 Reigate & Banstead BOROUGH COUNCIL Banstead Horley Redhill Reigate	TO:	PLANNING COMMITTEE
	DATE:	25 th July 2023
	REPORT OF:	HEAD OF PLACES & PLANNING
	AUTHOR:	Michael Parker
	TELEPHONE:	01737 276514
	EMAIL:	Michael.parker@reigate-banstead.gov.uk
AGENDA ITEM:	5	WARD: Horley Central And South

APPLICATION NUMBER:	22/01400/F	VALID:	07.07.22
APPLICANT:	Lidl Great Britain Ltd & Greene King Brewing and Retailing Ltd	AGENT:	CarneySweeney
LOCATION:	THE AIR BALLOON 60 BRIGHTON ROAD HORLEY SURREY RH6 7HE		
DESCRIPTION:	Demolition of existing building and redevelopment of the site to provide a Class E(a) retail foodstore with associated parking, access and landscaping.		
All plans in this report have been reproduced, are not to scale, and are for illustrative purposes only. The original plans should be viewed/referenced for detail.			

This application is referred to planning committee due to the level of public interest expressed in the application.

SUMMARY

The application relates to the Air Balloon site, Horley. The site is approximately 0.64 hectares in area and is occupied by the Air Balloon pub which is still in operation. The rest of the site is predominantly hardstanding, parking for the pub. The pub building is locally listed. The site is within Flood Zone 1 and is identified as being at low risk of surface water flooding. There are a number of trees within the site, the majority being at the northern end of the site of along the southern boundary. The site is within the designated urban area and is approximately 225m from the Horley Town Centre Boundary.

The site is located on the eastern side of Brighton Road and south-east of the junction with Vicarage Lane and Victoria Road. The eastern part of the site adjoins Victoria Road. To the south east of the site is small parade of commercial units with residential accommodation above. To the south are residential dwellings, the closest being 48, 48A (Braeburn) and 48B (Cortland). To the west, beyond Brighton Road, is a commercial site which is currently occupied by a soft play centre. To the north-west of the site, across the junction with Vicarage Road and Victoria Road is the Grade II listed War Memorial which is located within the Horley Recreation Ground.

This is a full application for the demolition of existing building and redevelopment of the site to provide a class e(a) retail foodstore, a Lidl supermarket, with associated parking, access and landscaping.

Lidl currently trade from an existing store in Horley Town Centre at 100 Victoria Road. The submission advises that the internal layout and servicing of the existing store does not meet Lidl's current specifications and compromises store operations and quality of the product. Hence the Air Balloon site has been identified as a potential site for a new replacement store.

The new Lidl store is proposed to have a gross internal area of 1,812sq m providing 1,200sq m of sales floorspace, with dedicated surface level parking for 82 cars including 6 disabled spaces, 6 parent and child spaces and 2 spaces for electric vehicle charging, and cycle parking for 10 bicycles. Vehicular access is proposed from Brighton Road, at a point further south than the existing access that currently serves the pub, with a new egress out on to Victoria Road.

The store would have a modern mono-pitched roof design with large, glazed frontage along the Victoria Road elevation and silver roof cladding and parapet. As set out above the external materials of the store elevation have been amended to a multi-stock brick with contrasting red brick piers and plinth.

The site would result in the removal of all existing trees (10 B Grade trees, 2 U grade and the remainder C Grade trees) and vegetation on the site. To mitigate this loss new planting is proposed across the site new trees and additional planting. The number of replacement trees has now been increased to 22. The proposal still results in a net loss in biodiversity (-32.49%). The applicant has offered to address this through an off-set payment to fund biodiversity improvements elsewhere in the district.

There is no objection to the loss of the existing community asset. It is accepted that the existing store is restricted in terms of its operations and a replacement supermarket would improve the shopping experience for some Lidl customers. A key test is however whether this site is sequentially preferable given its out of town centre location and whether the impact on the vitality and viability of the town centre and local centres and future investment in those centres is significantly adverse.

It is accepted that the site is sequentially preferable with no other alternative sites identified which are either within the town centre or closer than this edge of centre location. It is concluded that the closure of Lidl and its relocation to the application site will cause an adverse impact. The negative impacts concern loss of a large convenience retailer reduced turnover and the potential for a large vacancy. The question is whether the level of impact is significantly adverse that would warrant a refusal of planning permission. Overall, it is the view of officers, following independent planning advice from Q+A Planning Ltd (see **Appendix A** for full response) and consideration of information submitted from the applicant and third parties, that this adverse impact will not be significantly adverse.

In terms of the impact on the character of the area and heritage assets it is considered that there would be substantial harm to the locally listed building (air balloon pub) due to its complete removal, and there would be less than substantial harm to a designated heritage asset (setting of grade II listed war memorial) due to the unsympathetic scale, form and layout of the proposed supermarket and complete loss of a non-designated heritage asset (the air balloon pub). Therefore the development is contrary to criteria 1 of DMP policy NHE9 which requires development to protect, preserve, and wherever possible enhance, the Borough's designated and non-designated heritage assets. Criteria 3 of policy NHE9 states that the Council will give great weight to the conservation of the asset, irrespective of the level of harm. This is in line with paragraph 199 of the NPPF. In terms of the complete loss of the non-designated heritage asset criteria 5 of the policy NHE9 states that "In considering proposals that directly or indirectly affect other non-designated heritage assets, the Council will give weight to the conservation of the asset and will take a balanced judgement having regard to the extent of harm or loss and the significance of the asset." This test is in line with the NPPG paragraph 203. It is therefore a judgement for the decision maker to determine the level of harm attributed to the significance of the non-designated heritage asset. Given that the proposal results in the complete loss it is my view that the harm is substantial and this level of harm must be weighed against the benefits.

Where the proposal will lead to less than substantial harm to a designated heritage asset criteria 3 c. of policy NHE9 states that the harm will be weighed against public benefits of the proposal.

In support of the application the relocation of Lidl would result in an improved shopping experience and improved retail offer for residents and there would be potential for 15 additional staff to be taken on top of those existing jobs transferred from the existing store. The consultation exercise carried out by Lidl also shows that the majority of the responders (92%) expressed support for the new Lidl. The construction of the supermarket would create jobs. There may be additional benefit associated with increased convenience floorspace helping meet retail needs across the area, although the extent to which this can be given weight is not clear given it would be based on the 2016 retail and leisure needs assessment. The vacation of the existing store also provides the opportunity for new jobs linked to any new tenancy. The building will also be more sustainable than the existing store in town. The applicant also contends that it would provide a quantitative and qualitative improvement to the Limited Assortment Discount (LAD) grocery offer in Horley and will not result in any significant adverse impact on existing stores.

