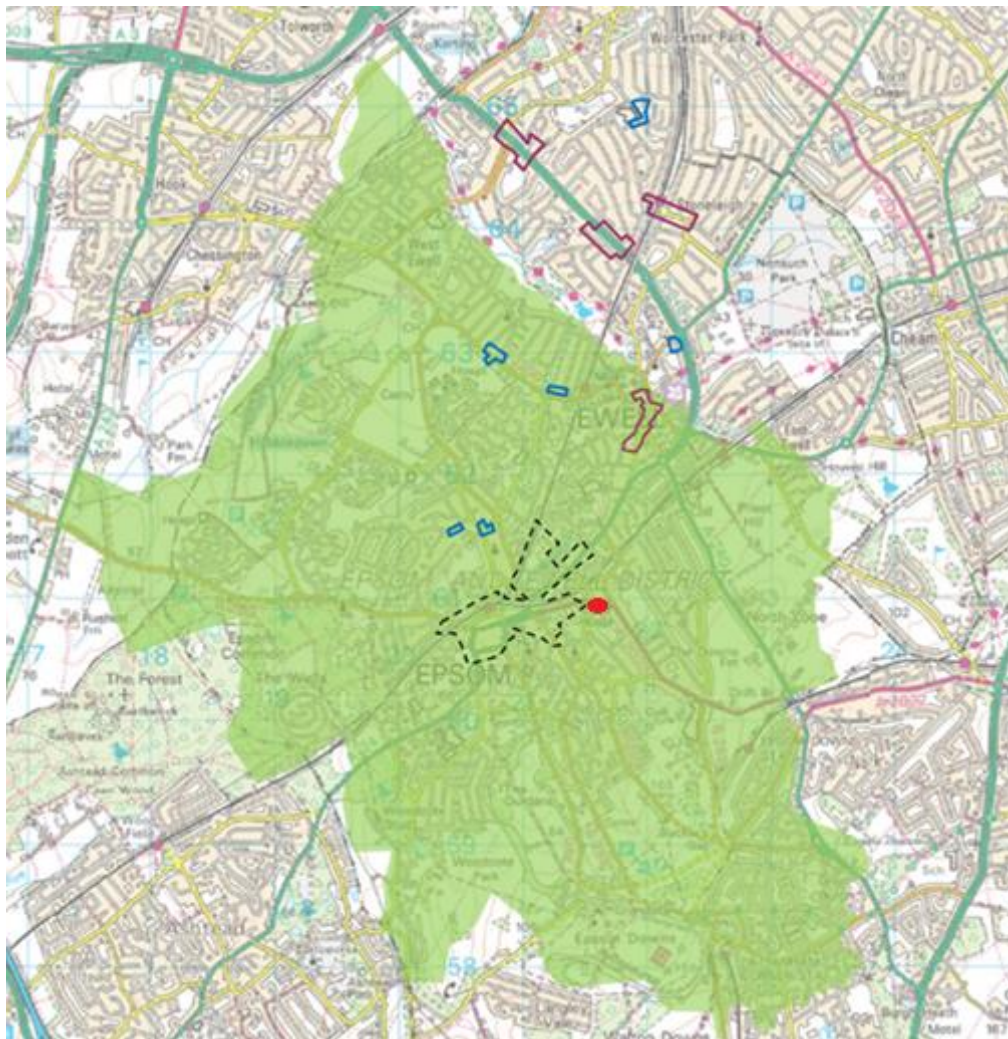
- 9.27. It went on to state (paragraph 38) that 'in my Judgment, "suitable" and "available" generally mean "suitable" and "available" for the broad type of development which is proposed in the application by approximate size, type, and range of goods'.
- 9.28. These cases highlight that flexibility is not a tool to reduce or disaggregate a proposal to accommodate a sequentially preferable site, as concluded by the Inspector in Stoke on Trent, who noted 'although an applicant is expected to demonstrate flexibility in assessing alternative sites, there is no unequivocal requirement to reduce the size of a proposed development to fit a particular site'
- 9.29. It has also been held that operational requirements are very valid requirements when undertaking a sequential site assessment. This was accepted by the Secretary of State in Southport (Pins Ref: APP/M4320/V/15/3002637, 2016) and the Inspectors in Gillingham (Pins Ref: APP/N215/W/18/3195092, 2019) and Barnstaple (Pins Ref: APP/X1118/A/11/2153012, 2011) when considering the alternative sites, with the latter noting that 'account should be taken of any genuine difficulties which would arise in operating the proposed business model from a sequentially preferable site, for example, where a retailer would be limited to selling a significantly reduced range of products'.
- 9.30. Availability
- 9.31. Paragraph 91 of the NPPF expects a site to become available within a reasonable period. Whilst the NPPG referred to a reasonable period of time to be between 2 to 5 years, the NPPF and NPPG provide limited guidance on what is a reasonable period of time for a site to be considered to be available.
- 9.32. The current use of the site and whether they are being actively marketed are factors that provide an indication of when a site is likely to become available. The key consideration is whether this is a reasonable period of time in relation to the development proposed.
- 9.33. The NPPG indicates 'the scale and complexity of the proposed scheme and of the potentially suitable town or edge of centre sites should be taken into account'.
- 9.34. The proposed scheme does not appear to be particularly large or complex and the site appears to be available for development and it is for the decision maker to decide what is a reasonable period of time relevant to the specific planning application and how town or edge of centre opportunities would or would not meet this timetable.
- 9.35. In the Rushden Lakes decision, the Inspector stated: 'In terms of availability, NPPF simply asks whether town centre or edge of centre sites are "available". It does not ask whether such sites are likely to become

available during the remainder of the plan period or over a period of some years.

- 9.36. Based on case law and recent decisions, in terms of the availability of sequential sites, an alternative site should be available within a similar timeframe to the development proposal. On the basis that the development is likely to be completed in 2025 and trading to its full potential by 2027, the Council's Retail Consultant advises that this timetable is likely to rule out sites that are not in a position for construction to commence in 2025.
- 9.37. Site Parameters
- 9.38. The application is supported by a Planning and Retail Statement, prepared by Planning Potential, dated March 2023, which identifies the proposed applicant operation as a being a Limited Assortment Discounter (LAD) food store business model (as is Lidl on Upper High Street), which has been recognised to be distinguishable from other forms of convenience goods retailing.
- 9.39. The operation requirements of the operator proposed differ to those of a typical supermarket. It carries a limited number of product lines and does not have any in store kiosks (i.e., cigarettes) or specialist concessions (i.e., butcher or fishmongers). The proposed operator does not act as 'one stop shop', meaning customers are likely to have to visit other shops to buy branded goods or other products not typically stocked by the proposed operator. The proposed operator offers the same range of goods and brands in all stores, regardless of their location.
- 9.40. For this reason, there is limited scope for LAD retailers to be flexible in their floorspace configuration. However, the proposal has been designed to incorporate back-of-house storage and staff areas over two levels (a deviation from the operator's typical format), and a lower than typical level of net retail floorspace below typical the operators typical levels.
- 9.41. It is therefore the view of the Council's Retail Consultant that the operators proposals could be accommodated on a smaller site allowing for appropriate flexibility.
- 9.42. The sequential approach set out in the supporting Planning and Retail Statement identifies the sequential tests parameters for assessment, which are the key operational requirements for the proposed operator. These are:
- a site that can facilitate circa. 1,300 sqm unrestricted retail floorspace at grade and on a single storey, in order to enable efficient and safe circulation around the store and allow for the full product offer;
 - a site that can accommodate surface level car parking to allow for safe and convenient customer access to the store;

- a site that allows sufficient space for the safe manoeuvring of customer and delivery vehicles;
- a site in a visible location to attract trade and that is accessible by means other than a car i.e pedestrians, cyclists, and a choice of public transport;
- a site that provides a dedicated service area to allow access from the road network through the carpark by HGVs.

9.43. The catchment area for the sequential search has focused on the primary catchment area (in green) that the proposed store (denoted by a red dot) would serve:



Source: Figure 6.2 in the Planning and Retail Statement

9.44. This catchment area was agreed with Officers during consideration of the previous application 15/01346/FUL and the scope of the subsequent appeal. As well as the core area of the Epsom Town Centre, the catchment area also includes in or on the edge of other identified centres within the catchment area, which are as follows:

- Ewell Village Secondary Town Centre
- Chessington Road/Plough Road Local Centre

- Chessington Road/Green Lanes Local Centre
- Pound Lane Local Centre
- Manor Green Local Centre

- 9.45. With regards to the area of search, the Council's Independent Retail Consultant, Litchfields, notes that proposed LAD is likely to have a relatively localised catchment area, with most trade coming from the Epsom urban area.
- 9.46. This catchment area is also consistent with Zone 1 of the Council's relevant evidence base in the Retail & Commercial Leisure Needs Assessment Update 2021 (figure 5.1).
- 9.47. The Council's Independent Retail Consultant is satisfied that the catchments area would cover potential sequentially preferable sites within or on the edge of Epsom Town Centre and agrees that the catchment area is appropriate and that any other designated centres beyond the Epsom urban area and centres listed above would not serve the same catchment area as the application proposal.
- 9.48. The sequential assessment has also taken into consideration the largest identified vacant town centre units (Unit 42 Ashley Centre and 113 High Street).
- 9.49. The sequential assessment comprises the following appropriate sites:
- Unit 42 Ashley Centre (In Centre)
 - 113 High Street (In Centre)
 - Epsom Town Hall (Edge of Centre)
 - Hope Lodge Car Park (Edge of Centre)
 - Police Station (Edge of Centre)
 - Depot Road and Upper High Street (Edge of Centre)
 - Hook Road and SGN Site (Edge of Centre)
- 9.50. No sites were identified appropriate for a more detailed assessment in the Ewell Village Secondary Town Centre or four Local Centres.
- 9.51. The summary of the Sequential Assessment set out in the applicant's Planning and Retail Statement, as follows:

Unit 42 Ashley Centre

Applicant's Planning and Retail Statement:

Whilst this site could accommodate the floorspace requirements, the unit is supported by any dedicated surface level car parking to allow for safe and convenient access, the delivery vehicle area would not meet the requirements for a food retailer that requires a dedicated service area for

the point of delivery to be at the same level as the sales area to ensure efficient movements of goods to shop floor.

Even allowing for flexibility, this unit has significant constraints for a LAD operator.

The site is considered to be available, but unsuitable for the proposed development.

Council's Retail Consultant:

Whilst querying the blanket suggestion that a foodstore could not operate with a shared servicing area and shared parking facilities, it is noted that Primark has announced that they have signed a lease for the unit following the approval of permissions for plant machinery, external alterations and signage (23/00094/FUL and 23/00095/FUL). As such, this **site can be dismissed as unavailable under the sequential test.**

The Council's Retail Consultant has had regard to a third party objection suggesting that Ashley Centre as a sequentially preferable location but is not aware of any other space in the Ashley Centre that would be available within a reasonable period.

113 High Street (Former Lakeland)

Applicant's Planning and Retail Statement:

Since the production of the Planning and Retail Statement, the unit has since been occupied by a Class E use.

Notwithstanding this, the ground floor offers only 290 sqm of floor area, which is significantly below the circa. 1,300 sqm required and therefore too small to accommodate the proposed operation. The unit also has no dedicated parking or servicing area.

The site is considered to be unavailable and unsuitable for the proposed development.

Council's Retail Consultant:

Notwithstanding that this site is now occupied by a coffee shop, the 560 sqm site (over three floors) is too small and **could have been dismissed as unsuitable under the sequential test.**

Epsom Town Hall

Applicant's Planning and Retail Statement:

Whilst the site would be large enough to accommodate the operational requirements, the site is unavailable in a reasonable period of time to

accommodate the proposal, as the timescales for the relocation of EEBC, the Police and other community services are unknown.

The site is considered to be unavailable and unsuitable for the proposed development.

Council's Retail Consultant:

This edge of centre site measures 0.7ha and is identified as an opportunity site within Plan E, with no requirement for retail use. The Town Hall is currently occupied and although there are plans to relocate the services within the building, the timescales for this are uncertain. Therefore, the site is unlikely to be available within a reasonable period and therefore **the site can be dismissed as unavailable under the sequential test**

Hope Lodge Car Park

Applicant's Planning and Retail Statement:

Although the site is available for development, it is being promoted for residential as part of the nearby Town Hall and Clinic sites. The site forms a strategic residential allocation in the emerging plans and the proposal would clearly not fit within the aspirations of the site

Notwithstanding this, the site is too small to accommodate the proposed operation.

The site is considered to be available, but unsuitable for the proposed development.

Council's Retail Consultant:

This edge-of-centre site measures 0.3ha and is included as a Strategic Site and opportunity as part of the above referenced comprehensive residential allocation within the emerging Local Plan. Whilst available, the site would be unsuitable as it would be too small to facilitate the proposed development. As such, **the site can be dismissed as unsuitable under the sequential test.**

Former Police Station

Applicant's Planning and Retail Statement:

The site is considered unavailable for the proposed development, either being occupied by current community use or and is the subject of redevelopment plans for residential or care uses.

Should the entirety of the site come forward as a single development opportunity it would be large enough to accommodate the application proposals, however it is not large enough to accommodate mixed-use development including the proposed development and the scale of residential / care home development proposed for the site.

The site forms a strategic residential allocation in the emerging local plan and an Aldi would clearly not fit with the aspirations for the site.

The site is unavailable and unsuitable for the proposed development.

Council's Retail Consultant:

This edge of site within the Strategic Site and proposed allocation for comprehensive residential development within the emerging Local Plan; the combined site has also previously been allocated for residential and retention of the current civic and community uses.

The site measures 0.6ha, whilst it could accommodate the application proposal in isolation, it could not accommodate associated residential required by the existing and emerging allocations. Notably, the site is currently subject to an application for a care home (22/00923/FUL), which was recently granted, subject to the completion of a Section 106 Agreement

As such, **the site can be dismissed as unavailable under the sequential test.**

Depot Road and Upper High Street

Applicant's Planning and Retail Statement:

The position since the Inspector considered these sites has not changed since the appeal was determined in 2017. The cables that still bisect both sites, originating from the UK Power Networks Sub-Station located between the two car park areas, would still need to be lifted and shifted at significant cost before any substantial redevelopment of the areas could be undertaken.

The remaining car park areas are not suitable for substantial development due to the many constraints, including; the need to relocate the high voltage cables; need to re-provide the significant level of current town centre public parking across the sites; proximity to low level residential properties along site boundaries which limits height / massing of future development, and; the lack of appropriate highway access, particularly in the case of Depot Road car park.

Whilst site owners are promoting the site's availability for development, it could not come forward within a reasonable period of time for the proposed development and as this forms a strategic residential/car

parking allocation in the emerging local plan and an Aldi would clearly not fit with the aspirations for the site.

The sites are unavailable and unsuitable for the proposed development.

Council's Retail Consultant:

This edge-of-centre site measures 2.5ha. It has been partially occupied by the development of a Lidl foodstore and 6 associated residential units, leaving 1.2ha predominantly made up of car parking and small commercial units. This site was subject to detailed consideration during the dismissed appeal scheme

The site was previously allocated for retail (2,000 sq m comprising a mix of small retail units and a small-medium sized foodstore) and a minimum of 130 residential units, 28 homelessness prevention flats, medical centre, place of worship, and retention of car parking spaces. The emerging Local Plan seeks to allocate the sites for at least 100 new homes and decked car parking

Additionally, the presence of Low Voltage, High Voltage and Ultra High Voltage cables across the sites would require relocation. This position, and the costs and time associated with the requirement were considered during the 2017 appeal, where it was considered that the delays of 18-24 months would render the site unavailable for the appeal proposal under the sequential assessment in a reasonable period.

Notably, this specifically related to the development proposal, but would not necessarily impact a residential allocation over the longer term where such constraints could be mitigated by relocating the cables. In light of these constraints, **the remaining areas of the sites are unavailable and unsuitable and can therefore be dismissed under the sequential test.**

Hook Road and SGN Site

Applicant's Planning and Retail Statement:

The majority of the site has been allocated for mixed-use redevelopment, with the adopted Policy E15 ('Utilities Sites') of the Plan E AAP supporting comprehensive redevelopment for mixed-use with the primary land use being 'employment floorspace'. This site did not form part of Aldi's previous site assessment as the site was not allocated for retail use.