In terms of benefits whilst the above factors do weigh in favour of the application the weight of the benefits is tempered by the finding that whilst there is not a significant adverse impact on the town centre there is still found to be harm to the town centre due to the loss of Lidl to an edge of centre location. Therefore whilst the harm is not enough to refuse on retail impact alone this does weigh against the scheme. The additional jobs created also has to be balanced against the fact that the existing pub use will cease resulting in the loss of the equivalent of 16 full-time jobs. The sustainability of the building is positive to the scheme and is an improvement to the existing store however the proposal would not replace the existing store, which still remains, and the proposal would result in the complete removal of an existing

building and erection of a new building. Such activities would in themselves cause some harm to the environment due to the new resources (embedded carbon) required to erect the supermarket. In terms of the consultation results from Lidl's survey the significant support has to be seen in the context of the leaflet sent out by Lidl which puts doubt on the continued trading of the store.

Therefore, the starting point is that great weight is given to the protection of designated and non-designated heritage assets. Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 also applies a legal obligation to all decisions concerning listed buildings. When making a decision on a planning application for development that affects a listed building or its setting, a local planning authority must have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses. Preservation in this context means not harming the interest in the building, as opposed to keeping it utterly unchanged.

Historic England advise that the Court of Appeal decision in the case of Barnwell vs East Northamptonshire DC 2014 (ref. 2) made it clear that in enacting section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 Parliament's intention was that 'decision makers should give "considerable importance and weight" to the desirability of preserving the setting of listed buildings when carrying out the balancing exercise'

Based on the assessment of the impact and consideration of the public benefits set out within the Design appraisal and impact on heritage assets it is concluded that the benefits would not outweigh the great and considerable weight afforded to the identified harm to the designated and non-designated heritage asset. The proposed form and scale of the building and complete removal of all existing trees and landscaping would also fail to promote and reinforce local distinctiveness and respect the character of the surrounding area, including positive physical characteristics of local neighbourhoods and the visual appearance of the immediate street scene. The proposal would therefore fail to comply with policy NHE9 and DES1 of the Development Management Plan and the requirements of the NPPF.

In addition, the proposal would result in a significant net loss of biodiversity on the site. Whilst the net loss of biodiversity is not a reason to refuse the application such a loss in biodiversity is disappointing and an indication of the extent of tree works to the site, where all existing trees and vegetation are to be removed and the lack of space within the site for compensatory planting. Such matters certainly do not add any weight in favour of the application.

The application is therefore recommended for refusal.

RECOMMENDATION(S)

Planning permission is **REFUSED** for the following reasons:

1. The proposed development by reason of the complete loss of the locally listed Air Balloon Pub (a non-designated heritage asset) and the unsympathetic scale, form and layout of the proposed supermarket, would result in substantial harm to the locally listed building and less than substantial harm to a designated heritage asset (setting of Grade II listed war memorial). Having considered the benefits of the scheme put forward by the applicant it is considered that there are no public benefits or material considerations which outweigh the great and considerable weight afforded to the identified harm to the designated and non-designated heritage assets (as dictated by Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990, the NPPF and policy NHE9 of the Development Management Plan). The proposal would therefore be contrary to Policy NHE9 and DES1 of the Council's Development Management Plan 2019 and paragraphs 199 to 203 of the NPPF.

Proactive and Positive Statements

The Local Planning Authority has acted positively and proactively in determining this application by assessing the proposal against all material considerations, including planning policies and any representations that may have been received and whilst planning permission been refused regard has been had to the presumption to approve sustainable development where possible, as set out within the National Planning Policy Framework.

Consultations:

Surrey County Council Highway Authority: The County Highway Authority has assessed the application on safety, capacity and policy grounds and raises no objection subject to conditions.

Surrey County Council Archaeological Officer: no objection subject to a condition securing the submission and implementation of a written scheme of investigation

Surrey County Council Minerals and Waste Planning Authority: no objection subject to the provision of adequate on site waste facilities to deal with proposed use and a Waste Management plan condition.

Surrey County Council Lead Local Flood Authority: Are satisfied that the proposed drainage scheme meets the relevant requirements and are content with the development subject to the need for further information that could be secured by condition relating to:

- Details of the design of a surface water drainage scheme.
- Prior to first occupation a verification report to demonstrate that the surface water drainage scheme has been carried out in accordance with the agreed details.

Contaminated Land Officer: No objection subject to informative related to land contamination

Air Quality Officer: no objection subject to a condition ensuring that the proposed construction mitigation measures are implemented.

Horley Town Council (HTC): objects. "The Council is not against the principle of a supermarket on the site however the Council has serious concerns about the impact of the proposed development on the surrounding roads.

The Council is strongly of the opinion that the exit onto Victoria Road should be removed for the following reasons: -

- Serious congestion would be caused by this exit given that Victoria Road is both a bus route and that there is parking on the road.
- There is concern that the car park with the entry and exits as proposed could potentially become a rat run for drivers avoiding the no right turn into Victoria Road from the A23 Brighton Road.

The Council has serious concerns about the right hand turn out of the proposed car park onto the A23 Brighton Road heading northbound due to the proximity of the filter lane to the proposed exit. Vehicles turning in this way would be impacted with vehicles having to queue to enter the site, without a break in traffic, especially during peak times. The volume of vehicle movements generated from the site would potentially be significantly increased and could cause an increased risk to road safety. The Council suggests that there should be no right turn on to the A23 Brighton Road."

Surrey Wildlife Trust: queries raised regarding the biodiversity net gain calculation. No other ecology related matters raised.

Regulatory Support Services (RSS): no concerns in relation to noise and impact on neighbouring properties subject to conditions in relation to plant, hours of operation, delivery times, operational management and delivery and servicing and lighting.

Thames Water: no objection in relation to waste water network and sewage treatment works infrastructure capacity. Advice provided in relation to works near public sewer and surface water drainage and request for a condition to restrict the use of piling in construction until a method statement is submitted.

Representations:

125 representations have been received. 25 in support, 94 objecting and 6 neither objecting or supporting the scheme.

The following concerns were raised:

Issue	Response
Alternative location/ proposal preferred	See paragraph 7.5-7.15
Accessibility concerns as further away from town centre	See paragraph 7.44-7.51
Covenant conflict	Officer note – this is not a material planning consideration
Crime fears	See paragraph 7.67-7.68
Drainage/sewerage capacity	See paragraph 7.63-7.66
Flooding	See paragraph 6.63-7.66
Harm to Conservation Area	Site is not in a conservation area
Harm to green belt / countryside	Site is not in the green belt or countryside
Harm to wildlife habitat	See paragraph 7.58-7.62
Hazard to highway safety	See paragraph 7.44-7.51
Health fears	See paragraph 7.35-7.43
Impact on Horley Town Centre and its vitality (including objection from Tesco and Waitrose & Partners)	See paragraph 7.5-7.21
Inadequate parking	See paragraph 7.44-7.51
Inconvenience during construction	See paragraph 7.35-7.43
Increase in traffic and congestion	See paragraph 7.44-7.51

Loss of / harm to trees	See paragraph 7.52-7.57
Loss of existing locally listed building	See paragraph 7.22-7.31
Loss of private view	Officer note – this is not a material planning consideration
No need for the development	Each scheme must be assessed on its own planning merits. Need is considered at paragraph
Noise and disturbance	See paragraph 7.35-7.43
Out of character with surrounding area	See paragraph 7.22-7.31
Overbearing relationship and loss of outlook	See paragraph 7.35-7.43
Overdevelopment	See paragraph 7.22-7.31
Overlooking and loss of privacy	See paragraph 7.35-7.43
Overshadowing	See paragraph 7.35-7.43
Poor design	See paragraph 7.22-7.31
Property devaluation	Officer note – this is not a material planning consideration

The following comments in support have been made:

- Benefit to housing need
- Community/regeneration benefit
- Visual amenity benefits
- Economic growth/jobs
- Existing site is not fit for purpose and has a poor car park. The new store would be a significant improvement and allow Lidl to stay in Horley

1.0 Site and Character Appraisal

1.1 The application relates to the Air Balloon site, Horley. The site is approximately 0.64 hectares in area and is occupied by the Air Balloon pub which is still in operation. The rest of the site is predominantly hardstanding, parking for the pub. The pub building is locally listed. The site is within Flood Zone 1 and is identified as being at low risk of surface water flooding. There are a number of trees within the site, the majority being at the northern end of the site of along the southern boundary. The site is within the designated urban area and is approximately 225m from the Horley Town Centre Boundary.

- 1.2 The site is located on the eastern side of Brighton Road and south-east of the junction with Vicarage Lane and Victoria Road. The eastern part of the site adjoins Victoria Road. To the south east of the site is small parade of commercial units with residential accommodation above. To the south are residential dwellings, the closest being 48, 48A (Braeburn) and 48B (Cortland). To the west, beyond Brighton Road, is a commercial site which is currently occupied by a soft play centre. To the north-west of the site, across the junction with Vicarage Road and Victoria Road is the Grade II listed War Memorial which is located within the Horley Recreation Ground.

2.0 Added Value

- 2.1 Improvements secured at the pre-application stage: None, the applicant did not submitted any pre-application enquiries.
- 2.2 Improvements secured during the course of the application: Further information and amended plans has been submitted throughout the course of the application in order to try and address issues/ concerns related to matters of design and heritage impact, retail impact, trees and landscaping, ecology, drainage, neighbouring amenity and highway matters. The scheme has amended so that the building is located further to the north and slightly smaller in size (gross internal area reduced from 1,879 sqm to 1,812 sqm. The applicant has also amended the external materials of the store from white cladding panels, which are Lidl's standard specification, to brick with contrasting red brick piers and plinth.
- 2.3 Further improvements to be secured: The application is to be recommended for refusal and it is not considered that improvements or additional benefits that could be secured by conditions would overcome the harm identified in this case.

3.0 Relevant Planning and Enforcement History

None

4.0 Proposal and Design Approach

- 4.1 This is a full application for the demolition of existing building and redevelopment of the site to provide a class e(a) retail foodstore, a Lidl supermarket, with associated parking, access and landscaping.
- 4.2 Lidl currently trade from the existing store in Horley Town Centre at 100 Victoria Road. The submission advises that the internal layout and servicing of the existing store does not meet Lidl's current specifications and compromises store operations and quality of the product. Hence the Air Balloon site has been identified as a potential site for a new replacement store.
- 4.3 The new Lidl store is proposed to have a gross internal area of 1,812sq m providing 1,200sq m of sales floorspace, with dedicated surface level

parking for 82 cars including 6 disabled spaces, 6 parent and child spaces and 2 spaces for electric vehicle charging, and cycle parking for 10 bicycles. Vehicular access is proposed from Brighton Road, at a point further south than the existing access that currently serves the pub, with a new egress out on to Victoria Road.

- 4.4 The store would have a modern mono-pitched roof design with large glazed frontage along the Victoria Road elevation and silver roof cladding and parapet. As set out above the external materials of the store elevation have been amended to a multi-stock brick with contrasting red brick piers and plinth.
- 4.5 The site would result in the removal of all existing trees (10 B Grade trees, 2 U grade and the remainder C Grade trees) and vegetation on the site. To mitigate this loss new planting is proposed across the site new trees and additional planting. The number of replacement trees has now been increased to 22. The proposal still results in a net loss in biodiversity (-32.49%). The applicant has offered to address this through an off-set payment to fund biodiversity improvements elsewhere in the district.
- 4.6 A design and access statement should illustrate the process that has led to the development proposal, and justify the proposal in a structured way, by demonstrating the steps taken to appraise the context of the proposed development. It expects applicants to follow a four-stage design process comprising:
Assessment;
Involvement;
Evaluation; and
Design.
- 4.7 Evidence of the applicant's design approach is set out below:

Assessment	<p>The DAS details the site and topography of the site as:</p> <p>The total planning application site area is approximately 1.71 acres / 0.69 hectares and broadly comprises a triangular-shaped piece of land which is boarded by Brighton Road and Victoria Road. The principle frontage is currently from Brighton Road and the existing access is positioned from the south west area.</p> <p>The site is currently occupied by an amenity pub / restaurant and a large surface car park which will be demolished to facilitate the redevelopment. The site is currently owned by Greene King.</p> <p>The boundary treatments of the site are in a poor condition with close boarded fencing to most of the south and eastern perimeter with further waist height picket fencing on the west and northern boundaries.</p>
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	<p>The topography of site is relatively flat throughout and it proposed that the levels of the site will be adjusted to improve access and circulation as well as improved drainage measures.</p> <p>It is of note that no mention is made of the fact that the existing building is locally listed.</p> <p>The DAS identifies the surrounding context as: The application site is located in a busy urban setting on Brighton Road and adjacent to several large format retail / leisure units to the west, take-away and shops to the south east, and community uses and green spaces to the north west. The south and east of the site is residential with the wider areas also of a predominately residential setting.</p> <p>The DAS also identifies existing access arrangement for the site and surrounding area (page 6)</p> <p>The DAS also sets out Lidl's objective and principle for the site at page 8.</p>
<p>Involvement</p>	<p>A public consultation has been undertaken by the applicant in the form of an on-line survey, which is still ongoing.</p> <p>At 28/6/23 the applicant has advised that of the 12,750 leaflets sent out there have been 2,183 responses received, 91.5% in support, 6.4% objecting and 1.8% undecided.</p>
<p>Evaluation</p>	<p>The DAS at page 9 states that "While designing the proposed development the following key factors were taken into consideration:</p> <ul style="list-style-type: none"> • Market demand • Surrounding properties • Site constraints • Vehicular and pedestrian circulation within the site • Design guidance <p>No mention is made in the DAS what it is with regard to the above elements that they have actually considered. For example in site constraints there appears to be no consideration of the existing trees or the fact that the existing building is locally listed.</p>
<p>Design</p>	<p>The DAS from page 9 outlines key design elements</p> <ul style="list-style-type: none"> - Proposed layout - Appearance - Elevations

	<ul style="list-style-type: none"> - Landscape and boundary proposals - Access proposals - Sustainability <p>Again it is of note that no mention is made to the impact on heritage assets.</p>
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4.8 Further details of the development are as follows:

Site area	0.64Ha
Existing use	Pub (Sui generis)
Proposed use	Supermarket (Use Class E)
Existing floor space	1,286 sqm (gross internal area)
Proposed total floor space	1,812 sqm (gross internal area)
Proposed retail sales floor space	1,200 sqm (gross internal area)
Existing parking spaces	117
Parking standard	1 space per 14sqm gross floor area (maximum) – 86 spaces based on retail sales area
Proposed parking spaces	82

5.0 Environmental Impact Assessment (EIA) considerations

5.1 The Environmental Impact Assessment Regulations 2017 (as amended) give a requirement under Reg. 8(1) for the planning authority to adopt a screening opinion where they believe the development is a 'Schedule 2 application' and the applicant has not already requested one.

5.2 Schedule 2 in the Regulations includes 'urban development projects', which can include retail development. However, the criteria that must be met in order for a development to be considered to be a 'Schedule 2 application' is that it must include more than 1ha of (non-residential) urban development, or the overall area of the development exceeds 5ha. The application site is only 0.64ha in area and the site is note with a 'sensitive area'.

5.3 Therefore officers are satisfied that the proposal is not a 'Schedule 2' development for the purposes of the EIA Regulations and therefore the scheme does not need to be screened.

6.0 Policy Context

6.1 Designation

Urbans Area
Locally Listed Building

6.2 Reigate and Banstead Core Strategy

CS1: Presumption in favour of sustainable development
CS2: Valued landscapes and the natural environment
CS4: Valued townscapes and the historic environment
CS5: Valued people and economic development
CS7: Town and local centres
CS8: Area 3 (Low Weald)
CS10: sustainable Development
CS11: Sustainable Construction
CS17: Travel options and accessibility

6.3 Reigate & Banstead Development Management Plan 2019

EMP3: Employment Development Outside Employment Areas
EMP5: Local skills and training opportunities
RET5: Development of Town Centre Uses Outside Town and Local Centres
DES1: Design of new development
DES8: Construction management
DES9: Pollution and contaminated land
DES10: Advertisements and shop front design
TAP1: Access, parking and servicing
CCF1 Climate Change mitigation
CCF2: Flood risk
NHE1: Landscape protection
NHE2: Protecting and Enhancing Bio diversity and areas of Geological Importance
NHE3: Protecting trees, woodland areas and Natural Habitats
NHE9: Heritage assets

6.4 Other Material Considerations

National Planning Policy Framework

National Planning Practice Guidance

Supplementary Planning Guidance

Local Character and Distinctiveness Design Guide SPD 2021
Climate Change and Sustainable Construction SPD 2021
Horley Design Guide 2006
Surrey County Council Vehicular, Cycle and Electric Vehicle Parking Guidance for New Development 2021

Other

Surrey Waste Local Plan 2020
Human Rights Act 1998
Community Infrastructure Levy

Regulations 2010
Conservation of Habitats and
Species Regulations 2010
Planning (Listed Buildings and
Conservation Areas) Act 1990

7.0 Assessment

The main issues are considered to be as follows:

- Loss of community facility
- Retail Matters
- Design appraisal and impact on heritage assets
- Archaeology
- Impact on neighbour amenity
- Highway matters
- Trees and landscaping
- Ecology
- Flooding and drainage
- Crime
- Sustainable construction
- Employment and skills training
- Community Infrastructure Levy (CIL) and requested contributions
- Summary and balancing exercise

Loss of community facility

- 7.1 The existing building proposed to be demolished is currently owned by Greene King and called the Air Balloon Pub & Carvery. The applicant contends that the existing lawful use of the site is a food-led amenity pub/restaurant, whose primary purpose is as a venue for dining. However, despite the applicant's assertion that the lawful use of the building is a restaurant, the Officers have not seen any evidence that leads us to conclude that the lawful use of the application site building is anything other than a public house. The building is also registered with the Council's Business Tax as a public house. Therefore, the Air Balloon should be classed as a community facility, as defined in Annex 1 of the DMP, that the Council seeks to protect under Paragraph 93 (a and c) of the NPPF 2021, Policy CS12 in the Core Strategy and Policy INF2 in the DMP.
- 7.2 In accordance with the NPPF 2021 (paragraph 93), the Council's Local Plan recognises that community facilities (including public houses) are vital in supporting both new development and existing neighbourhoods and also recognises that often such facilities face pressure to be redeveloped for housing or other uses. (DMP Paragraph 3.4.14).
- 7.3 DMP Policy INF2 'Community facilities' states:

“Loss or change of use of existing community facilities will be resisted unless it can be demonstrated that the proposed use would not have an adverse impact on the vitality, viability, balance of services and/or evening economy of the surrounding community; and Reasonable attempts have been made, without success, for at least six months to let or sell the premises for its existing community use or for another community facility that meets the needs of the community (see Annex 3 for details on what will be required to demonstrate this); or The loss of the community facility would not result in a shortfall of local provision of this type, or equivalent, or improved provision in terms of quantity and quality, or some wider community benefits, will be made in a suitable location”.