The site has since been promoted for mixed-use development by the owner to deliver a significant quantum of residential development, alongside retail and leisure uses. The site is identified as Strategic Site SA1 and a proposed allocation at least 640 new homes, student accommodation with a mixture of office, retail and creative start-ups at ground floor.

Whilst the site is available for development, the site is covered by multiple landownerships and no application for comprehensive redevelopment has been submitted.

The site cannot be considered available in a reasonable period of time for the proposed development. During discussions with previous land owners to determine if a scheme could accommodate an Aldi store, it has been determined that the developer could not accommodate Aldi's basic requirements, particularly in the case of sufficient car parking spaces to support a store.

Despite Aldi demonstrating significant flexibility, these discussions have determined Aldi cannot be accommodated as part of a mixed-use scheme, and for this reason this site can be discounted.

The site is unavailable and unsuitable for the proposed development.

Council's Retail Consultant:

This edge of centre 4.6ha site has been identified as a proposed allocation in the emerging Local Plan for residential and student housing, as well as office and retail uses following the promotion of a mixed-use scheme.

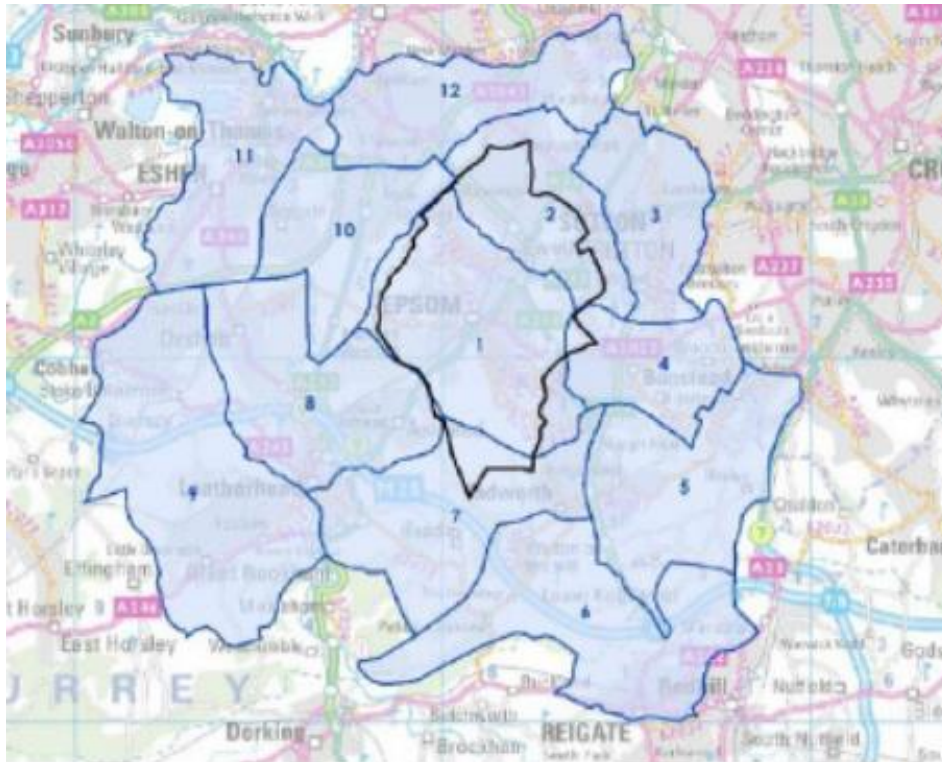
The applicant had engaged with the owner of the site ahead of the initial application submission, establishing current development plans for the site could not accommodate food store. As such, the **site is unavailable and can therefore be dismissed under the sequential test.**

- 9.52. In conclusion to the sequential approach, the Council's Retail Consultant is satisfied that the opportunities identified within the catchment area are unlikely to be available within a reasonable period or are too small to accommodate the proposed development and can therefore be dismissed as unsuitable or are unavailable. Furthermore, there are no potential opportunities within the sequential area of search that are available within a reasonable time period and large enough to accommodate a LAD and as such, the sequential test has been addressed and satisfied.

9.53. Retail Assessment

- 9.54. Paragraph 94 of the NPPF states that when assessing applications for retail and leisure development outside town centres, which are not in accordance with an up-to-date plan, local planning authorities should require an impact assessment if the development is over a proportionate, locally set floorspace threshold (if there is no locally set threshold the default threshold is 2,500m² of gross floorspace). This should include assessment of:

- a. the impact of the proposal on existing, committed and planned public and private investment in a centre or centres in the catchment area of the proposal; and
 - b. the impact of the proposal on town centre vitality and viability, including local consumer choice and trade in the town centre and the wider retail catchment (as applicable to the scale and nature of the scheme) .
- 9.55. Although the local plan is not up to date, the gross floorspace of the proposed development (1,522 sqm) falls well below the national floor space threshold. However, it should not be read that developments less than 2,500 sqm cannot result in a significantly adverse impact on relevant designated centres. Impact remains a relevant material consideration that can be considered in the planning balance.
- 9.56. Paragraph 017 of the NPPG (Reference ID: 2b-017-20190722) considers the scope for the use of the impact test in decision-taking, stating that the impact test will need to be undertaken in a proportionate and locally appropriate way, drawing on existing information where possible.
- 9.57. The Council's Retail and Commercial Leisure Needs Assessment 2020 and its associated update in 2021 demonstrates that there is a need for 2,300m² of convenience food floorspace in the period up to 2027.
- 9.58. Policy DM4 of the emerging Local Plan sets out a locally set floorspace threshold by requiring new leisure and retail development over 500m² gross floorspace which is not within a Designated Centre to be supported by a Retail Impact Assessment. Although the emerging Draft Local Plan sets out future aspirations and direction of travel for the Borough, given that it is in an early stage of preparation, no weight can be given to this emerging policy.
- 9.59. Study Area
- 9.60. The Council's Retail Consultant notes that a household survey undertaken in the Council's Retail and Commercial Leisure Needs Assessments, which established the market share patterns, was undertaken prior to the opening of the town centre Lidl, the presence of which will have altered spending patterns in the area.
- 9.61. For this reason, the Planning and Retail Statement advises that the applicant commissioned a new householder survey to establish base year shopping patterns in 2023. This new household survey adopts the same study area as the Council's evidence base, to allow for comparison with previous market shares, focussing on the key zones surrounding Epsom (Zones 1, 2,4,7,8 and 10) as shown over. The site is located within Zone 1.



Source: Page 14 of the Council's Retail and Commercial Leisure Needs Assessment 2020

- 9.62. The Council's Retail Consultant is satisfied that the proposal is likely to attract most of its trade from this area.
- 9.63. Population and Expenditure
- 9.64. The Planning and Retail Statement contains population projections for the five zones between the years 2023 to 2027, showing an increase in 1,827 people or 0.9%. The Council's Retail Consultant is satisfied that the population growth as projected in the Planning and Retail Statement does not appear to have been overestimated.
- 9.65. The Planning and Retail Statement suggests in Table 2 (Appendix 10) that the average convenience goods (goods bought regularly and are readily available from the majority of shops, such as bread and milk) expenditure per capita will decrease by 1.0% between 2023 and 2027, with Table 3 (Appendix 10) suggesting that average comparison goods (goods which are purchased less often and of a higher value, such as electrical goods and clothes) expenditure per capita will increase by 4.6% between 2023 and 2027.
- 9.66. However, since the submission of the Planning and Retail Statement, Experian has issued an updated Retail Planner Briefing Note 21 (February 2024), which shows a greater percentage decrease in average convenience goods expenditure per capita of -2.1% between 2023 and 2027, and lower increase in average comparison goods expenditure per capita of +2.7% between 2023 and 2027.

- 9.67. As such, the Council's Retail Consultant advises that the Planning and Retail Statement has potentially over-estimated the overall convenience goods expenditure in 2027 and under-estimates the proportion available to physical food stores and other retail facilities in 2027.
- 9.68. Store Turnovers
- 9.69. The Planning and Retail Statement adopts the household survey results to calculate the market share of expenditure attracted to each food store set in tables 6a and 6e in Appendix 10. This also includes the Lidl store. The market shares are then multiplied by the total available expenditure within each zone to calculate a total annual turnover for each store in 2027.
- 9.70. A benchmark turnover of existing food stores, based on their respective company average sales densities are then calculated by multiplying the net sales floorspace with the company average sales density. Actual turnover levels are then compared with the benchmark turnover to assess how well each store is trading i.e., under or over-trading when compared with the company national average sales density.
- 9.71. With this in mind, the Planning and Retail Statement suggests that Lidl's actual turnover in 2027 would be £47.0m against benchmark turnover of £8.8m, which would be a very significantly over trade, at 536% of company averages. In their objection to this application, Lidl have disputed this figure. Whilst Lidl is unwilling to provide specific turnover figures to a direct competitor for reasons of commercial confidentiality, they have suggested that 'Lidl is trading over 3 times below this level', which would equate to a turnover closer to £15m.
- 9.72. Notwithstanding this, the Council's Retail Consultant considers £15m to be indication of a store that is trading very healthily at around 150% above the company averages.
- 9.73. Also of note is that the Planning and Retail Statement's derived actual turnover for Sainsbury's and Aldi Ewell is at almost double their benchmark turnover. The Council's Retail Consultant is of the opinion that the household survey appears to have overestimated the actual turnover of discounters and large food stores, likely due to shoppers at discounters spending less per visit to discounters than other food stores (by virtue of their discount pricing). Additionally, survey respondents are more likely to recall regular visits to larger food stores than ad hoc visits to specialist and local stores.
- 9.74. Implications for Designated Centres
- 9.75. The key issue relevant to this planning application is whether the proposed application for a discount food store will significantly undermine the vitality and viability of designated town centres, recognising that most of the trade diversion will come from similar format food stores.

- 9.76. There is no accepted threshold for assessing whether a certain level of trade diversion or percentage impact is significantly adverse. The acceptability of the impact levels shown above will depend on local factors and the timing of development. For example, a healthy vital and viable centre can withstand much higher levels of impact than a failing town centre.
- 9.77. Epsom Town Centre and Ewell Village Centre are in the proposal's catchment area, and the Planning and Retail Statement has undertaken health check appraisals and provides commentary on the vitality and viability of these centres (Appendix 8). The conclusions of the Planning and Retail Statement suggests that the proposal would not result in any trade diversion from Ewell Village, a position that is supported by the findings of the household survey.
- 9.78. The Council's Retail Consultant reports that the annual turnover of Epsom Town Centre is £50.57m. The proposal would divert £6.66m of annual turnover from Epsom Town Centre, equating to -13.2%.
- 9.79. The Planning and Retail Statement health check analysis for Epsom Town Centre identifies 23 convenience good shops (7.7%), compared with 76 comparison goods shops (25.5%) and 172 non-retail service uses (58.0%). Notably, the vacancy rate across the centre was only 8.8% in 2023, compared with the national average of 14.2% having fallen in successive years based on Experian Goad data.
- 9.80. Furthermore, Epsom Town Centre features a variety of national multiple and independent convenience retailers, offering a range of formats, providing local residents with a wide choice of food stores. Both M&S and Waitrose are present in the centre alongside Lidl, a smaller format Tesco Express, Co-op and other independents
- 9.81. This health check suggests that the overall impact on Epsom Town Centre is unlikely to be significant, partly because of the relative strength of the centre's convenience goods retail offer. The sensitivity testing adopted shows a town centre turnover of £50.57m in 2027 without the development proposal, which is 114% of benchmark levels. Following the development proposal, sensitivity testing suggests a turnover of £43.91m equating to 99% of benchmark.
- 9.82. Despite the objection from Lidl, the Council's Retail Consultant advises that there is no suggestion that the proposal would directly result in their store's closure. As such, no reduction in consumer choice within the centre is envisaged.
- 9.83. The Council's Retail Consultant is therefore satisfied that the proposal would not result in a significantly adverse impact on relevant designated centre.

- 9.84. In overall conclusion, it has been demonstrated that there are no sequentially preferable sites within the Primary Shopping Area as defined in Plan E Epsom Town Centre Area Action Plan 2011, or on the edge.
- 9.85. Whilst the site is out of centre, it has been demonstrated through the supporting Planning and Retail Statement that the proposal would not have a significant adverse impact on the vitality or viability of other shopping centres and that a demonstrable need exists in terms of estimated growth in expenditure within the catchment area. The proposal therefore meets the requirements of criterion (i) and (ii) of Policy DM29 of the DMPD and paragraphs 92 and 94 of the NPPF.

10. Design, Character and Heritage Impacts

- 10.1. The NPPF attaches great importance to the conservation and enhancement of the historic environment. Paragraph 205 states that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance.
- 10.2. Paragraph 208 of the NPPF states that where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use.
- 10.3. Significance can be harmed through development within a heritage assets setting. Whilst there is no statutory protection for the setting of a Conservation Area, paragraph 206 of the NPPF requires that consideration be given to any harm to or loss of significance of a designated asset, which includes Conservation Areas, from development within its setting.
- 10.4. This is further supported by paragraph 212 of the NPPF which states that local planning authorities should look for opportunities for new development within Conservation Areas, and within the setting of heritage assets, to enhance or better reveal their significance. Proposals that preserve those elements of the setting that make a positive contribution to the asset (or which better reveal its significance) should be treated favourably.
- 10.5. Appendix 2 Glossary of the NPPF defines setting of a heritage assets as the surroundings in which a heritage asset is experienced. Its extent is not fixed and may change as the asset and its surroundings evolve. Elements of a setting may make a positive or negative contribution to the significance of an asset, may affect the ability to appreciate that significance or may be neutral.

- 10.6. Paragraph 209 of the NPPF states that the effect of an application of the significance of a non-designated heritage asset should be taken into account when determining the application. In weighing applications that directly or indirectly affect non designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss of the significance of the heritage asset.
- 10.7. Policy DM8 of the Development Management Policies Document 2015, sets out the Council's intention to resist the loss of our Heritage Assets and take every opportunity to conserve and enhance them. It states that development proposals that involve or have an effect upon Heritage Assets must establish the individual significance of the Asset as part of the application or consent process. As part of the assessment process the significance of the Asset will be taken into account (namely whether it is a designated Heritage Asset or a non-designated Heritage Asset) when determining whether the impact of any proposed development is acceptable.
- 10.8. The site shares a southern and western boundary with Pikes Hill Conservation Area, the significance of which is found in its retention of an early network of bridleways and byways, which has resulted in somewhat random street patterns, which have a quiet charm and much historical interest, and have since been overlain by later post rail development. The area is predominantly late 19th century post railway houses, with good examples of early 20th century terraced development.
- 10.9. Furthermore, the eastern boundary of the site is shared with Cottage Hospital, a late Victorian purpose hospital building, that the Council's Conservation Officer will be recommending for addition to the Councils Local List as an undesignated heritage asset.
- 10.10. The Council's Character Appraisal & Management Proposals 2010 for the Pikes Hill Conservation Area identifies that it has a suburban setting with residential uses immediately to the west but increasing commercial uses as the town centre is approached. There are commercial premises adjacent to the site that contribute to the more commercial setting to the north and east of Alexandra Road.
- 10.11. The north end of Church Street south of Alexandra Road is a 'gateway' to the Conservation Area and allows views of the smaller terraces that contribute to the suburban character of the Conservation Area.
- 10.12. In considering the previous appeal on the site, the Inspectors report noted at paragraph 13 of the Appeal Decision, that although the proposal lies outside of Pikes Hill Conservation and therefore would not directly affect its character and appearance, as the site abuts the Conservation Area, its setting is an important factor.