- 7.4 Taking into consideration the criteria of DMP Policy INF2 and the evidence provided, it is considered that the applicant has demonstrated that it would not result in an adverse impact on the vitality, viability, the balance of services, or evening economy of the surrounding community (criterion 1) due to there being at least three other public houses (The Tavern, Foresters and The Jack Fairman) that are within a 15 minute walk of the site. The applicant has also not provided any evidence of letting or selling the existing community use for another community facility that meets the needs of the community for at least six months, or that the loss of the public house would result in a shortfall of local provision of public houses (criterion 1a and 1b). However, as there are at least three public houses identified that are within a 15 minute walk of the site, then criterion 1b would be fulfilled. The scheme is therefore considered to comply with policy INF2.

Retail Matters

- 7.5 The proposed development would constitute the creation of a town centre retail use outside of a town centre location. The National Planning Policy Framework (para. 87) is clear that main town centre uses should be located in town centres first, 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.
- 7.6 As this proposed retail unit will be classed as an edge-of-centre site, as defined within Annex 2 of the NPPF, a sequential test to determine the most preferable and sustainable locations for a retail unit is required, in accordance with Policy RET5 1 and 2(a) and NPPF paragraphs 87, 88 and 91.
- 7.7 This needs to be assessed as part of this application, as permission will be refused if a suitable, more centrally located site is available within Horley Town Centre or any nearby local centres within the catchment area of the application site such as the Brighton Road, Horley, Local Centre (although the units here are small and so may not be suitable).
- 7.8 DMP Policy RET5 of the Councils' Development Management Plan 2019, states that:

1) retail and other main town centre uses (other than small scale rural development) should be directed to the most sequentially preferable and sustainable locations in accordance with the national policy 'town centre first' principle. Proposals for retail and other town centres uses should first be directed to town or local centres, failing that to edge-of-centre sites and then out-of-centre sites.

2) Proposals that seek to locate or expand retail and other town centre uses in edge of centre or out of centre locations must demonstrate that:

a. Having applied the sequential test there are no suitable sequentially preferable sites available to accommodate the proposed development on more central sites.

b. The proposal would not have a significant adverse impact on:

i. the vitality and viability of, or consumer choice and trade within, existing nearby town or local centres;

ii. existing, committed and planned public and private investment in those centres.

3) An impact assessment will be required to support applications for edge-of-centre or out- of-centre development proposals in the following circumstances:

a. Comparison retail development exceeding 150sqm

b. Convenience retail development exceeding 250sqm

c. Development for any other retail not covered by 3a and 3b above, leisure and office uses exceeding 2,500sqm

Sequential Test:

7.9 In order to satisfy (a) the applicants have carried out a sequential test, which is set out within the submitted planning statement (para. 5.3 to 5.40 and Appendix A).

7.10 This was reviewed by the Councils' Planning Policy Team, who initially made the initial following comments:

"The submitted sequential assessment has determined that all the available sites they have identified within the town centre are too small to accommodate their proposed development. The applicant has also examined one edge-of-centre site and the surrounding local centres within the sequential test, and also determined that there was no site which could accommodate the scale of their proposed development. We agree with the applicant that no sequentially preferable suitable site is available."

7.11 Following the submission of representations and additional information the Policy Team advised that there is a "vacant unit on the same block as the existing Lidl store, which is currently being marketed. The building is on the corner of Victoria Road and Consort Way, Horley. Land assembly opportunities within Horley town centre must be explored by Lidl to determine whether Lidl could stay in Horley Town Centre and expand its floorspace with a larger and more updated store. Without having considered land assembly opportunities within the town centre, we cannot conclude that

the application has passed the retail sequential test required under National Planning Policy Framework paragraphs 87, 88 and 91.”

- 7.12 Following this comment regarding the sequential test, although it is noted that this referred to site is no longer being marketed, and concerns regarding retail impact the Council sought independent advice from Q+A Planning Ltd (Q+A). A planning consultancy who's staff were involved in the preparation of the Council's Retail Needs Assessment (June 2016).
- 7.13 Q+A has reviewed the applicant's submitted documents, the representations received from consultants representing Waitrose & Partners and Tesco, the Council's policy team comments and undertaken their own site visit. Their full report is appended at **Appendix A**.
- 7.14 Q+A having considered these documents regarding the sequential test concluded that they “agreed to the search parameters in terms of floorspace and site size, but we consider that some of the search parameters appear to be too constrained and thus display a lack of flexibility. That said, this has not resulted in any sites being missed within the analysis or being dismissed solely for these reasons. Having reviewed the sequential test, in our judgement there are no sites that would be sequentially preferable to the application site. Therefore, it is our advice that the sequential test is satisfied.
- 7.15 In view of the above considerations it is officers view that there are no sequentially preferable sites within the borough that could accommodate the proposed development, and therefore part 2 (a) of Policy RET5 have been met.

Retail Impact

- 7.16 As set out above Q+A has been instructed by the Council to independently review the case and advise on the retail impact having considered the applicant's case, the concerns raised by the Council's Policy Team comments and third party representations.
- 7.17 The Q+A assessment looks at Quantitative impact, Linked Trips, Impact on Investment and Impact on Vitality and Viability and conclude whether these lead to a significant adverse impact. From a quantitative point of view Q+A consider that the convenience percentage impact on the town centre is likely to exceed 20%. Q+A advise that this will clearly result in some harm to the town centre. The PPG advises that ‘A judgement as to whether the likely adverse impacts are significant can only be reached in light of local circumstances. For example, in areas where there are high levels of vacancy and limited retailer demand, even very modest trade diversion from a new development may lead to a significant adverse impact.’ In terms of linked trips Q+A consider that the impact on linked trips is likely to be neutral. Q+A do not consider that there will be a significant adverse impact on investment. In terms of local consumer choice and trade in the town centre Q+A agree with the applicant's characterisation that Horley is a

popular centre with a reasonable level of vitality and viability and in their professional judgement they do not consider that the impact caused by the relocation of the Lidl would represent a significant adverse impact on its vitality and viability.

7.18 In summary Q+A advise that the closure of Lidl and its relocation to the application site will cause an adverse impact. This is agreed by all parties. The negative impacts concern loss of a large convenience retailer reduced turnover and the potential for a large vacancy. The question is whether the level of impact is significantly adverse that would warrant a refusal of planning permission. Overall, it is Q+As judgement that this adverse impact will not be significantly adverse. In summary, the reasons for this are as follows:

- There is no evidence of any adverse impact on existing, committed and planned public and private investment.
- The centre does not appear to rely on Lidl as an anchor store and we consider the benefit it provides to the wider centre through linked trips is limited.
- The existing Lidl site could offer an opportunity for either re-use from another town centre retailer or main town centre use, or even redevelopment
- There are qualitative reasons for an improved foodstore in Horley and whilst this would divert some trade from town centre locations, it would also attract trade from out of centre locations to a more sustainable edge of centre site.
- A modern Lidl store would clearly improve consumer choice - whilst the application site is not within the town centre, it is edge of centre, and we consider the level of linked trips is unlikely to be different to the existing store.
- The applicant has agreed to fund the improvements to the footpath to the town centre – we [Q+A] consider this is a necessary requirement, as the link now is in poor condition and the developing the application site will increase its use.

7.19 Since the receipt of the report from Q+A the applicant has also confirmed that they have been marketing their existing store. As of March 2023 they have received interest from 7 organisations (4 fitness/leisure, two retailers and a charity). Lidl are therefore confident that the site can be successfully let.

7.20 The applicant has also submitted letters from both Lidl and Green King (who own and run the Air Balloon pub) regarding the future of their existing operations. In the case of Lidl they are clear that the existing site is no longer fit for purpose and it is not feasible to continue operations in the current building. Were the planning application to be refused the future of Lidl in Horley is said to be at risk. In terms of the Green King letter they advise that the Air Balloon site does not have an operational future in the current use and irrespective of the outcome of this application they would have little option but to close the premises.

- 7.21 Taking in to account the independent Q+A report, all the submissions and the submitted letters officers considered that the relocation of the existing Lidl store to the Air Balloon site whilst causing harm to the town centre would not be to such an extent that it would cause significant adverse impact.

Design appraisal and impact on heritage assets

- 7.22 The proposal results in the complete demolition of the existing building and replacement with a modern mono-pitched supermarket building and car parking.
- 7.23 The Design and Access Statement makes no reference the architecture or history of the existing building on site or consideration of the form, scale and character of the surrounding area. It simply sets out the needs of the business and this is the driver for the design and layout. The form and scale of the building therefore follows the standard Lidl design approach with a simple mono-pitched modern design with a large, glazed elevation facing part of Victoria Road and a three blank elevations, the north-west facing elevation does however include three large advertisement spaces.
- 7.24 During the course of the application the size of the building has been reduced slightly to pull the southern elevation away from the boundary. The applicant has also amended the elevations from white panelling to facing brickwork. Whilst the change to brickwork is an improvement, as the use of brick better reflects local distinctiveness, the design and form does not appear to take any architectural cues from buildings of merit in the surrounding area or address the fact that it has replaced a locally listed building of architectural and historic merit in a prominent site adjacent to the grade II listed war memorial. The footprint of the building would be significantly larger than the existing pub and the proposal would also result in the removal of all existing trees and vegetation. Whilst replacement trees would be planted the result is a much more prominent development with less trees and of footprint and scale which reducing the spacious character of the existing site. It is noted that opposite the site on the western site of Brighton Road are large commercial style buildings and south-east of the site are buildings of limited architectural merit however the proposed development would clearly have a worse impact on the visual amenity of the site and townscape than the existing building.
- 7.25 The heritage considerations are the impact of the loss of the existing building and the impact of the lost building and replacement supermarket on the setting of the Grade II listed war memorial. As part of the application process the Council's Conservation Officer has been consulted. He has provided the following comments:

"This is a locally listed building, The Air Balloon, formerly known as The Thorns. It appears on the earliest victuallers list for Horley of 1785. The core of the building is Georgian with a 1920's extension to the west and Victorian to the east. The demolition would be contrary to DMP policy and also is

detrimental to the setting of the statutory listed war memorial opposite, as a less sympathetic building with a loss of greenery and tree cover . It is a sad reflection that a building that was sympathetically restored in the early 20th century and a prominent and scarce historic building on the main building should be proposed for demolition in the 21st century when it could be easily incorporated or retained in a scheme for the site.

Locally listed buildings form an important part of the Borough's historic environment and development plan policy affords them protection. The demolition of the building would lead to total loss of significance and this weighs heavily against a grant of planning permission. Special regard to the preservation of the setting of the war memorial is a statutory consideration.

My strong recommendation is still refusal from a conservation viewpoint. The demolition result in substantial harm to the locally listed building (as a non designated heritage asset). It is avoidable harm and I do not consider there is a public interest that outweighs this[i.e. the benefits of the scheme outweigh the harm]. Para 2.5.46 of the DMP states "The Borough Council will ensure that buildings of local architectural or historic interest are not demolished." The proposal also harms the setting of the grade II listed war memorial (previous surrounding developments predate the listing of the war memorial).

The building is listed [locally listed] as elements predate 1840, it has definite quality and character, it is a landmark or key building in the area and as a public house was regarded as an example of an unusual building type. I consider that the value is both in terms of the history of the building, and the Victorian and 1920's additions (probably by local architect Edward Blundell) and its townscape value on a main road and corner site that contributes greatly to the character and history of Horley.

Whilst it is appreciate that that there has been significant internal alteration, local list does not control internal alterations and the value of the building is as a building that adds to the townscape of the area as an important historical landmark. The Francis Frith picture of 1933 shows that it was chosen as the initial location for the village war memorial. The exterior of the building in terms of the historic frontages has changed little since it was sympathetically extended in the 1920's.

I would request that if the applicants do not want the historic buildings then the site is large enough for the historic core of the buildings to be separated from the rest of the site. Below is a diagram of the site with the area that could be separated off in red and the core historic buildings in red. These could then be used for another use by someone else.

The historic interest of the building lies in its various periods including the Victorian and 20th century periods and its history as a public house. It's historic core is an attractive building using classical traditional elements in the Georgian style. It has been altered but the alterations of the 1920's enhanced and unified the building. The later flat additions to the back are ephemeral and typical of many pub uses and can be easily removed.

Whilst the setting of the war memorial has been harmed before its listing , the demolition of the locally listed building will further detract from the setting of the war memorial and is also contrary to council policies on local distinctiveness. Historic England often refer to avoidable harm and in this case the historic core of the buildings only take up a small part of the site and could be easily separated from the scheme as a whole and conserved.