- 10.13. At paragraph 14 of the Appeal Decision, the Inspector makes reference to the suburban setting of the Conservation Area being weakest in the vicinity of the appeal site, which he considered makes it sensitive to uncharacteristic development.
- 10.14. The application is supported by a Heritage Impact Assessment, prepared by HCUK Group, reference 2862 and dated March 2023, which takes a rather simplistic approach to considering the effect of the proposed development upon the setting of the Conservation Area by identifying the key physical characteristics of the Conservation Area found within the Pike Hill Conservation Area Character Appraisal and concluding that the proposal would have no change or effect to these identified characteristics.
- 10.15. Officers do not concur with some of the conclusions set out in Appendix 2 of Heritage Impact Assessment, in particular, the conclusion that the proposed development would not be conspicuous in relation to any heritage asset or distract from any heritage asset.
- 10.16. It has to be acknowledged that the proposal, which is comprised of a large expanse of hard surfacing for vehicle parking, a large retail building and the subsequent associated vehicle and pedestrian movements, would be conspicuous in relation to the quiet suburban setting of the adjacent Conservation Area.
- 10.17. Whilst there are commercial premises to the north and east of the site, the movements associated with these existing operations are at a much lower level than those attracted by the proposal and the associated vehicle parking areas of these existing commercial premises are well screened from the Conservation Area.
- 10.18. Furthermore, Officers also do not concur with the conclusions of the Heritage Impact Assessment with respect to the interpretation of paragraph 14 of the appeal decision, and that the reference to the site being sensitive relates to it 'being a clean slate on which only unsympathetic (the authors emphasis) development would be appropriate'.
- 10.19. It is important to note that the Inspector clearly made reference to the suburban setting of the Conservation Area being sensitive to uncharacteristic development, rather than unsympathetic development.
- 10.20. In contrast to this interpretation, Officers note that Inspector distinguishes between the commercial character of the setting to the north and east of the site and the suburban setting of the Conservation Area. Officers interpret the Inspector's comments regarding the suburban setting of the Conservation Area being weak in the vicinity of the site to be as a result of it being the edge a Conservation Area and therefore further characteristic development, which would be residential suburban, would therefore strengthen this weakness.

- 10.21. However, this does not mean that the site is not suitable in principle for commercial development. The site has the potential to be a good transition site between the edge of the suburban setting of the Conservation Area and the adjacent mixed commercial/residential character along Alexander Road, provided that the sensitivity of the edge of the suburban setting has been well considered in any forthcoming commercial scheme.
- 10.22. The layout of the proposal appears to have considered this sensitivity, as placement of the vehicle parking area has been located adjacent to the Conservation Area edge, thereby providing an open transitional space between the two character areas. Whilst it is noted that the Council's Conservation Officer considers this to be a lost opportunity to fill the site visually, Officers consider this separation gap to be physically and visually important to the transition between the commercial character to the north and east and the residential character of the Conservation Area to the west and south.
- 10.23. However, it is clear that the transient activity associated with the proposal would somewhat detract from the quiet enclave of the two storey houses on Church Road.
- 10.24. In terms of layout of the proposed built form, the Council's Conservation Officer has raised a concern in respect to the building line of the development, suggesting that this should be set back in line with the built form of Cottage Hospital. However, Officers note that the generous set back building line of Cottage Hospital is the singular anomaly in the established building line of Alexandra Road, which is characterised by short frontages. Within this context, the siting of the proposal would not appear incongruous.
- 10.25. The Council's Conservation Officer has also raised concerns to the height of the development. The topography of Alexandra Road descends to the west when heading towards the Town Centre. To accommodate this, the majority of the buildings along this section of Alexandra Road step down the decent, creating staggered ridge lines.
- 10.26. In contrast, the proposed built form would be partially sunk into the land, which would mitigate the bulk of the built form when viewed from Alexandra Road but would resulting in the ridge height remaining continuous. The result of this would be a dramatic step down in ridge height between Cottage Hospital and the proposal, rather than the more gradual decline somewhat created with the existing built form along Alexandra Road.
- 10.27. Furthermore, the continuous ridge height of the proposal would result in appearing to get taller as it descends down the hill. The Council's Conservation Officer considers this a missed opportunity to integrate the proposed built form into the townscape.

- 10.28. Whilst Officers acknowledge the Council's Conservation Officers concern in this regard, it is noted that the gradual decline in ridge height from the existing residential built form to the north of the site is not fluid and suffers from several interruptions. Within this context, it would be difficult to conclude that the proposal would erode any otherwise strongly established skyline, to the extent that it would harm the character and appearance of the townscape.
- 10.29. In terms of design, the Conservation Officer has raised concern with the proposed retail frontage. Although this design has been amended during the application process, the Conservation Officer still retains concerns regarding the proposed canopy design, considering this to be intrusive and overly modern in appearance.
- 10.30. Officers are aware that the Inspector singled out the ground floor elevation of the previous scheme as being 'austerely commercial' as a result of the expansive glazing along the north and west elevations. In contrast, the current scheme has reduced glazing to the minimal necessary for the operational requirements of the business. The Church Street elevation is predominantly full length glazed, although this has been significantly broken up with intertwining brick piers and the glazing on the Alexandra Road elevation has been significantly reduced from the previous scheme.
- 10.31. Whilst it clear that the proposal would be commercial in character, given its location to the north of the Conservation Area, closer to the commercial character of Alexandra Road, it would not appear inconsistent within the street scene.
- 10.32. Whilst the gabled, sawtooth roof form as a reflection of the industrial heritage of the site is questionable, it does give the first impression of the built form a typical row of terraces. Officers welcome architectural detailing, such as the faux windows and projecting/textures brick details to the Alexander Road elevation, which breaks up the otherwise overly linear elevation.
- 10.33. The cantilevered canopy element is an operational requirement of the business, as it would provide cover for the trollies and cycle parking spaces. Whilst Officers acknowledge this element of the scheme primarily contributes to the commercial character of the built form, it provides identity to the commercial use on the site, which would appropriate for the commercial character in the locale.
- 10.34. In terms of materials, red brick and grey tiles are the main material proposed, with anthracite cladding on the canopy and louvers on the Church Road and silver cladding to the Wyeth's Road elevation. Whilst there is some concern as to whether the proposed anthracite cladding is appropriate for the area, the proposed material palette would be subject to agreement via planning condition in the event permission is granted.

- 10.35. The proposal also involves the provision of new boundary treatment along the south of the site, comprising a 1.2 and 1.8 metre high close board acoustic fence. Such boundary treatments are not uncommon in high dense urban areas and therefore these features would not be out of context.
- 10.36. Lighting forms part of the scheme, in the form of poles within the car park and attached to the building. This would be consistent with a retail car park and not out of character with the surrounding area or what would be expected in a roadway. By extension, the light spillage, which is at an appropriate level, is also acceptable.
- 10.37. The relevance of the Heritage Impact Assessment conclusion in Appendix 2 that 'the general character of the surroundings of the Conservation Area will be revitalised and improved' as a result of the proposal' is questioned. The proposal would indeed bring a vacant brownfield site back into use and, given that the general character surrounding the Conservation Area is one of a mixed commercial/residential use, within this particular context, the proposal would be an improvement. However, whilst Officers welcome the reuse of a vacant brownfield site, it is difficult to see, for the reasons outlined above, how the proposal would represent an improvement to the suburban setting of the character of the Conservation Area.
- 10.38. The north end of Church Street, south of Alexandra Road is a gateway to the Conservation Area and allows views of the smaller terraces that contribute to the character of the area. Although the development would be perceived to increase in height along the decline of Alexandra Road before dropping to single storey to form the entrance, the building retains a scale that would be commensurate with the predominant two storey development in the area.
- 10.39. From the Church Road street scene, the predominant views would be of the vehicle parking area, with the canopy entrance warehouse element beyond. The height of these built form elements would not extend to two storeys, which would complement the domestic scale of the residential built form on the edge of the Conservation Area.
- 10.40. Whilst it is acknowledged that the proposal would occupy a prominent position when approaching from the town centre, Officers are satisfied that the proposal would sit comfortably in the context of the two surrounding character areas. The proposal would not interrupt the views achievable from the gateway to the Conservation Area, as the separation distance to the built form would not compete with the views of the smaller terraces.
- 10.41. However, it must be acknowledged that the proposal, as a result of its nature, character and appearance, would somewhat detract from the quiet suburban setting of the adjacent Conservation Area and would therefore cause harm to the significance of the designated heritage asset. The Council's Conservation Officer considered this harm to be less than

substantial. In accordance with paragraph 208 of the NPPF, this harm must be weighed against any public benefits of the proposal. Great weight should be given to the asset's conservation irrespective of the scale of harm identified.

10.42. The NPPF identifies that public benefits could be anything that delivers economic, social or environmental progress, as described in paragraph 8. The NPPG further states that public benefits should flow from the proposed development. They should be of a nature or scale to be of benefit to the public at large and should not just be a private benefit.

10.43. However, benefits do not always have to be visible or accessible to the public in order to be genuine public benefits (020 Reference ID: 18a-020-2019072). The public benefits of the proposed development are considered to be:

- Improving consumer choice in an accessible and sustainable location
- The generation of employment during the construction phase of the proposed development and for the operation of the proposal
- Additional expenditure in the local economy at both construction phase and following occupation
- The regeneration of a vacant brownfield site with an existing commercial use
- The provision of 10% Biodiversity Net Gain

10.44. Paragraph 88 (d) of the NPPF supports the development of accessible local services, such as shops, whilst paragraph 96 (c) encourages decisions that enable and support healthy lifestyles, especially where this would address identified local health and wellbeing needs - for example through the provision of...local shops, access to healthy foods. Although the site would be an out of town centre location, it would be located 100m from the Town Centre boundary and 308m from the Primary Shopping Area. It is therefore in a location that is well connected to the town centre and would improve consumer choice in respect to the accessibility to affordable food. This benefit is attributed moderate weight.

10.45. Paragraph 85 of the NPPF states that significance weight should be placed on the need to support economic growth and productivity. The proposal would generate a minimum of 50 full time employees. Although Officers do not interpret NPPF to mean that any jobs created by commercial redevelopment on the site have to be given significant weight, the number of jobs created would be substantial and therefore moderate weight is given to this economic benefit.

- 10.46. There is no evidence to suggest that the local economy is suffering without the additional expenditure arising from the proposal at both the construction and operations stage. This benefit is therefore attributed limited weight.
- 10.47. Paragraph 124 (c) of the NPPF indicates that substantial weight should be given to the value of using suitable brownfield land within settlements for identified needs. Whilst the Council's Retail and Commercial Leisure Needs Assessment 2020 and its associated update in 2021 identifies an existing and future need for convenience food floorspace within the Borough in the period up to 2027, it also highlights a preference to direct new retail floor space to future growth areas. However, as the current timescale for the adoption of the emerging Local Plan is Spring 2026, it is unlikely that this need will be met through future growth areas. Therefore, significant weight is afforded to the public benefit.
- 10.48. Whilst there is no specified mandated target for Biodiversity Net Gain, for this application as a result of its validation prior to mandatory timescales, the applicants are agreeable to discuss suitable off site arrangements for 10% biodiversity net gain. As there is no guarantee that an offsite contribution would benefit the Borough, moderate weight is afforded to this public benefit.
- 10.49. Officers give considerable importance and weight to the desirability of preserving the setting and the features of special architectural and historic interest of the surrounding heritage assets. However, notwithstanding the considerable importance and weight that the less than substantial harm attracts, in this case, the accrued public benefits are considered to outweigh the less than substantial harm arising from the proposal.

11. Trees and Landscaping

- 11.1. Paragraph 131 of the NPPF, Policy CS3 of the CS, Policy DM5 of the DMPD and the Householder SPG seek the retention, protection and enhancement of existing and new trees, hedgerows, and other landscape features, with removal of trees supported by sound justification and appropriate replacement planting of native species.
- 11.2. The application is supported by an Arboricultural Impact Appraisal and Method Statement, prepared by Barrell Tree Consultancy, reference 23005-AIA-LF, dated March 2023 and a Tree Protection Plan. This identifies the removal of two trees and five small groups from within the site all of which are considered to be of low quality with little potential to contribute to local character, due to their poor condition and small size.
- 11.3. Council's Tree Officer has not objected to the loss of any of the existing trees on the site as a result of the proposal and Officers are satisfied that their loss would have no detrimental impact on local character and verdancy.

- 11.4. The proposal would create some new hard surfacing over the Root Protection Areas of off-site trees within the curtilage of T4 (plum), T5 (western red cedar) and T6 (Ash), which are within the boundary of 11, 13 and 15 Wyeth's Road. The Method Statement advises that installing custom design, no dig surfacing would be feasible without causing significant disturbance to the to the Root Protection Area of these trees. The Council's Tree Officer has raised no objection to this proposal.
- 11.5. The proposal would also require the installation of two low level retaining walls within the Root Protection Areas of T4 (plum) and T7 (Ash). To prevent any adverse impacts to these trees, both walls must be constructed with either shallow hand-dug footings, or by supporting the underside of the base above existing ground level on mini-piles.
- 11.6. In the event planning permission is granted, it is reasonable to recommend a condition to seek further details of the new surfacing and retaining wall installation methods to ensure that these details are met.
- 11.7. The proposal would mitigate for the tree loss on the site through the provision of new tree planting, with 11 new trees and new ornamental shrub planting originally proposed around the periphery of the site, predominantly on Alexandra Road and Church Road.
- 11.8. The Council's Tree Officer was concerned that the planting strip proposed along Alexandra Road would be restricted as a result of the change in land levels and the provision of the retaining wall and that insufficient planting bed width, along with the distance of the parking bays, would not provide adequate rooting volume and no space for stem increment. There would also be risk of vehicular impact damage from parking over run.
- 11.9. Furthermore, the Council's Tree Officer was concerned that the proposed tree planting along Alexandra Road boundary may not have sufficient growing space to realise their canopy and growth potential. The proximity of the building means that they could be subject to severe pruning to prevent building encroachment.
- 11.10. In response to the Council's Tree Officers concerns, the planting stock has been amended and tree soil volumes to demonstrate that the planting specified would be successfully established and would thrive in perpetuity. This has been achieved by replacing the 3 larger trees species previously proposed with a pallet for smaller trees. Notwithstanding this, the Council's Tree Officer notes that the scheme would still provide 3 massive and 7 small trees, although this would be a reduction in respect of the original tree offering of 3 massive, 3 large and 5 medium sized trees
- 11.11. The Council's Tree Officer acknowledges that the smaller trees proposed on the Alexandra Road frontage would help soften the elevation of the built form from where it is sunken into the ground as the topography lowers, but would provide less softening as the height of the built form visually increases at street level.

- 11.12. Furthermore, the Council's Tree Officer is concerned that the smaller trees proposed on Alexandra Road would look lost and out of proportion against the dominance of the built façade of the three storey development opposite the site, particularly if trees grow weakly in a rooting environment constrained by retaining walls and highway.
- 11.13. Notwithstanding the amended landscaping and the tree soil volumes, the Council's Tree Officer maintains concerns that the planting beds proposed by the retaining walls would create hostile rooting environments for the proposed trees and that the proposed trees have not been properly integrated into the design to give maximum treescape benefit.
- 11.14. The Council's Tree Officer is not satisfied that the tree planting proposed can be planted in conditions that would allow the trees to thrive and flourish in the future. This is an adverse impact of the proposed development to be weighed in the planning balance.