In terms of the recent exercise by the applicant at looking at but rejecting some alternative I would have the following comments. Firstly retention of just a façade wall was not suggested and would be a pointless exercise without a roof. I had suggested that a single span depth could be retained as show on my diagram [earlier consultation response] and that if strengthened then the ground floor could potential have been used as car parking accessed from the rear.

In regard to the other two proposals these were rejected by the applicant due to the reduction in car parking and the loss of service access. However I consider that if a small footprint scheme as has occurred elsewhere were used then potentially these issues could be overcome.

Para 203 of the NPPF notes “The effect of an application on the significance of a non-designated heritage asset should be taken into account in determining the application. In weighing applications that directly or indirectly affect non-designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset.”

Para 189 of the NPPF notes, inter alia, that heritage assets “are an irreplaceable resource, and should be conserved in a manner appropriate to their significance, so that they can be enjoyed for their contribution to the quality of life of existing and future generations.”

DMP Policy NHE9: Heritage Assets notes, inter alia, “1. Development will be required to protect, preserve, and wherever possible enhance, the Borough’s designated and non-designated heritage assets and historic environment including special features, area character or settings of statutory and locally listed buildings.” and

“5. In considering proposals that directly or indirectly affect other non-designated heritage assets, the Council will give weight to the conservation of the asset and will take a balanced judgement having regard to the extent of harm or loss and the significance of the asset.”

The DMP has similar objectives and in Para 2.5.46 states “The Borough Council will ensure that buildings of local architectural or historic interest are not demolished.”

Therefore even as a non-designated heritage assets weight is given to its conservation and the DMP has a presumption in favour of conservation of the asset. I consider that in terms of a balanced judgement having to the scale of harm and loss and the significance of the heritage asset that the

loss in this case is not outweighed by the proposed development in terms of public interest. It will be for the case officer to weigh this up in more detail.

In regard to the setting of the war memorial the harm here is less than substantial but will result in a significant cumulative loss of setting to the war memorial.

NPPF para 199 states "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."

Para 200. Notes that "Any harm to, or loss of, the significance of a designated heritage asset (from its alteration or destruction, or from development within its setting), should require clear and convincing justification." The NPPF defines significance as heritage interest and that interest "may be archaeological, architectural, artistic or historic. Significance derives not only from a heritage asset's physical presence, but also from its setting" Setting is therefore part of the significance.

It is considered that the harm to the war memorial is not outweighed by other public interests in terms of the proposed development but the case officer needs to weigh this up in more detail."

- 7.26 Based on the above assessment from the Conservation Officer it is considered that there would be less than substantial harm to a designated heritage asset and complete loss of a non-designated heritage asset. Therefore the development is contrary to criteria 1 of DMP policy NHE9 which requires development to protect, preserve, and wherever possible enhance, the Borough's designated and non-designated heritage assets. Criteria 3 of policy NHE9 states that the Council will give great weight to the conservation of the asset, irrespective of the level of harm. This is in line with paragraph 199 of the NPPF. In terms of the complete loss of the non-designated heritage asset criteria 5 of the policy NHE9 states that "In considering proposals that directly or indirectly affect other non-designated heritage assets, the Council will give weight to the conservation of the asset and will take a balanced judgement having regard to the extent of harm or loss and the significance of the asset." This test is in line with the NPPG paragraph 203. It is therefore a judgement for the decision maker to determine the level of harm attributed to the significance of the non-designated heritage asset. Given that the proposal results in the complete loss it is my view that the harm is substantial and this level of harm must be weighed against the benefits.
- 7.27 Where the proposal will lead to less than substantial harm to a designated heritage asset criteria 3 c. of policy NHE9 states that the harm will be weighed against public benefits of the proposal. The Conservation Officer's view is that the public benefits do not outweigh the harm. In support of the application the relocation of Lidl would result in an improved shopping

experience and improved retail offer for residents and there would be potential for 15 additional staff to be taken on top of those existing jobs transferred from the existing store. The consultation exercise carried out by Lidl also shows that the majority of the responders (92%) expressed support for the new Lidl (though that is not replicated in the responses made to the Council's on the planning application). The construction of the supermarket would create jobs. The vacation of the existing store also provides the opportunity for new jobs linked to the new tenancy. The building will also be more sustainable than the existing store in town. The applicant also contends that it would provide a quantitative and qualitative improvement to the Limited Assortment Discount (LAD) grocery offer in Horley and will not result in any significant adverse impact on existing stores.

- 7.28 In terms of benefits whilst the above factors do weigh in favour of the application the weight of the benefits is tempered by the finding in the retail section above that whilst there is not a significant adverse impact on the town centre there is still found to be harm to the town centre due to the loss of Lidl to an edge of centre location. Given the challenges faced by Horley as a centre and as we continue through a difficult retail market environment, even a less than significant harmful retail impact still weighs against the scheme. The additional jobs created also has to be balanced against the fact that the existing pub use will cease resulting in the loss of the equivalent of 16 full-time jobs. The sustainability of the building is positive to the scheme and is an improvement to the existing store however the proposal would not replace the existing store, which still remains, and the proposal would result in the complete removal of an existing building and erection of a new building. Such activities would in themselves cause some harm to the environment due to the new resources required to erect the supermarket and any new tenant for the old store would still be faced with the same environmental challenges as before. In terms of the consultation results from Lidl's survey the significant support has to be seen in the context of the leaflet sent out by Lidl which puts doubt on the continued trading of the store.
- 7.29 Therefore, the starting point is that great weight is given to the protection of designated and non-designated heritage assets. Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 also applies a legal obligation to all decisions concerning listed buildings. When making a decision on a planning application for development that affects a listed building or its setting, a local planning authority must have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses. Preservation in this context means not harming the interest in the building, as opposed to keeping it utterly unchanged.
- 7.30 Historic England advise that the Court of Appeal decision in the case of *Barnwell vs East Northamptonshire DC 2014* (ref. 2) made it clear that in enacting section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 Parliament's intention was that 'decision makers should

give “considerable importance and weight” to the desirability of preserving the setting of listed buildings when carrying out the balancing exercise'

- 7.31 Based on the above assessment and consideration of the public benefits I do not consider that the benefits would outweigh the great and considerable weight afforded to the identified harm to the designated and non-designated heritage asset. The proposed form and scale of the building and complete removal of all existing trees and landscaping would also fail to promote and reinforce local distinctiveness and respect the character of the surrounding area, including positive physical characteristics of local neighbourhoods and the visual appearance of the immediate street scene. The proposal would therefore fail to comply with policy NHE9 and DES1 of the Development Management Plan and the requirements of the NPPF.