12. Highways Impacts, Access and Parking

- 12.1. Paragraph 115 of the NPPF states that 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.
- 12.2. Policy CS16 of the CS encourages an improved and integrated transport network and facilitates a shift of emphasis to non-car modes as a means of access to services and facilities. Development proposals should provide safe, convenient, and attractive accesses for all, be appropriate for the highways network, provide appropriate and effective parking provision, both on and off-site and ensure that vehicular traffic generated does not create new, or exacerbate existing, on street parking problems, nor materially increase other traffic problems.
- ### **12.3. Traffic Generation**
- 12.4. Policy DM35 of the DMPD requires consideration of the impact upon the transport network via a Transport Assessment or Statement. The application is supported by a Transport Assessment, prepared by Connect Consultants, dated March 2023.
- 12.5. The Transport Assessment gives an account of the existing local highway network and local collision analysis, as well as highlighting the accessibility benefits of the site. There was a total of 15 collisions in the vicinity between 2016/2022, all of which can be attributed to driver or cyclist error, rather than a direct consequence of any deficiencies with the layout or condition of the local highway network.
- 12.6. In considering the predicted vehicular traffic generation associated with the proposed development, the County Highways Authority have considered that the provided TRICS data, along with data from the nearby

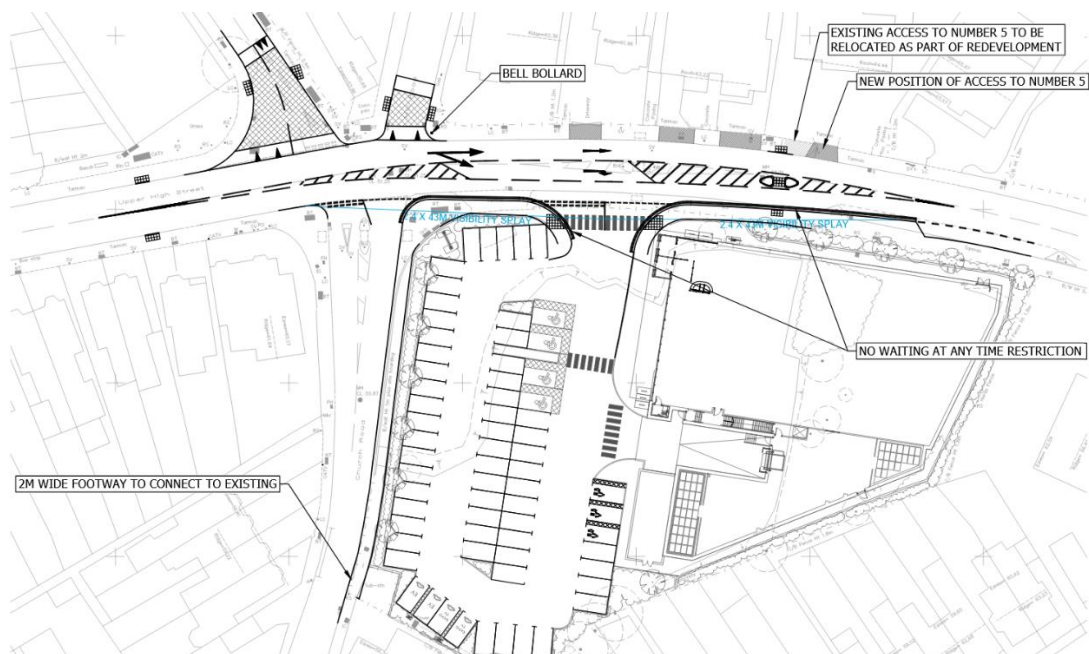
Lidl store shows the proposed site to have a higher trip rate than the existing Lidl store, but that this is to be expected, given that the Lidl is within a Town Centre location and therefore there are more likely to be users accessing the site via sustainable travel modes.

- 12.7. The Transport Statement includes a future assessment on traffic flows, to the year 2028. This has been achieved by applying growth factors to 2022 traffic flow figures, which account for projected economic growth and local development forecasts.
- 12.8. As a result of the increase in vehicular trips to the site, a junction capacity assessment has been carried out on the proposed Fiveways Junction and has demonstrated to the satisfaction of the County Highway Authority and with regard to the numerous resident submissions on this point that the proposed access and Fiveways Junction will operate within capacity for all peak period with the proposed development in place.
- 12.9. Overall, the County Highway Authority are satisfied that the TRICS assessment and junction capacity assessment provided a robust and realistic assessment of the likely impact of the proposed development on the highway network and that the potential traffic effect of the proposed development, in both the immediate and future scenarios, is unlikely to result in a severe impact on the capacity or safety of the local highway network.

12.10. Access

- 12.11. The proposal involves the removal of the existing access and the creation of a priority controlled access onto Alexandra Road, approximately 10.0 metres east of the existing access.
- 12.12. A ghost island right turn lane is proposed on Alexandra Road to serve the site. This will require the relocation of the existing pedestrian refuge island east of the access 20.0 metres east of its original position.
- 12.13. Double yellow lines are proposed on the southern side of Alexandra Road, extending west from the site access and into the Church Road junction, as well as east from the site access along the site frontage. The length of the existing on-street parking area on the south side of the Alexandra Road would be reduced by 11.0 metres, the equivalent of 2-3 spaces. The remaining spaces would continue to be available for public parking within the set restrictions.
- 12.14. Raised tables and tactile paving will be introduced on the Mill Road and Church Road (North) approaches to the Fiveways Junction. A bell bollard is also proposed on the east corner of the footway on the Mill Road junction. A 2.0 metre footway along the entire site frontage with Church Road (South).

12.15. All vehicles will use the proposed site access, including customers and service vehicles.



Proposed Access Arrangements

12.16. A Stage 1 Road Safety Audit has been submitted as part of the Transport Assessment which has not highlighted any areas of concern with regard to road safety. The Highway County Authority note the contents of this Audit and have raised no highway safety concerns in regard to its design.

12.17. On Street Vehicle Parking

12.18. Notwithstanding the above, the County Highway Authority have advised that a Stage 2 Road Safety Audit will be required to determine the future of the existing on street parking in the vicinity of Alexandra Road, as consideration may need to be given to the removal of parking bays (currently 15.0 vehicle spaces) along Alexandra Road, as they may cause more risk than benefit with the relocation of the pedestrian Island and increase in traffic generation associated with the proposal. The Stage 2 Road Safety Audit would be secured by the County Highway Authority under a Section 278 Agreement. In assessing and recommending approval to the application, the Highways Authority have accepted the potential loss of these spaces and hence raises no objection.

12.19. The retention of the on-street parking will therefore be subject to the outcome of further discussions with the County Highway Authority. It is understood that the proposal could result in the loss of 5.0 on street vehicle parking spaces, a situation which replicates the scheme refused under planning application 15/01346/FUL.

- 12.20. During the appeal, the Council argued that any loss of on-street parking available to users of the surgery in the old Cottage Hospital would justify refusal. However, the Inspector noted that the on-street spaces were for use by anyone, and the Cottage Hospital has around 40 spaces within its own curtilage that are not regulated in any way.
- 12.21. In addition, the Inspector noted that patients for the surgery would be able to park in the Aldi car park for free outside peak periods.
- 12.22. The Inspector acknowledged that the introduction of a large store in a residential area without adequate on-site parking would decrease the capacity of on-street parking and increase demand making the parking stress worse. However, the Inspector concluded that the proposal would provide adequate on-site parking and therefore there would be no unacceptable impact on the loss of any on-street parking along Alexandra Road as a result of the proposal.
- 12.23. In terms of consistency in decision making, it would not be reasonable to reach an alternate conclusion. Notwithstanding this position established by the Inspector at the previous appeal, the loss of on-street parking provision is an adverse effect of the scheme that needs to be weighed in the planning balance.

12.24. Off Street Vehicle Parking

- 12.25. Policy DM37 of the DMPD seeks to ensure that new schemes provide an appropriate level of off-street parking to avoid an unacceptable impact on on-street parking conditions and local traffic conditions.
- 12.26. The Council's Parking Standards for Residential Development SPD 2015 defers to the Surrey County Council Vehicular and Cycle Parking Guidance 2021 in matters relating to development outside of Class C3 (residential dwellings) use.
- 12.27. For food retail development above 1000m², the maximum car parking provision is 1.0 vehicle space per 14m². This floor area of the proposed built form would be 1,552m², which would equate to the site requiring 111.0 vehicle spaces to meet the standard.
- 12.28. The standards include a reduction on the maximum based on the location type of the site. In considering the location type of the site, regard has to be had on the previous appeal, in which the Inspector concluded the following in the matter of the location type of the site in paragraph 33 and 34 of the appeal decision:

'The...SCC Standard supports a pragmatic and flexible approach and treats out of centre (OOC) and edge of centre (EOC) sites differently... The Council maintains that the site is out of centre so that the higher starting point would apply.'

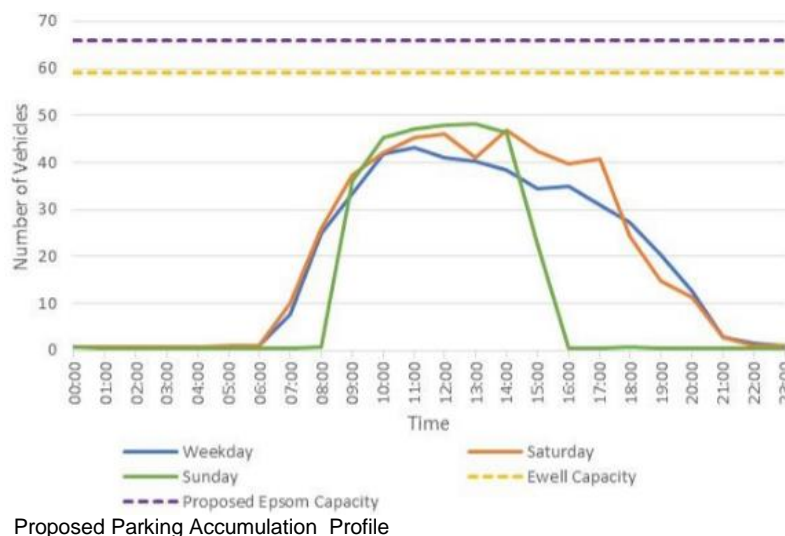
However, the NPPF definition of EOC for retail purposes is “a location that is well connected and up to 300 metres from the primary shopping area”. It also states that in determining whether a site falls within the definition of EOC, account should be taken of local circumstances. In this case, the site is 308 metres from the centre of the Epsom TC PSA [Town Centre Primary Shopping Area] . The characterisation of the site as OOC due to an extra 8 metres walk would be inconsistent with the Council’s case on parking stress. In any event, DMP Policy DM 37 would allow some flexibility of impact’.

12.29. In order to be consistent with the appeal conclusion, the edge of centre reduction set out in the Surrey Standards has been applied. As applied in the appeal, this reduction is 50%, which would reduce the maximum parking requirement to 56.0 spaces.

12.30. The proposal would provide 66 vehicle parking spaces on site, which would exceed the requirement by 10 spaces or would be an overall reduction of 43%. This would equate to a ratio of 1.0 vehicle parking spaces per 23.5m². This is broadly similar to the parking ratio of 1.0 vehicle per 21m² which was accepted under the previous appeal.

12.31. The Transport Assessment also contains a Parking Accumulation Assessment which has been based on the number of hourly departures and arrivals at the Aldi Ewell store during the whole of October 2022. The Transport Assessment advises that this month was selected because it identified a neutral month in respect of background traffic conditions and is post Covid 19.

12.32. This assessment indicates a maximum accumulation of 48 vehicles, which equates to 73% of the proposed parking capacity. The Transport Assessment therefore concludes that the proposed car parking is anticipated to accommodate the expected demand, with spare capacity for seasonal or unexpected spikes in demand.



12.33. The Transport Assessment acknowledges that there is short term queuing to enter the Ewell site during its busiest periods, partially on a Sunday, and that this can be accounted for by adding an additional 10 vehicles to an hour's accumulation to represent the queue, which would bring the maximum on site to 58 vehicles, which would still be within the parking capacity for the site and thus it is unlikely to result in adverse outcomes for capacity on highway safety.

12.34. In considering parking provision in under the previous application, which sought to provide 65 parking spaces for the dedicated retail use, the Inspector was satisfied that there would be a lower demand for parking at the proposed development than at the Ewell site due to factors such as passing trade and a larger population within 800 metres of the site in comparison to Ewell.

12.35. Furthermore, the Inspector noted that if there were to be overspill, this could be accommodated by some on street parking. Officer's also note that there are public car parks within close proximity to the site that are more likely to accommodate for any associated overspill.

12.36. Disabled parking

12.37. The proposal involves the provision of 4.0 disabled vehicle parking spaces, which at 6% would meet the Surrey County Council Standards of providing 5% of the total capacity of spaces (four spaces).

12.38. EV charging

12.39. In accordance with the Surrey County Council Standards, 20% of parking spaces should be active charging spaces, with a further 20% spaces adapted for future charging capabilities (passive). This would equate to 13.0 active spaces and 13.0 passive spaces. The proposal seeks to provide 4.0 active charging and 10.0 passive EV spaces, which is below the required Surrey County Council Standards.

12.40. The Transport Assessment justifies this provision as being commensurate to the expected EV demand of the site, given that the operating business comes from a localised area, broadly within a five-minute drive time, which is short enough not to justify regular EV charging at the store. Demand for such facilities would therefore be much lower.

12.41. The County Highway Authority have considered this justification and have requested the provision of 8.0 active charging EV spaces (6 charging at a minimum of 22kw and 2 charging at a minimum of 7kw) as well as ensuring that all remaining spaces to be provided with a power supply to be charging sockets in the future.

12.42. Cycle Parking

12.43. Policy DM36 of the DMPD requires the provision of cycle networks and facilities and Policy DM37 requires minimum provision of cycle storage as set out in Annexe 2 - Parking Standards for new development.

12.44. The Surrey County Council cycle parking standards for food retail developments that are not in a town or local centre to be 1.0 cycle parking spaces per 350m². This would equate to a provision of 4.0 cycle parking spaces. The proposal would provide five secure cycle stands that would accommodate up to 11.0 cycles, exceeding this standard. This would facilitate staff and customer use.

12.45. Retaining Wall

12.46. As the proposal involves a 3.2 metre high retaining wall in close proximity to the highway, further technical approval for this element is required to ensure that the required visibility splays are achieved, which would be secured by the County Highway Authority under a Section 278 Agreement.

12.47. Servicing

12.48. Policies DM32 and DM38 of the DMPD aims to ensure that rear servicing is provided or retained in new development. Where it is not possible or practical, alternative solutions must not cause highway obstruction.

12.49. The Transport Assessment advises that the proposed operation typically receives an average of three to four HGV deliveries per day, which consists of three articulated deliveries from the regional distribution centre and one delivery of milk from a local supplier.

12.50. Daily delivery of milk, bread and morning fresh produce are received prior to, or early as possible after, the store opening in the morning and are delivered by one HGV and one milk delivery vehicle.

12.51. The proposed ancillary warehouse has been designed to hold enough stock to prevent unnecessary deliveries but is also of efficient size to ensure the freshest possible products and to prevent over-stocking.

12.52. The usual time for unloading an HGV is 30-60 minutes. The proposed ancillary warehouse would be constructed with a delivery ramp, sheltered canopy and docking system which means products can be loaded and unloaded without external activity, such as forklift trucks, scissor lifts or cages.

12.53. Officers are satisfied that the servicing of the site can be accommodated within the development without causing any highway obstruction. Neighbour implications from the delivery operations are discussed at Section 13.

12.54. Sustainable Measures

12.55. Paragraphs 104, 110 and 112 of the NPPF seek to ensure the growth of sustainable transport in managing development and approval of planning applications.

12.56. The application is supported by a Travel Plan, prepared by Connect Consultants and dated March 2023. The Travel Plan focuses primarily on employee travel.

12.57. The objective of the Travel Plan is to reduce dependence of employees on travel by private car. A number of incentives and measures would be put in place to promote including (but not limited to)

- Plans showing local walking and cycling routes
- Implementing the Cycle to Work Scheme
- Should demand warrant it, the potential for an employee Bicycle Users Group
- Providing secure lockers for the storage of wet clothes, umbrellas etc.
- Provision of up to date information on bus services, including route information
- Contact details for local taxi companies
- Promotional information on walking, cycling, public transport and car sharing.

12.58. The County Highway Authority have recommended a condition to secure an enhanced Travel Plan, which will then require monitoring. A Travel Plan Audit Fee of £6,150 would be secured through a Section 106 Agreement in the event permission is granted.

12.59. Construction Management

12.60. Should planning permission be granted, this would be subject to a condition to secure a Construction Management Transport Plan, which would include details of contractors parking, loading and storage of plant and materials, as well as preventing any construction associated HGV movements to and from the site between the hours of 7.30 and 9.30 am and 3.00 and 5.00 pm to avoid peak periods.

13. Neighbour Amenity

13.1. Policy CS5 of the CS and Policy DM10 of the DMPD seeks to protect occupant and neighbour amenity, including in terms of privacy, outlook, sunlight/daylight, and noise whilst Paragraph 185 of the NPPF and Policy CS6 of the CS seek to mitigate and reduce noise impacts.

13.2. The proposed development would adjoin the boundaries of 7-35 (odds) Wyeth's Road to the south, 5 Church Road to the south west and Cottage Hospital to the east. Beyond the highway to the north are 1 – 9 Alexandra Road.

13.3. Overbearing Impact

- 13.4. Although the proposed built form would extend close up to the far rear boundaries of 17-35 (odds) Wyeth's Road, the distance between the rear elevation of these neighbouring properties and the proposed built form would range between 13 – 24 metres. Furthermore, as a result of the built form being built into the ground, the majority of the south elevation would be obscured to a material extent by the retaining wall and proposed 1.8 metre high boundary treatment.
- 13.5. Officers are satisfied that, whilst the proposal would clearly have a greater presence upon the occupiers of these neighbouring properties than the existing situation, it would not cause any amenity issues by way of being overbearing.

13.6. Daylight and Sunlight Impact

- 13.7. The application is supported by Shadow Diagrams, which demonstrate that the proposed built form would not cause any loss of light to the internal and external accommodation associated with the properties on Church Street or Wyeth's Road, during both the summer and winter periods.
- 13.8. Whilst the proposed built form is likely to cause some minimal shadowing to the front curtilages of the adjacent properties beyond the existing highway on Alexandra Road during the winter period, this would not cause significant harm to the amenities of the occupiers of these properties by virtue of the separation distance of 15+ metres.
- 13.9. Consequently, the proposal would not a harmfully impact upon the daylight and sunlight levels enjoyed by the neighbouring properties.

13.10. Loss of Privacy Impact

- 13.11. The absence of any windows on the south elevation would protect the privacy of the neighbouring properties on Wyeth's Road.
- 13.12. Although first floor windows are shown on the north elevation , these are false windows for visual amenity purposes and would not create any issues of overlooking the neighbouring properties on Alexandra Road.
- 13.13. The east elevation of the proposal would introduce 3 new windows at first floor level. However, any views from these windows would mainly achieve direct views of the car parking area associated with Cottage Hospital, although some obscured views of the far rear curtilage of 33 and 35 would be achievable. Obscured views of the far curtilage of neighbour properties are typical in built up areas such as this and as it would not harm the enjoyment of the private patio areas associated with the curtilage of these properties, Officers recommend that it would be unreasonable to refuse the application on this basis.

13.14. Lighting Impact

- 13.15. The proposal includes the provision of seven lights on four poles within the carpark, 14 lights around the perimeter of the building and four lights at the store entrance. The lights in the car park would be mounted on 6m high light towers which would allow downward projection onto the car park. The remaining lights are attached to or alongside the building.
- 13.16. The application is supported by an External Lighting Plan, which includes the location and amount of lighting, specifications, and spillage. It has been reviewed by the Environmental Health Department, which raised some concern that some of the mounted lights that project outwards may be intrusive during the later hours from properties in Church Road and Wyeth's Road. Lights around the edge of the building are low level, will be appropriately shielded and will be required for fire escape purposes.
- 13.17. Further information on this lighting was sought as a result of this concern, and it has been confirmed that the perimeter lights on the building would be downward pointing and attached with anti-glare filters.
- 13.18. To ensure that the proposed lighting would not result in any nuisance by way of glare to the neighbouring properties, conditions to seek full lighting details and to control the hours of use of the lighting is recommended, in the event permission is granted.

13.19. General

- 13.20. The construction phase of the development has the potential to cause disruption and inconvenience to nearby occupiers and users of the local highway network. The application is supported by a Construction Environmental and Logistics Management Plan (CELMP), prepared by Camford Construction Management Limited, Issue 01 and dated March 2023.
- 13.21. The Construction Environmental and Logistics Management Plan sets out control measure to mitigate any adverse environmental impacts during the construction stage of the development. This identifies that construction working hours for the site will be 07:30 – 18:00 Monday to Friday, 08:30 – 13:00 on Saturday and not at all on Sundays. As the CELMP does not address Bank Holidays, it is considered reasonable to condition these construction hours outside of any conditions to adhere to the contents of the CELMP, in the event permission is granted.
- 13.22. The CELMP identifies mitigation measures to minimise air pollution, noise, and vibration as well as providing a letter drop to local residents providing contact details for the Site Manager, as well as identifying complaints/observation procedures. In the event planning permission is granted, a condition to ensure that the CELMP is adhered to during the construction process is recommended.

13.23. In light of the above, Officers are satisfied that the proposal would not cause significant harm to the amenities of the occupiers of surrounding properties and would therefore meet the requirements of Policy D10 of the DMPD. This is consistent with the Council's, and subsequently the Inspectors decision on the previous scheme.

14. Noise

- 14.1. Paragraph 185 of the NPPF states that planning decisions should ensure that new development is appropriate for its location by taking into account the effects (including cumulative effects) of pollution on health, living conditions and the natural environment, as well as the potential sensitivity of the site or the wider area to impacts that could arise from the development.
- 14.2. This includes, inter alia, mitigating and reducing to a minimum the potential adverse impacts resulting from noise from new development and to avoid noise giving rise to significant adverse impacts on health and the quality of life.
- 14.3. The application is supported by an Environmental Noise Report, prepared by Sharpes Redmore, reference 2019697 and dated March 2023. The Report considers the impact of the proposed development on surrounding noise sensitive properties in relation to noise from mechanical services/plant, car parking activity, movement of staff and customers and delivery activity.
- 14.4. The Report identifies two locations that the noise survey was conducted, as these were chose to represent the nearest noise sensitive properties to the proposal. These locations were the same as those surveyed in association with the previous application.



Monitoring Locations in noise survey

14.5. Mechanical Plant/Refrigeration Noise Impact

14.6. The Report advises that as the precise details of the mechanical services plant and refrigeration are not known at this stage, it is appropriate to set noise limits in a suitably worded condition, should permission be granted.

14.7. The closest residential properties to the proposed refrigeration plant equipment are those at Wyeth's Road. Noise surveys indicate that the typical background noise levels in this area are 40 dB at daytime (07:00-23:00) and 32dB at night (23:00-07:00). In the event planning permission is granted, a condition would prevent any future plant or machinery from exceeding these noise levels.

14.8. This condition would be consistent with the previous scheme and was previously accepted by Officers and the Inspector.

14.9. Vehicle Parking Noise Impact

14.10. The Report advises that surveys of noise levels at the boundaries of retail store car parks have shown that levels range from 43 dB to 48 dB at a distance of 10 metres from the boundary and therefore 48 dB is considered a robust (worse case) baseline maxima to apply to peak, whilst the lower value of 43dB is appropriate to use to assess off peak trading conditions.

14.11. The Report confirms that this baseline noise source data includes all sources of noise including cars pulling into the car park, manoeuvring into parking spaces, customer activity in the car park, movement of trolleys, loading of shopping, door slams and vehicle departures.

14.12. The Report identifies the nearest residential properties to the proposed car park would be those at 5 Church Road and 11-15 Wyeth's Road, all of which are in close proximity to the vehicle parking spaces.

14.13. The Report concludes that the predicted noise level from car parking activity will be below the WHO daytime guideline values (50 -55 dB) and also below the existing daytime noise levels (47-57dB) which are informed by noise surveys taken over a period on the site.

14.14. The Council's Environmental Health Officer has noted that the predicted noise levels have factored in a 10dB reduction on the basis of screening provided by a close board fence around the car park and the adjoining residential properties. Although the Report suggests that predicted noise levels without this screening would still be within WHO guideline values and within existing ambient noise levels, the Council's Environmental Health Officer considers it appropriate to recommend a condition, in the event permission is granted, for the installation of a 1.8 metre high acoustic fence on the boundary of the car park and the residential properties, for acoustic mitigation.

14.15. Delivery/Service Noise Impact

- 14.16. The Report advises that the noise levels of service activity have been measured at similar stores of the operator and the maximum levels have been used to predict the service yard noise levels to the nearest noise sensitive properties in Wyeth's Way.
- 14.17. The Report advises that during the daytime hours, the noise levels from the service yard activities, including the arrival and departure of vehicles, are below the WHO daytime guideline values (50 - 55 dB) and existing daytime noise levels (47-57dB).
- 14.18. The WHO night time guidance recommends that individual noise events exceeding 45 dB should be avoided. The Report concludes that deliveries during night time hours (2300 – 0700) predicted noise levels at 23 Wyeth's Road will be below the night-time WHO levels (45 dB) .For 5 Church Lane, the 0600-0700 hours will exceed the WHO night-time and peak guideline values.
- 14.19. The Report advises at paragraph 6.13 that only one delivery will be received between the hours of 06:00 and 07:00, although this conflicts with the supporting Delivery and Service plan, prepared by Connect Consultants, which suggests that morning deliveries are one HGV and one milk delivery vehicle.
- 14.20. The Report advises that once on the loading bay, the noise of the main delivery impact would be sufficiently mitigated by the screening provided by the main building itself. Therefore, the main noise impact will be from the vehicle arrival and departure. To mitigate for this, a Service and Delivery Management Plan is proposed, which will control how delivery vehicles arrives and will provide a number of measure to reduce the noise impact of deliveries, including scheduling deliveries so they do not occur at the same time.
- 14.21. The previous application considered the noise implications of a retail unit on the site with trading hours of Monday to Saturday 08:00 – 22:00, with any 6 hours between 10:00 – 17:00 on Sundays. Officers see no reason from the submitted documentation to diverge from this in the event planning permission is granted. It is also noted that these hours were imposed on the existing LAD retail store to the west of the site and the proposal would therefore be consistent with previous retail decisions.
- 14.22. A condition to restrict the delivery hours on the site to 06:00 – 22:00 Monday to Saturday and 07:00 – 22:00 on Sunday and to secure a Service and Delivery Management Plan that would contain a requirement to prevent more than one delivery to the site between the hours of 06:00-07:00 daily, prior to commencement of trade on site are also recommended.

- 14.23. It is considered that the Noise Assessment has fully justified the proposed operation and delivery hours, alongside acoustic mitigation at the most sensitive boundaries and adherence to a Service Delivery Management Plan to be in use during the most sensitive hours when the store is not trading.
- 14.24. It is noted that this conclusion is consistent with the position of both the Council and the Inspector in respect of the previous application, neither of which raised concerns regarding the noise implications of the proposal upon the adjacent residential properties. That application had a similar scale retail floorspace in a similar part of the site with broadly similar delivery requirements and with residential development above.
- 14.25. Subject to the above mentioned conditions in the event permission is granted, the proposal would not cause significant harm to the amenities of the occupiers in terms of noise to warrant a refusal of the application.

15. Ecology and Biodiversity

15.1. Ecological Impact

- 15.2. The Local Planning Authority have a duty of care under Section 41 of the Natural Environment and Rural Communities Act 2006 to ensure that planning permission is not granted for any development that has potential to unlawfully impact on protect species identified under Schedule 5 of the Wildlife and Countryside Act 1981 (as amended) and Schedule 2 of the Conservation of Habitats and Species Regulations 2017 (as amended).
- 15.3. Paragraph 180 of the NPPF states (inter alia) that opportunities to improve biodiversity in and around developments should be integrated as part of their design, especially where this can secure measurable net gains for biodiversity.
- 15.4. Policy CS3 of the CS sets out that development that is detrimental to the Borough's biodiversity will be minimised, and where it does take place, adequate mitigating measures should be provided. Wherever possible, new development should contribute positively towards the Borough's biodiversity.
- 15.5. Policy DM4 of the DMDP seeks to ensure that new development takes every opportunity to enhance the nature conservation potential of a site and secure a net benefit to biodiversity. It sets out that development affecting any site or building that supports species protected by Law including their habitats, will only be permitted if appropriate mitigation and compensatory measures are agreed to facilitate the survival of the identified species, keep disturbance to a minimum and provide adequate alternative habitats to ensure no net loss of biodiversity.

- 15.6. The application is supported by a Preliminary Ecology Appraisal, prepared by The Ecology Solutions and dated March 2023.
- 15.7. The Appraisal advises that a walkover survey has been carried out to support an earlier preliminary ecological appraisal of the site, carried out in 2020. A further preliminary ecological appraisal, carried out in 2015 and supported the previous application has also been referenced, although Officers note this is now out of date.

15.8. Protected Species

15.9. Bats

- 15.10. The 2015 preliminary ecological appraisal recorded a small number of Common and Soprano Pipistrelle bats commuting across the site. Following site inspections carried out in 2020 and in January 2023, the Appraisal concludes that no evidence of the presence of bats was recorded and that the bat roosting opportunities on the site were negligible.
- 15.11. However, the site has limited potential for foraging and commuting bats. The Appraisal concludes that the proposed development of the site and the limited loss of foraging opportunities remains unlikely to have any significant effect on the favourable conservation status of any local bat population. A sympathetic lighting scheme is recommended to minimise light spillage onto boundary vegetation, with particular regard given to the eastern boundary.

15.12. Badgers

- 15.13. The Appraisal concludes there was no evidence of badgers during the site walkover, although the site continues to provide some limited opportunities of foraging and sett building. The Appraisal includes surveys August 2020 and January 2023.
- 15.14. The Appraisal acknowledges that as badgers are relatively mobile and the presence of species on the site cannot be ruled out. that The Council have been advised by a third party representation that clear badger activity was seen on a neighbouring property on 26.05.2020, 20.09.2020 and 06.06.2021. The third-party representation has therefore questioned the validity of the results of the two surveys, carried out in August 2020 and January 2023. respectively, given that it is highly improbable that the surveys missed evidence of badgers either side of the surveys, if it had been conducted thoroughly.
- 15.15. The Appraisal concludes that whilst the site continues to provide some very limited opportunities for Badger foraging and sett building and given the developed use of the land surrounding the site, it is considered highly unlikely that Badgers would be present in this location.

- 15.16. However, in acknowledging that badgers are dynamic in nature, it is recommended that Badger monitoring surveys are carried out prior to the commencement of any works to determine site usage and ensure that no setts have been excavated.
- 15.17. The Council Ecology Officer is aware of the third party evidence and has advised that badgers, unlike bats or Great Crested Newts, are not protected for their conservation status. The Protection of Badgers Act 1992 aims to protect the species from persecution, rather than being a response to an unfavourable conservation status, as the species is, in fact, common over most of Britain, with particularly high populations in the south west.
- 15.18. The 1992 Act also makes the intentional or reckless destruction, damage or obstruction of Badger setts an offence. In addition, the intentional elimination of sufficient foraging area used to support a known social group of Badgers may, in certain circumstances, be construed as an offence by constituting 'cruel ill treatment' of a Badger.
- 15.19. The Council Ecology Officer is satisfied that a condition to carry out Badger monitoring surveys prior to development would be an acceptable measure to prevent the disturbance of any badgers or their setts, should they be identified, as a result of the proposal.
- 15.20. It is noted that the supporting CELMP does not make provision for Badger Monitoring Surveys within the enabling works period (Week 1 to Week 7), and as such, it is reasonable to secure this by way of a standalone pre-commencement condition, in the event that planning permission is granted.

15.21. Reptiles

- 15.22. The Appraisal advises that a desk based data search of the site and its surroundings confirms that there are no records of reptile species from the past ten years on the site. This accords with a reptile survey undertaken in 2015.
- 15.23. The Appraisal has given to the age of the previous surveys, but on account of no dispersal opportunities, the Appraisal concludes that there would have been any colonisation in the intervening period.
- 15.24. Whilst the Appraisal notes that the area of species-poor semi-improved grassland and scrub continue to support some limited opportunities for common reptiles, the area suitable for reptiles remains somewhat isolated.
- 15.25. The Appraisal concludes that reptiles are not present on the site and would therefore not be affected by the proposed development.

15.26. Amphibians

15.27. The Appraisal advises that a desk based data search of the site and its surroundings, returned records of two amphibian species from the past ten years, one of which was a Great Crested Newt, recorded approximately 0.7km north-west of the site boundary.

15.28. The Appraisal advises no amphibians were recorded across the survey work undertaken and there are no waterbodies on site.

15.29. Whilst the scrub and grassland continues to offer some limited suitable habitat for amphibians during their terrestrial phase, these remain somewhat isolated from other suitable habitat within the area. The nearest pond is located 0.6km to the north- west of the site, beyond a large area of residential development, major roads and the railway line serving Epsom and the surrounding towns.

15.30. The Appraisal concludes that amphibians are not present on the site and would therefore not be affected by the proposed development.

15.31. Birds

15.32. The Appraisal advises that a desk based data search of the site and its surroundings returned a very small data set of birds. A single lapwing (species of principle importance) as recorded 1.3km east of the site in 2018 and a Swift (UK Birds Conservation Amber List) approximately 0.6km west of the site in 2016.

15.33. The Appraisal notes that the areas of dense scrub on the site continue to offer good nesting and foraging opportunities for birds. For this reason, it is recommended that native fruit-bearing plant species known to benefit birds are incorporated into any proposed landscaping that would provide enhanced foraging opportunities for bird species post-development.

15.34. As a precautionary measure, should planning permission be granted, the Appraisal recommended that clearance of any suitable nesting habitat be undertaken outside the bird nesting season (February to August inclusive) to avoid any potential offence. Should the above timing constraints conflict with any timetabled works, it is recommended that works commence only after a suitably qualified ecologist has undertaken checks to ensure no nesting birds are present.

15.35. Hedgehogs

15.36. Whilst hedgehogs are not a protected species, but they are a priority species. A dead hedgehog was recorded on the site in 2020, but the Appraisal suggests that this could have been brought on site by a fox.

- 15.37. The Appraisal has concluded that the site contains suitable habitat for foraging and hibernation and therefore, as a precautionary measure, any clearance of garden waste piles or other Hedgehog shelter features will be subject to inspection by an Ecological Clerk of Works (ECoW) prior to removal to ensure that Hedgehogs are absent.
- 15.38. In the event that an individual is encountered, it would be carefully placed in an appropriate lidded box and immediately removed to an area of suitable habitat at the margins of the site away from working areas.
- 15.39. Furthermore, any trenches or deep pits associated with construction that are to be left open overnight will be provided with a means of escape in case a Hedgehog enters.
- 15.40. The Council's Ecology Officer has reviewed the Preliminary Ecology Appraisal and has considered it to be appropriate in scope and methodology and recommends, in the event permission is granted, a condition to secure the mitigation measures as set out within.
- 15.41. Subject to the abovementioned conditions, should permission be granted; the Local Planning Authority are satisfied that they have carried out their duty of care under Section 41 of the Natural Environment and Rural Communities Act to protect the species identified under Schedule 5 of the Wildlife and Countryside Act 1981 (as amended) and Schedule 2 of the Conservation of Habitats and Species Regulations 2017.
- 15.42. Biodiversity Net Gain**
- 15.43. The application is supported by a Biodiversity Net Gain Report, prepared by Ecology Solutions, reference 9162.BNGReport.vf1.
- 15.44. The mandatory requirement for Biodiversity Net Gain for major development came into place on 12 February 2024. As this application was registered prior to this date and there is no retrospective requirement to do so, there no national mandatory requirement for the site to provide a minimum of 10% Biodiversity Net Gain.
- 15.45. Furthermore, whilst the emerging local plan has a requirement for a minimum of 10% biodiversity net gain on new sites, given that the Draft Local Plan is in an early stage of preparation, this policy can only be afforded limited weight.
- 15.46. The site comprises of crushed hardcore and rubble following the demolition of the on-site buildings in 2017. Dense scrub, dominated by has developed within the centre and south of the site, with scattered scrub across the majority of the areas of crushed hardcore. The east of the site is dominated by an area of poor semi-improved grassland, with a narrow strip of grassland towards the northern margin, both containing some scattered scrub. An area of Bramble scrub runs along the eastern boundar

- 15.47. The proposal would result in a 43.68% decrease of habitat from on site. Whilst the proposed landscaping scheme would provide green infrastructure and opportunities for important faunal species remain present within the site, the majority of gains for biodiversity will need to be achieved through off-site habitat improvements as a result of the limited areas available for landscaping within the site.
- 15.48. The Biodiversity Net Gain Report acknowledges that whilst there is no specified mandated target for Biodiversity Net Gain, through either local policy or national legislation, the applicants are agreeable to discuss suitable off sit arrangements, that will need to be agreed upon by the Council. The 10% Biodiversity Net Gain could therefore be achieved in conjunction with off-site improvements and in the event permission was granted, a Biodiversity Net Gain Plan would be secured via a condition.
- 15.49. Subject to the above, the proposal would not prejudice the existing ecological value of the site and would enhance the conservation potential of a site in accordance with Policy CS3 of the CS 2007, Policy DM4 of the DMPD 2015 and the requirements of the NPPF.

16. Flooding and Drainage

16.1. Flood Risk and Vulnerability

- 16.2. Paragraphs 159 and 167 of the NPPF, Policy CS6 of the CS and Policy DM19 of the DMPD state that development at medium or high risk from flooding must ensure that there is no increase in flood risk, whether on or off site, and implementation of flood resilience and mitigation to reduce it to acceptable levels.
- 16.3. The application is supported by a Drainage Strategy and Flood Risk Statement, prepared by Craddys, undated and a Sustainable Drainage Statement Pro-Forma.
- 16.4. In terms of fluvial flooding, the site is wholly located in an area of low flood risk, outside of Flood Zone 2 and 3 as identified on the Environment Agency Flood Risk Maps and therefore the proposed development would be wholly located in Flood Zone 1. As such the development has low risk of fluvial flooding.
- 16.5. Furthermore, the access to the site is also located within Flood Zone 1 and would continue unimpeded to provide safe access to and from the residential developments in the event of a flood.
- 16.6. As the proposed development would lie within Flood Zone 1, neither the sequential test nor the exceptions test, as set out in the Governments guidance 'Flood risk assessment: the sequential test for applicants' 2017 needs to be carried out.

- 16.7. With respect to pluvial flooding, a small part of the site lies within the critical drainage area and Environment Agency Surface Water Flood Maps identifies this part of the site to at low to medium risk of surface water flooding.
- 16.8. The Drainage Strategy identifies that there is no known history of flooding from ground water for the development site, and no ground water was encountered in the course of the site investigations. A sequential test would not be required in relation to the site being within a critical drainage area or being at risk of surface flooding.
- 16.9. Sustainable Drainage**
- 16.10. Paragraph 167 of the NPPF, Policy CS6 of the CS 2007 and Policy DM19 of the DMPD seek the implementation of sustainable urban drainage systems (SUDS).
- 16.11. The site lies within Ground Water Source Protection Zones 1 Inner Catchment and located across a Principal aquifer and a Secondary aquifer. Controlled waters are therefore sensitive in this location. The site is currently undeveloped and all rainfall water currently infiltrates naturally to the ground.
- 16.12. The proposal would increase the impermeable area of the site. In considering the most appropriate surface water drainage scheme to accommodate the additional run off created by the greater impermeable areas, a series of soakaway tests have been carried out at the site which has established favourable infiltration rates, thereby making infiltration methods viable for the site.
- 16.13. It is therefore proposed to dispose of all surface water via infiltration to the ground. The proposed parking bays would be surfaced with full infiltration permeable block paving, which will also receive run-off from adjacent vehicle running lanes and pedestrian areas. Run-off from the roof of the main building store and the lorry ramp would be directed to a below ground geocellular soakaway tank beneath the car park.
- 16.14. Run off from the lorry ramp will discharge to the soakaway via a fuel and oil separator. A 190m³ geocellular soakaway tank is proposed to provide flow rate control.
- 16.15. A green roof is also proposed over the warehouse, which would provide some surface water attenuation by slowing the flow of the water from the roof, which would then be directed to a below ground drainage system that would direct to the geocellular soakaway tank.
- 16.16. The Lead Local Flood Authority have confirmed that the drainage proposal satisfies the requirements of the NPPF and has recommended that should permission be granted, suitable conditions are required to secure the details of the design of the surface water drainage scheme and

to ensure that it is properly implemented and maintained throughout the lifetime of the development.

- 16.17. As such, it is considered that the flood risk and surface water flooding have been addressed in accordance with Policy CS6 of the CS and Policy DM19 of the DMDP and the requirements of the NPPF.

17. Archaeology

- 17.1. Paragraph 194 of the NPPF states that where a site on which development is proposed includes, or has the potential to include, heritage assets with archaeological interest, local planning authorities should require developers to submit an appropriate desk-based assessment and, where necessary, a field evaluation.
- 17.2. Policy CS5 of the CS sets out that the Council will protect and seek to enhance the Borough's heritage assets including (inter alia) archaeological remains. The settings of these assets will be protected and enhanced.
- 17.3. Policy DM8 of the DMPD seeks to resist the loss of Heritage Assets and instead promote the opportunity to conserve and enhance these. Specifically, on any major development site of 0.4ha or greater, applicants are required to undertake prior assessment of the possible archaeological significance of a site and the implications of the proposals.
- 17.4. The application is supported by an Archaeological Desk Based Assessment, prepared by Headland Archaeology, dated March 2023 which concludes that there are likely to be buried archaeological assets of significance surviving at the site.
- 17.5. The County Archaeological Officer has reviewed the archaeological desk based assessment submitted and considers it to be of good quality and suitable to support the development application. In light of the archaeological potential on the site, the County Archaeological Officer recommends, in the event permission is granted, a condition to an archaeological watching brief over excavations required to facilitate the development, in order to mitigate the impacts of development on archaeology.
- 17.6. In light of the above, and subject to the recommended condition as set out by the County Archaeologist, Officers are satisfied that there would be no adverse archaeological implications and the proposal would accord with Policy CS5 of the CS, Policy DM8 of the DMPD and the requirements of the NPPF.

18. Contamination and Remediation

- 18.1. Paragraph 183 of the NPPF and Policy DM17 of the DMPD requires consideration of ground conditions and risks to end users. The site is listed as potentially contaminated on the Council's register.
- 18.2. Paragraph 184 of the NPPF continues where a site is affected by contamination issues, responsibility for securing a safe development rests with the developer and/or landowner in accordance with paragraph 179 of the NPPF.
- 18.3. Policy DM17 of the DMPD states [inter alia] that where it is considered that land may be affected by contamination, planning permission will only be granted if it is demonstrated that the developed site will be suitable for the proposed use without the risk from contaminants to people, buildings, services or the environment including the apparatus of statutory undertakers.
- 18.4. The application is supported by a Preliminary Risk Assessment Report, prepared by Groundtech Consulting, reference GRO-22195-4200 and dated 23 March 2023. This document indicates that potentially contaminate made ground may be present beneath the site as a result of the previous Depot use and recommends an intrusive investigation to further assess this.
- 18.5. The Council's Contaminated Land Officer has reviewed this document and has recommended conditions to secure a site investigation scheme to determine the extent of contaminants within the ground.
- 18.6. This condition would ensure that risks from land contamination to 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 off site receptors.
- 18.7. The proposal is therefore considered to accord with Policy DM17 of the DMPD and the requirements of the NPPF.

19. Environmental Sustainability

- 19.1. Paragraph 185 of the NPPF states that planning decisions should ensure that new development is appropriate for its location by taking into account the effects (including cumulative effects) of pollution on health, living conditions and the natural environment, as well as the potential sensitivity of the site or the wider area to impacts that could arise from the development.
- 19.2. On 23 July 2019, the Council committed to tackling Climate Change and addressing Epsom and Ewell Borough Council carbon emissions.

- 19.3. Consideration of sustainability and climate change are embedded within the Council's current adopted Core Strategy and Development Management Policies Document. Specifically, Policy CS1 of the DMPD sets out that the Council will expect the development and use of land to contribute positively to the social, economic and environmental improvements necessary to achieve sustainable development - both in Epsom and Ewell, and more widely. Changes should protect and enhance the natural and built environments of the Borough and should achieve high quality sustainable environments for the present, and protect the quality of life of future, generations.
- 19.4. Policy CS6 of the CS stipulates that development should incorporate sustainable development and reduce, or have a neutral impact upon, pollution and climate change. This includes incorporation of renewable energy, use of sustainable construction methods and sustainable building design, flood management, reduction in water use and improvement of water quality and minimisation of noise, water, and light pollution.
- 19.5. The application is supported by a Renewable and Low Carbon Energy Statement and a Sustainability Statement, both prepared by Sol Environment, reference SOL_23_S017_AL-SH and dated March 2023.
- 19.6. These statements outlines that the overall energy strategy for the development capitalises on passive design measures (orientation that suits daylight/sunlight, air tight, efficient lighting etc) to maximise the fabric energy efficiency. The scheme includes Air Source Heat Pumps to serve the food store and a roof mounted solar photovoltaic array for on-site renewable energy consumption. Water consumption would meet BREEAM Very Good compliance.
- 19.7. An operational waste management strategy is proposed, including clearly segregated storage of recyclable waste streams, including a baler/compactor for cardboard waste.
- 19.8. For the construction phase, all timber and timber products used would be from legally harvested and traded sources and materials with a lesser environmental impact would be the preferred selected. At least 50% of materials would be sourced from suppliers or manufacture who implement an Environmental Management System.
- 19.9. Construction Waste Management would also be considered during the post planning stage, should permission be granted, to ensure that site waste can be reduced, reused, recycled or recovered wherever possible.
- 19.10. Subject to a condition to secure these sustainable measures as part of a detailed design in the event permission is granted, the proposal would be able to secure a sustainable development outcome and would therefore accord with Policies CS1 and CS6 of the Core Strategy.

20. Accessibility and Equality

- 20.1. Policy CS16 of the CS and Policy DM12 of the DMPD requires safe, convenient, and attractive access to be incorporated within the design of the development. As a publicly accessible retail building, the premises will be fully accessible, including a compliant provision of blue badge parking, level access into the building and the provision of a publicly accessible disabled toilet. Regardless, the proposal would need to accord with building regulations and on this basis, no objection is raised.
- 20.2. The Council is required to have regard to its obligations under the Equality Act 2010, including protected characteristics of age, disability, gender, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief.
- 20.3. There would be no adverse impacts as a result of the development.

21. Planning Obligations and Community Infrastructure Levy

- 21.1. Paragraphs 55 and 57 of the NPPF requires consideration of whether otherwise unacceptable development could be made acceptable through the use of conditions or planning obligations, but only where they are necessary, related to the development, fair and reasonable.
- 21.2. Policy CS12 of the CS and the Developer Contributions SPD require that development must be able to demonstrate that the service and community infrastructure necessary to serve the development is available, either through on-site provision or a financial contribution via a planning obligation.
- 21.3. The Community Infrastructure Levy Charging Schedule 2014 indicates that the application is liable for CIL payments, payable at £150/m² index linked.

CONCLUSION

22. Planning Balance

- 22.1. Section 2 of the NPPF has an underlying presumption in favour of sustainable development which is carried through to the Development Plan. Policy CS1 of the CS expects development to contribute positively to the social, economic, and environmental improvements in achieving sustainable development whilst protecting and enhancing the natural and built environment.

22.2. Economic Benefits

- 22.3. The Council's own evidence base identifies that there is a need for 2,300m² of convenience food floorspace in the period up to 2027. The

proposal would help to fulfil this requirement, whilst bringing investment into the Borough. This benefit is attributed moderate weight.

- 22.4. The proposal would generate a minimum of 50 full time employees. Although Officers do not interpret NPPF to mean that any jobs created by commercial redevelopment on the site have to be given significant weight, the number of jobs created would be substantial and therefore moderate weight is given to this benefit.
- 22.5. The proposal would create additional expenditure in the local economy at both construction phase and following occupation. However, there is no evidence to suggest that the local economy is suffering without the additional expenditure arising from the proposal at both the construction and operations stage. This benefit is therefore attributed limited weight.

22.6. Social Benefits

- 22.7. The proposal would offer residents a greater choice of discount convenience stores in an accessible and sustainable location. This benefit is attributed moderate weight.

22.8. Environmental Benefits

- 22.9. Paragraph 124 (c) of the NPPF indicates that substantial weight should be given to the value of using suitable brownfield land within settlements for identified needs. Whilst the Council's Retail and Commercial Leisure Needs Assessment 2020 and its associated update in 2021 identifies an existing and future need for convenience food floorspace within the Borough in the period up to 2027, it also highlights a preference to direct new retail floor space to future growth areas. However, as the current timescale for the adoption of the emerging Local Plan is Spring 2026, it is unlikely that this need will be met through future growth areas. Therefore, significant weight is afforded to this benefit.
- 22.10. The proposal would create a high quality, sustainable contemporary development with landscaping, replacing a vacant and derelict site. However, any new development on this site would be expected to meet the design requirements of national and local policy. Therefore, limited weight is afforded to this benefit.
- 22.11. There was no mandatory requirement for the proposal to achieve 10% Biodiversity Net Gain on site at the time the application was registered, and there is no retrospective requirement to do so. The proposal cannot achieve 10% Biodiversity Net Gain on the site as a result of the limited areas available for landscaping on site. However, the applicant has agreed to deliver the net gain off site. This benefit is attributed moderate weight.

22.12. Environmental Adverse Effects

- 22.13. It has not been demonstrated to the satisfaction of the Council's Tree Officer that the tree planting proposed would properly integrated into the design to give maximum treescape benefit. The proposal would result in the loss of poor quality trees existing within the site, that make no contribution to the verdancy of the area. The Council's Tree Officer has not objected to the loss of these trees, nor raised any concern in relation to no dig surfacing over retained trees.
- 22.14. Any future redevelopment of the site making the most efficient use of the land would have resulted in the loss of the trees identified for removal, as a result of their locations within the centre of the site.
- 22.15. The loss of the poor-quality trees existing centrally on site would be replaced by 10 trees that would be located in more visually prominent periphery locations on the site, therefore making a greater contribution towards verdancy in the street scene than the existing situation. It is acknowledged that the juxtaposition of the building in relation to some trees could prevent future root and crown growth, and this weighs in the planning balance. Notwithstanding, Officers are satisfied that a condition securing the replacement of trees within a period of 10 years after planting to provide establishment and maintenance of an appropriate landscape scheme would promote longer term tree retention.
- 22.16. The proposal (as the previous scheme) would potentially result in the loss of some existing on-street vehicle parking spaces along Alexandra Road as a result of the relocation of the pedestrian island to accommodate the proposed right turn lane into the site. Although the County Highway Authority raise no objection on this matter, the potential for the loss of on street vehicle parking spaces on Alexandra Road would be a moderate environmental adverse impact.

22.17. Conclusion

- 22.18. Overall, whilst there is an adverse effect in respect of this application, these would not outweigh the benefits, when assessed against the policies in the Framework taken as a whole, or where specific policies in the Framework indicate that development should be restricted.
- 22.19. With respect to the previous appeal decision, which attracts a degree of weight, the proposal has demonstrated that there remain no sequentially preferable sites and the highway safety implications are no worse. The subject scheme has made measurable changes to the design and appearance since that dismissed at appeal such that the level of harm is significantly lessened and even when accounting for no provision for housing, the benefits do now outweigh the harm.

- 22.20. The application is therefore recommended for approval.

RECOMMENDATION

To grant planning permission subject to:

- 1) A S106 Legal Agreement to secure a Travel Plan Audit Fee of £6,150

In the event that the Section 106 Agreement is not completed by 10 January 2025, the Head of Place Development is authorised to refuse the application contrary to the sustainable development objectives of the NPPF 2023 and policies DM35 and DM36 of the Development Management Policies 2015

- 2) The following conditions and informatives:

Conditions

1. Time Limit

The development hereby permitted shall begin before the expiration of three years from the date of this permission.

Reason: To comply with Section 91(1) of the Town and Country Planning Act 1990 as amended by Section 51(1) of the Planning and Compulsory Purchase Act 2004.

2. Approved Details

The development hereby permitted shall be carried out in accordance with the following approved plans:

- 100A – Location Plan
- 101A – Existing Block Plan
- 102A – Existing Site Layout
- 103A – Existing Sections
- 111E – Proposed Block Plan
- 112E – Proposed Site Layout
- 113B – Proposed Ground Floor Plan
- 114 – Proposed First Floor Plan
- 116B – Proposed Elevations 1 of 2
- 117B – Proposed Elevations 2 of 2
- 118C – Proposed Street Scene & Sections
- V002 – Proposed Site Plan (Coloured)
- 01E – Proposed Visual
- 02F – Proposed Visual
- L01D – Landscape Plan
- 66-0001 D2 P01 – Tree Pit Detail – Soft
- 66-0002 D2 P02 – Tree Pit Detail – Trench

Reason: For the avoidance of doubt and in the interests of proper planning as required by Policy CS5 of the Core Strategy 2007.

Pre-Commencement Conditions

3. Materials

No development shall commence unless and until details of the external materials to be used for the development shall be submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.

Reason: To secure a satisfactory appearance in the interests of the visual amenities and character of the locality in accordance with Policy CS5 of the Core Strategy 2007 and Policies D8, D9 and DM10 of the Development Management Policies 2015.

4. Construction Transport Management Plan

No development shall commence unless and until a Construction Transport Management Plan, to include details of:

- a) parking for vehicles of site personnel, operatives and visitors
- b) loading and unloading of plant and materials
- c) storage of plant and materials
- d) provision of boundary hoarding behind any visibility zones
- e) measures to prevent the deposit of materials on the highway
- f) before and after construction condition surveys of the highway and a commitment to fund the repair of any damage caused
- g) Details to outline that no HGV movements to or from the site shall take place between the hours of 7.30 and 9.30 am and 3.00 and 5.00 pm, nor shall the contractor permit any HGVs associated with the development at the site to be laid up, waiting, in (Alexandra Road or Church Street) during these times
- h) on-site turning for construction vehicles (or measures for traffic management)
- i) Routing of delivery movements to and from the site

has been submitted to and approved in writing by the Local Planning Authority. The approved details shall be implemented during the construction of the development.

Reason: In order for the development not to prejudice highway safety nor cause inconvenience to other highway users in accordance with the objectives of the NPPF 2023, and to satisfy policies DM35 and DM36 of the Development Management Policies 2015 and Policy CS16 of the Core Strategy 2007.

5. Controlled Waters Contamination

No development approved by this planning permission shall commence until a strategy to deal with the potential risks associated with any contamination of the site has been submitted to, and approved in writing by, the Local Planning Authority. This strategy will include the following components:

- 1) A preliminary risk assessment which has identified:

- all previous uses;
 - potential contaminants associated with those uses;
 - a conceptual model of the site indicating sources, pathways and receptors; and
 - potentially unacceptable risks arising from contamination at the site.
- 2) A site investigation scheme, based on (1) to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off site
 - 3) The results of the site investigation and the detailed risk assessment referred to in (2) and, based on these, an options appraisal and remediation strategy giving full details of the remediation measures required and how they are to be undertaken.
 - 4) A verification plan providing details of the data that will be collected in order to demonstrate that the works set out in the remediation strategy in (3) are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action.

The approved details shall be implemented during the construction of the development. Any changes to these components require the written consent of the local planning

Reason: To ensure that the development does not contribute to, or is not put at unacceptable risk from, or adversely affected by, unacceptable levels of water pollution as required by Policy DM10 of the Development Management Policies Document 2015 and the NPPF 2023.

6. Programme of Archaeological Works

No development shall take place until the applicant, or their agents or successors in title, has secured the implementation of a programme of archaeological work, to be conducted in accordance with a written scheme of investigation which has been submitted to and approved, in writing, by the Local Planning Authority. trigger

Reason: To ensure archaeological investigation recording in accordance with Policy DM8 of the Development Management Policies Document 2015.

7. SuDS Details

No development shall commence unless and until details of the design of a surface water drainage scheme have been submitted to and approved in writing by the planning authority. The design must satisfy the SuDS Hierarchy and be compliant with the national Non-Statutory Technical Standards for SuDS, NPPF and Ministerial Statement on SuDS. The required drainage details shall include:

- (a) The results of infiltration testing completed in accordance with BRE Digest: 365 and confirmation of groundwater levels.

- (b) Evidence that the proposed final solution will effectively manage the 1 in 30 (+20% allowance for climate change) & 1 in 100 (+25% allowance for climate change) storm events during all stages of the development. The final solution should follow the principles set out in the approved drainage strategy. If infiltration is deemed unfeasible, associated discharge rates and storage volumes shall be provided using a maximum discharge rate **equivalent to the pre-development Greenfield run-off**.
- (c) Detailed drainage design drawings and calculations to include: a finalised drainage layout detailing the location of drainage elements, pipe diameters, levels, and long and cross sections of each element including details of any flow restrictions and maintenance/risk reducing features (silt traps, inspection chambers etc.). Confirmation is required of a 1m unsaturated zone from the base of any proposed soakaway to the seasonal to the groundwater level based on ground water monitoring from December to March, and confirmation of half-drain times.
- (d) A plan showing exceedance flows (i.e. during rainfall greater than design events or during blockage) and how property on and off site will be protected from increased flood risk.
- (e) Details of drainage management responsibilities and maintenance regimes for the drainage system.
- (f) Details of how the drainage system will be protected during construction and how runoff (including any pollutants) from the development site will be managed before the drainage system is operational.

The approved details shall be implemented during the construction of the development and prior to first opening for trading.

Reason: To ensure that the principles of sustainable drainage are incorporated into the development and to reduce the impact of flooding in accordance with Policy CS6 of the Epsom and Ewell Core Strategy 2007 and Policy DM19 of the Development Management Policies 2015

8. Service and Delivery Management Plan

Prior to the commencement of the development hereby permitted, a Service and Delivery Management Plan shall be submitted to and approved in writing by the local planning authority. The Plan shall specify arrangements for deliveries to and removals from the site and include details of:

- (a) Types of vehicles
- (b) Hours of operation
- (c) Final design of delivery areas
- (d) Specifications for lorry parking and turning spaces and manouvering within the site
- (e) Delivery arrangements, including standard delivery types, timings and lengths (including no more than one delivery to the site between 06:00- 07:00 daily)

The operation of the development shall accord with the approved details and only the approved details shall be implemented.

Reason: To ensure that the development does not prejudice the free flow of traffic and conditions of safety on the highway or cause inconvenience to other highway users in accordance with Policy CS16 of the Core Strategy 2007 and Policy DM35 of the Development Management Policies Document 2015.

9. Badger Monitoring Survey

No development shall commence onsite until badger monitoring surveys are carried out to determine site usage and ensure that no setts have been excavated.

Reason: To preserve and enhance biodiversity and habitats in accordance with Policy CS3 of the Core Strategy 2007 and Policy DM4 of the Development Management Policies 2015.

10. Biodiversity Net Gain

Prior to commencement of development, a Biodiversity Gain Plan must be submitted and approved by the planning authority. This shall demonstrate how the measures set out in the March 2023 Biodiversity Net Gain Report submitted with the application have been met.

Reasons: To enhance biodiversity and habitats in accordance with Policy CS3 of the Core Strategy 2007 and Policy DM4 of the Development Management Policies Document 2015.

Pre-Above Ground Conditions

11. Surfacing Works in Root Protection Areas

Prior to the commencement of development above ground, details of the no dig specification surfacing to be installed within the Root Protection Areas of T4, T5 and T7 shall be submitted to and approved in writing by the Local Planning Authority. The no dig surfacing shall be carried out in accordance with the approved details prior to first opening for trading.

Reason: To protect the trees on site which are to be retained in the interests of the visual amenities of the locality in accordance with Policy CS5 of the Core Strategy (2007) and Policies DM5 and DM9 of the Development Management Policies 2015.

Pre Operation Conditions

12. New Vehicular Access

No part of the development shall be first opened for trading unless and until the proposed vehicular access to Alexandra Road has been constructed as a bell-mouth and provided with dropped kerbs, tactile paving and double yellow lines on each side of the access, in general accordance with the approved plans, subject to possible

alterations required as part of a Road Safety Audit and technically agreed by the County Highway Authority.

Reason: In order for the development not to prejudice highway safety nor cause inconvenience to other highway users in accordance with Section 9 of the NPPF 2023, and to satisfy policies DM35 and DM36 of the Development Management Policies 2015 and Policy CS16 of the Core Strategy 2007.

13. Existing Access Closure

The development hereby approved shall not be first opened for trading unless and until existing accesses from the site to Alexandra Road have been permanently closed and any kerbs, verge, footway, fully reinstated.

Reason: In order for the development not to prejudice highway safety nor cause inconvenience to other highway users in accordance with Section 9 of the NPPF 2023, and to satisfy policies DM35 and DM36 of the Development Management Policies 2015.

14. New Pedestrian Access

The development hereby approved shall not be first opened for trading unless and until the proposed 2m footway along Church Street has been provided in general accordance with the approved plans, subject to possible alterations required as part of a Road Safety Audit and technically agreed by the County Highway Authority.

Reason: In order for the development not to prejudice highway safety nor cause inconvenience to other highway users in accordance with the objectives of the NPPF 2023, and to satisfy policies DM35 and DM36 of the Development Management Policies 2015 and Policy CS16 of the Core Strategy 2007.

15. Pedestrian Intervisibility Splay

The development hereby approved shall not be first opened for trading unless and until a pedestrian inter-visibility splay measuring 2m by 2m has been provided on each side of the proposed vehicle access to Alexandra Road, the depth measured from the back of the footway (or verge) and the widths outwards from the edges of the access. No obstruction to visibility between 0.6m and 2m in height above ground level shall be erected within the area of such splays

Reason: In order for the development not to prejudice highway safety nor cause inconvenience to other highway users in accordance with Section 9 of the NPPF 2023, and to satisfy policies DM35 and DM36 of the Development Management Policies 2015 and Policy CS16 of the Core Strategy 2007.

16. Parking/Turning

The development hereby approved shall not be first opened for trading unless and until space has been laid out within the site in accordance with the approved plans for vehicles to be parked and for vehicles to turn so that they may enter and leave

the site in forward gear. Thereafter the parking and turning areas shall be retained and maintained for their designated purposes.

Reason: In order for the development not to prejudice highway safety nor cause inconvenience to other highway users in accordance with Section 9 of the NPPF 2023, and to satisfy policies DM35 and DM36 of the Development Management Policies 2015 and Policy CS16 of the Core Strategy 2007.

17. Cycle Facilities

The development hereby approved shall not be first opened for trading unless and until space has been laid out within the site in accordance with the approved plans for cycles to be parked in a secure, covered and lit location. Thereafter the facilities shall be retained and maintained for their designated purposes.

Reason: In recognition of Section 9 of the NPPF 2023 an in meeting its objectives, as well as and to satisfy policies DM35 and DM36 of the Development Management Policies 2015.

18. Electric Vehicle Charging Points

The development hereby approved shall not be first opened for trading unless and until at least 6 of the available parking spaces are provided with a rapid charge socket (current minimum requirement: 22kw Mode 4 (DC) Multi-standard charge point - 400 v AC 100 amp triple phase dedicated supply), 2 of the available spaces are provided with a fast charge socket (current minimum requirement: 7kw Mode 3 with Type 2 connector - 230 v AC 32 amp single phase dedicated supply) and all remaining spaces to be provided with power supply to provide additional charging sockets in the future, in accordance with a scheme to be submitted to and approved in writing by the Local Planning Authority.

Reason: In recognition of Section 9 of the NPPF 2023 an in meeting its objectives, as well as and to satisfy policies DM35 and DM36 of the Development Management Policies 2015.

19. Travel Plan

The development hereby approved shall not be first opened for trading unless and until a Travel Plan is submitted for the written approval of the Local Planning Authority in accordance with the sustainable development aims and objectives of the National Planning Policy Framework, Surrey County Council's "Travel Plans Good Practice Guide", and in general accordance with the 'Aldi Stores Ltd Travel Plan' document dated March 2023. The approved Travel Plan shall be implemented on the first opening for trading on the site and thereafter maintained and developed to the satisfaction of the Local Planning Authority. The approved Travel Plan shall also include a monitoring plan for the proposed Electric Vehicle Charging Points, in general accordance with TN081 EV Charging and Monitoring Management Plan dated 15th January 2024.

Reason: In recognition of Section 9 of the NPPF 2023 and in meeting its objectives, as well as and to satisfy policies DM35 and DM36 of the Development Management Policies 2015.

20. Controlled Waters Verification Report

The development hereby approved shall not be first opened for trading unless and until a verification report demonstrating the completion of works set out in the approved remediation strategy and the effectiveness of the remediation is submitted to, and approved in writing, by the local planning authority. The report shall include results of sampling and monitoring carried out in accordance with the approved verification plan to demonstrate that the site remediation criteria have been met.

Reason: To ensure that the site does not pose any further risk to human health or the water environment by demonstrating that the requirements of the approved verification plan have been met and that remediation of the site is complete as required by Policy DM10 of the Development Management Policies Document 2015 and Section 15 of the NPPF 2023.

21. Drainage Verification Report

The development hereby approved shall not be first opened for trading unless and until a verification report carried out by a qualified drainage engineer has been submitted to and approved by the Local Planning Authority. This must demonstrate that the surface water drainage system has been constructed as per the agreed scheme (or detail any minor variations), provide the details of any management company and state the national grid reference of any key drainage elements (surface water attenuation devices/areas, flow restriction devices and outfalls), and confirm any defects have been rectified.

Reason: To ensure that the principles of sustainable drainage are incorporated into the development and to reduce the impact of flooding in accordance with Policy CS6 of the Epsom and Ewell Core Strategy 2007 and Policy DM19 of the Development Management Policies 2015

22. Ground and Ground Gas Contamination

Following any necessary demolition and prior to the first opened for trading, the following shall be undertaken in accordance with current best practice guidance:

- a) A desk study, site investigation and risk assessment to determine the existence, extent and concentrations of any made ground/fill, ground gas (including hydrocarbons) and contaminants (including asbestos) with the potential to impact sensitive receptors on and off-site. The results of the investigation and risk assessment shall be submitted to and approved by the local planning authority; and
- b) If ground/groundwater contamination, filled ground and/or ground gas is found to present unacceptable risks, a detailed scheme of risk management

measures shall be designed and submitted to the local planning authority for approval.

Reason: To control significant harm from land contamination to human beings, controlled waters, buildings and ecosystems as required by Policy DM10 of the Development Management Policies Document 2015.

23. Ground and Ground Gas Contamination Remediation Scheme

Prior to first opening for trade, the approved remediation scheme prepared under Condition 16 must be carried out in accordance with its terms. Two weeks' notice of the start of remedial works shall be provided to the Local Planning Authority and the Contaminated Land Officer. Following completion, a verification report that demonstrates the effectiveness of the remediation carried out must be produced and is subject to the approval in writing of the Local Planning Authority prior to.

Reason: To control significant harm from land contamination to human beings, controlled waters, buildings and ecosystems as required by Policy DM10 of the Development Management Policies Document 2015.

24. Landscaping Works Implementation

All planting, seeding or turfing approved shall be carried out in the first planting and seeding season following the first operation of the development or the completion of the development, whichever is the sooner.

Reason: To ensure the provision, establishment and maintenance of an appropriate landscape scheme in the interests of the visual amenities of the locality in accordance with Policy CS5 of the Core Strategy (2007) and Policies DM5 and DM9 of the Development Management Policies 2015.

25. Landscaping Works Implementation

A landscape management plan covering a period of no less than 10 years, including long term design objectives, management responsibilities, maintenance and inspection schedules for all landscape areas and boundary treatments shall be submitted to and approved in writing by the local planning authority prior to the occupation of the development or any completed phase of the development, whichever is the sooner. Any trees or plants which, within a period of ten years after planting, are removed, die or in the opinion of the local planning authority become seriously damaged or diseased, shall be replaced in the next available planting season with others of similar size, species and number, unless otherwise agreed in writing by the local planning authority.

Reason: To ensure that due regard is paid to the continuing enhancement and maintenance of amenity afforded by landscape features in accordance with Policy CS5 of the Core Strategy (2007) and Policies DM5 and DM9 of the Development Management Policies 2015.

26. Acoustic Fencing

The development hereby approved shall not be first opened for trading unless and until the proposed 1.8 metre high close boarded acoustic fence shown on plan 0837-4-112 E has been installed to the eastern and southern boundaries of the site. Once installed, the fence shall be retained and maintained for the lifetime of the development.

Reason: To protect the occupants of nearby residential properties from noise disturbance in accordance with Policy DM10 of the Development Management Policies 2015.

During development and pre occupation conditions

27. Hours of Work

Works related to the construction of the development hereby permitted, including works of demolition or preparation prior to building operations shall not take place other than between the hours of 07:30 to 18.00 hours Mondays to Fridays; 08.00 to 13.00 hours Saturdays; with no work on Saturday afternoons (after 13.00 hours), Sundays, Bank Holidays or Public Holidays

Reason: In order to safeguard the amenities of the occupiers of neighbouring properties in accordance with Policy DM10 of the Development Management Policies Document 2015.

28. Unexpected Controlled Water Contamination

If, during development, contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing with the Local Planning Authority) shall be carried out until a remediation strategy detailing how this contamination will be dealt with has been submitted to and approved in writing by the Local Planning Authority. The remediation strategy shall be carried out in accordance with the approved details, where required, prior to the first trading.

Reason: To ensure that the development does not contribute to, or is not put at unacceptable risk from, or adversely affected by, unacceptable levels of water pollution from previously unidentified contamination sources at the development site, as required by Policy DM10 of the Development Management Policies Document 2015 and Section 15 of the NPPF 2023.

29. Unexpected Ground Contamination

In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the Local Planning Authority. In that event, an investigation and risk assessment must be undertaken and where remediation is deemed necessary a remediation scheme must be prepared which is subject to the approval in writing of the Local Planning Authority. Following completion of measures identified in the approved remediation, a scheme a verification report must be prepared, which is

subject to the approval in writing of the Local Planning Authority prior to first opening of trade.

Reason: To control significant harm from land contamination to human beings, controlled waters, buildings and ecosystems as required by Policy DM10 of the Development Management Policies Document 2015.

30. Drainage Infiltration

No drainage systems infiltration of surface water drainage into the ground is permitted other than with the written consent of the Local Planning Authority. The development shall be carried out in accordance with the approved details prior to first opening of trade.

Reason: To ensure that the development does not contribute to, or is not put at unacceptable risk from, or adversely affected by, unacceptable levels of water pollution from previously unidentified contamination sources at the development site, as required by Policy DM10 of the Development Management Policies Document 2015 and Section 15 of the NPPF 2023.

31. Piling

Piling or any other foundation designs using penetrative methods shall not be permitted other than with the express written consent of the Local Planning Authority, which may be given for those parts of the site where it has been demonstrated by piling risk assessment that there is no resultant unacceptable risk to groundwater. The development shall be carried out in accordance with the approved details prior to first opening of trade.

Reason: To ensure that the development does not contribute to, or is not put at unacceptable risk from, or adversely affected by, unacceptable levels of water pollution from previously unidentified contamination sources at the development site, as required by Policy DM10 of the Development Management Policies Document 2015 and Section 15 of the NPPF 2023.

32. Excavation in Root Protection Areas

Any excavation within the root protection area of trees to be retained on site shall be undertaken by hand as indicated within the Arboricultural impact appraisal and method statement, prepared by Barrell Tree Consultancy, reference 23005-AIS and dated 16 March 2023.

Reason: To protect the trees on site which are to be retained in the interests of the visual amenities of the locality in accordance with Policy CS5 of the Core Strategy (2007) and Policies DM5 and DM9 of the Development Management Policies 2015.

33. Compliance with Tree Protection Services

The development hereby approved shall be carried out in strict accordance with the Tree Protection Plan, prepared by Barrell Tree Consultancy, reference 23005-1.

Reason: To protect the trees on site which are to be retained in the interests of the visual amenities of the locality in accordance with Policy CS5 of the Core Strategy (2007) and Policies DM5 and DM9 of the Development Management Policies 2015.

34. Compliance with Ecological Survey

The development hereby approved shall be carried out in strict accordance with the conclusions and recommendations of the Preliminary Ecology Appraisal, prepared by The Ecology Solutions and dated March 2023 prior to first opening of trade.

Reason: To preserve and enhance biodiversity and habitats in accordance with Policy CS3 of the Core Strategy 2007 and Policy DM4 of the Development Management Policies 2015.

35. Construction Environmental Management Plan

The construction phase of the development hereby approved shall be carried out in strict accordance with the Construction Environmental and Logistics Management Plan (CELMP), prepared by Camford Construction Management Limited, Issue 01 and dated March 2023

Reason: To safeguard the amenities of the occupiers of neighbouring properties in accordance with Policy DM10 of the Development Management Policies Document 2015.

36. Lighting Scheme

Prior to installation of any lighting on the site, full lighting details shall be submitted to and approved in writing by the Local Planning Authority. Details shall include measures to ensure the external lighting facing onto and within the car park and delivery bay would not result in unacceptable loss of amenity by way of glare and/or light spill to neighbouring properties. The lighting shall be carried out in accordance with the approved details prior to first opening of trade and maintained thereafter in accordance with the approved details.

Reason: To protect the occupants of nearby residential properties from light pollution in accordance with Policy DM10 of the Development Management Policies 2015.

Operational conditions

37. Fixed Plant/Machinery

No fixed plant and/or machinery shall come into operation until details of the fixed plant and machinery serving the development hereby permitted, and any mitigation measures to achieve compliance with this condition, are submitted to and approved in writing by the local planning authority.

The rating level of the sound emitted from the site shall not exceed 40 dBA between 0700 and 2300 hours and 35 dBA at all other times. The sound levels shall be

determined by measurement or calculation at the premises closest to the proposed plant enclosure on Wyeth's Road and shall follow the methodology contained within BS 4142:2014.

Thereafter, the operation of the development shall be in accordance with the approved details, including any mitigation, for the life of the development.

Within 4 months of the first use of the development hereby permitted, details confirming compliance with the above requirements over a period of 7 consecutive days, shall be submitted to the local planning authority for approval. Where additional measures are required to ensure compliance with the above measures, these details are to be provided as part of the submission. Therefore

Reason: To protect the amenities of future occupiers in accordance with Policy DM10 of the Development Management Policies Document Adopted October 2015.

38. Compliance with Sustainable Design Measures

The development shall be carried out in strict accordance with the sustainable design measures contained in the Renewable and Low Carbon Energy Statement and a Sustainability Statement, both prepared by Sol Environment, reference SOL_23_S017_AL-SH and dated March 2023 prior to first opening for trading and shall be maintained as such thereafter and no change shall take place without the prior written consent of the local planning authority.

Reason: To ensure that measures to make the development sustainable and efficient in the use of energy, water and materials are included in the development in accordance with Policy CS6 of the Core Strategy 2007.

39. Opening Hours

The retail use hereby permitted shall not be open to the public other than between the hours of 08.00-22.00 hours Mondays to Saturdays and 10.00-17.00 hours on Sundays.

Reason: To safeguard the residential amenity of neighbouring occupiers in accordance with Policy DM10 of the Development Management Policies 2015.

40. Delivery Hours

Unless expressly modified by Condition 8 of this permission, no store deliveries shall be taken at or dispatched from the site except between the hours of 06.00-22.00 Monday to Saturday and 09.00-17.00 on Sundays and Bank Holidays.

Reason: To safeguard the residential amenity of neighbouring occupiers in accordance with Policy DM10 of the Development Management Policies 2015.

41. Hours of External Lighting

Unless expressly modified by Condition 35 of this permission, the external lighting within and facing into the carpark shall not operate other than 15 minutes prior to and 15 minutes after store opening hours.

Reason: To protect the occupants of nearby residential properties from light pollution in accordance with Policy DM10 of the Development Management Policies 2015.

Informatives:

1. Section 106 Agreement

This permission should be read in conjunction with the legal agreement under Section 106 of the Town and Country Planning Act, the obligations in which relate to this development.

2. Advertisement Consent

This permission does not convey or imply any approval or consent that may be required for the display of advertisements on the site for which a separate Advertisement Consent application may be required. You should be aware that the display of advertisements without the necessary consent is a criminal offence liable to criminal prosecution proceedings through the courts.

3. Details To Be Approved

This consent contains conditions that require subsequent approval of detailed matters before the development commences. There is a fee for submission of details to comply with conditions, which is payable for each separate submission rather than for each condition. Decisions may take up to eight weeks, or longer if consultation with third parties is required.

4. Positive and Proactive Discussion

In dealing with the application the Council has implemented the requirement in the National Planning Policy Framework to work with the applicant in a positive and proactive way. We have made available detailed advice in the form of our statutory policies in the Core Strategy, Supplementary Planning Documents, Planning Briefs and other informal written guidance, as well as offering a full pre-application advice service, in order to ensure that the applicant has been given every opportunity to submit an application which is likely to be considered favourably.

5. Building Regulations

Your attention is drawn to the need to comply with the relevant provisions of the Building Regulations, the Building Acts and other related legislation. These cover such works as - the demolition of existing buildings, the erection of a new building or structure, the extension or alteration to a building, change of use of buildings, installation of services, underpinning works, and fire safety/means of escape works.

Notice of intention to demolish existing buildings must be given to the Council's Building Control Service at least 6 weeks before work starts. A completed application form together with detailed plans must be submitted for approval before any building work is commenced.

6. Party Wall Act

The Party Wall Act 1996 requires a building owner to notify, and obtain formal agreement from, any adjoining owner, where the building owner proposes to:

- carry out work to an existing party wall;
- build on the boundary with a neighbouring property;
- in some circumstances, carry out groundwork's within 6 metres of an adjoining building.

Notification and agreements under this Act are the responsibility of the building owner and are quite separate from Building Regulations, or Planning Controls. The Building Control Service will assume that an applicant has obtained any necessary agreements with the adjoining owner, and nothing said or implied by the Council should be taken as removing the necessity for the building owner to comply fully with the Party Wall Act. Further information and advice is to be found in "The Party Walls etc. Act 1996 - Explanatory Booklet".

7. Section 278 agreement

The permission hereby granted shall not be construed as authority to carry out any works (including Stats connections/diversions required by the development itself or the associated highway works) on the highway or any works that may affect a drainage channel/culvert or water course. The applicant is advised that a permit and, potentially, a Section 278 agreement must be obtained from the Highway Authority before any works are carried out on any footway, footpath, carriageway, verge or other land forming part of the highway. All works (including Stats connections/diversions required by the development itself or the associated highway works) on the highway will require a permit and an application will need to be submitted to the County Council's Street Works Team up to 3 months in advance of the intended start date, depending on the scale of the works proposed and the classification of the road. Please see: <http://www.surreycc.gov.uk/roads-and-transport/permits-and-licences/traffic-management-permit-scheme>. The applicant is also advised that Consent may be required under Section 23 of the Land Drainage Act 1991. Please see: www.surreycc.gov.uk/people-and-community/emergency-planning-and-community-safety/flooding-advice.

8. Highway Works

The developer is advised that as part of the detailed design of the highway works required by the above conditions, the County Highway Authority may require necessary accommodation works to street lights, road signs, road markings, highway drainage, surface covers, street trees, highway verges, highway surfaces, surface edge restraints and any other street furniture/equipment.

9. Wheel Washing

The developer is reminded that it is an offence to allow materials to be carried from the site and deposited on or damage the highway from uncleaned wheels or badly loaded vehicles. The Highway Authority will seek, wherever possible, to recover any expenses incurred in clearing, cleaning or repairing highway surfaces and prosecutes persistent offenders (Highways Act 1980 Sections 131, 148, 149).

10. Damage to the Highway

Section 59 of the Highways Act permits the Highway Authority to charge developers for damage caused by excessive weight and movements of vehicles to and from a site. The Highway Authority will pass on the cost of any excess repairs compared to normal maintenance costs to the applicant or organisation responsible for the damage.

11. Highway Obstructions

The applicant is expected to ensure the safe operation of all construction traffic to prevent unnecessary disturbance obstruction and inconvenience to other highway users. Care should be taken to ensure that the waiting, parking, loading and unloading of construction vehicles does not hinder the free flow of any carriageway, footway, bridleway, footpath, cycle route, right of way or private driveway or entrance. The developer is also expected to require their contractors to sign up to the "Considerate Constructors Scheme" Code of Practice, (www.ccscheme.org.uk) and to follow this throughout the period of construction within the site, and within adjacent areas such as on the adjoining public highway and other areas of public realm.

12. Electricity Supply

It is the responsibility of the developer to ensure that the electricity supply is sufficient to meet future demands and that any power balancing technology is in place if required. Electric Vehicle Charging Points shall be provided in accordance with the Surrey County Council Vehicular, Cycle and Electric Vehicle Parking Guidance for New Development 2022. Where undercover parking areas (multi-storey car parks, basement or undercroft parking) are proposed, the developer and LPA should liaise with Building Control Teams and the Local Fire Service to understand any additional requirements. If an active connection costs on average more than £3600 to install, the developer must provide cabling (defined as a 'cabled route' within the 2022 Building Regulations) and two formal quotes from the distribution network operator showing this.

13. Utility Connections

The developer would be expected to agree a programme of implementation of all necessary statutory utility works associated with the development, including liaison between Surrey County Council Streetworks Team, the relevant utility companies and the developer to ensure that where possible the works take the route of least disruption and occurs at least disruptive times to highway users.

14. Watercourses

If proposed site works affect an Ordinary Watercourse, Surrey County Council as the Lead Local Flood Authority should be contacted to obtain prior written Consent.

15. Source Protection Zone

If proposed works result in infiltration of surface water to ground within a Source Protection Zone the Environment Agency will require proof of surface water treatment to achieve water quality standards.

16. Piling

Piling can result in risks to groundwater quality by mobilising contamination when boring through different bedrock layers and creating preferential pathways. Thus, it should be demonstrated that any proposed piling will not result in contamination of groundwater. If Piling is proposed, a Piling Risk Assessment must be submitted, written in accordance with EA guidance document "Piling and Penetrative Ground Improvement Methods on Land Affected by Contamination: Guidance on Pollution Prevention. National Groundwater & Contaminated Land Centre report N C/99/73".