Archaeology

- 7.32 In addition to the heritage matters discussed above as the site is over the 0.4 hectares threshold set out in policy NHE9 of the Development Management Plan the proposal also requires an archaeological assessment to be submitted. In accordance with the policy the application is accompanied by a desk based archaeological assessment produced by Wardell Armstrong.
- 7.33 The County Archaeological Officer (AO) has assessed the submitted information and can confirm that the report has consulted all available sources. The report concludes that the site generally has low potential for archaeological remains but that there is a possibility of some medieval and post medieval remains. As there is potential for remains further archaeological investigations may therefore be required. The County AO agrees with this conclusion and advises that the further investigation should be in the form of a trial trench evaluation. The AO also recommends a building record is made prior to demolition, including a watching brief during demolition, to record any evidence of the original structure.
- 7.34 On the basis that any remains are unlikely to be of national significance the County AO advises that the programme of archaeological investigation and recording can be secured by a pre-commencement condition rather than being provided at this stage. A pre-commencement condition is therefore recommended to secure the agreement of an appropriate Written Scheme of Investigation and its implementation.

Impact on neighbouring amenity

- 7.35 To the west of the site is Brighton Road and existing commercial buildings (1 vacant and 1 is a soft play). Therefore there would be no material harm to these occupants by way of overbearing impact, loss of light and loss of privacy.

- 7.36 To the north and north-east of the site, on the other side of Victoria Road, are residential properties. However due to the distance of these properties to the proposed building (minimum of 20m separation), the height of the proposed building (which measures from 4.9m high to just over 7m) and the orientation of the building (which ensures the highest part of the building is furthest away from the closest dwellings), and its single storey format means that it is considered that there would not be an unacceptable impact on the occupants of these dwellings in relation to overbearing impact and loss of privacy. In terms of impact on light the applicant has submitted a Daylight and Sunlight Assessment which demonstrates that properties along Victoria Road will continue to achieve full compliance with the BRE recommendations.
- 7.37 To the south-east is a small parade of commercial units with residential accommodation above and then further residential properties beyond in Church Road. The closest part of the building or plant enclosure would be approximately 11m from the nearest part of this parade (no.171). Notwithstanding the potential noise impacts, which will be discussed in more detail below, the separation distance, the commercial nature of the ground floor units and the relatively low height of this part of the building (5.4m) means that the proposal is considered to have an acceptable impact on the occupants of these properties with regard to overbearing impact and loss of privacy. In terms of impact on light the applicant has submitted a Daylight and Sunlight Assessment which demonstrates that these properties will continue to achieve full compliance with the BRE recommendations.
- 7.38 To the south are residential dwellings, the closest being 48, 48A (Braeburn) and 48B (Cortland). The proposed supermarket would result in a significant change in relationship compared to the existing layout which includes a tree buffer and then low level car parking. In terms of no.48 this property faces Brighton Road and would be a significant distance from the proposed building and therefore the impact is considered acceptable. In terms of no.48A and B initially officers were concerned regarding the relationship with the proposed supermarket building. However, following the receipt of amended plans the building has now been moved further away from the southern boundary so that the distances to 48A and B is now over 11 metres and this gap now includes a 6m wide landscape buffer and reduced in height (now 4.9m to 5.4m high). The supermarket would also be single storey in nature with no side facing windows. Such a front to side relationship is considered appropriate and would not result in an unacceptable level of overbearing impact or loss of privacy. In terms of impact on light the amended scheme would pass the 25 degree rule indicating that there would not be an unacceptable loss of light. To further demonstrate that the relationship was acceptable the applicant submitted a Daylight and Sunlight Assessment which demonstrates that these properties will continue to achieve full compliance with the BRE recommendations. This report was done when the supermarket building was closer to these properties so officers can be confident that these properties would not suffer from an unacceptable loss of light.

- 7.39 In terms of potential impact from the operation of the supermarket it is noted that there is potential to impact on the properties to the south and south-east due to the proximity to the plant and delivery/servicing area. To address this the applicant has submitted a noise impact assessment which has been considered by the Council's Noise Consultants Regulatory Support Services (RSS). Whilst RSS has raised some concerns about the thoroughness of the noise survey they advise that, subject to conditions to secure further information in relation to noise and vibration from building services, hours of operation and operational management plan, delivery times, delivery and servicing management plan and external lighting to control any potentially adverse impacts, they have no objection to the application.
- 7.40 Contamination considerations : In terms of contamination the applicant has submitted a Phase 1 and Phase 2 report. The contamination officer has reviewed the information and has advised that no contamination conditions are necessary with just an informative recommended.
- 7.41 Air Quality considerations: With regard to Air Quality the Council's Environmental Health Officer has raised no concern having reviewed the submitted Air Quality Assessment in terms of the long term impact on air quality. They have asked that a condition is included which secures the implementation of all the recommendations in Appendix C of the assessment to mitigate against dust during construction. This would be covered within a Construction Management Statement condition if the application were to be approved.
- 7.42 In terms of inconvenience during the construction period due to the proximity of the site to the residential dwellings to the south and it is accepted that there is potential for noise and disruption to these properties. It is not a reason to refuse an application given the temporary nature of the construction but it is considered that the potential impact could be minimised through the inclusion of a Construction Management Statement (CMS) which can secure further information in relation to matters such as working hours and procedures in place to reduce dust and noise emissions. The CMS can be secured by condition. A condition is also recommended to secure further details of construction traffic, parking and storage management through a Construction Transport Management Plan (CTMP).
- 7.43 Taking the above into account, whilst neighbouring properties would experience a significant change as a result of the development, the proposals would not give rise to a serious detriment to their living conditions and thus comply with policy DES1 of the DMP and the general provisions of the NPPF (para 127) which seeks to ensure that developments provide a high standard of amenity for existing and future occupants.

Highway Matters

- 7.44 The proposed access strategy involves the creation of a new priority-controlled access to the south of the existing entrance on Brighton Road. This would be a left and right turn exit. An additional right-turn only would

be provided on to Victoria Road to provide more direct connection for customers heading into the town centre.

- 7.45 A total of 82 car parking spaces are proposed. Six spaces would be designated to parent and child standard and six will be DDA compliant. These spaces will be clearly marked and positioned close to the store entrance and trolley bays for customers' convenience. There are also proposed to be two electric vehicle charging points of rapid charger type. The total of 82 spaces, based on the proposed gross internal sales area, is 4 short of the maximum standards required by the Council's parking standards. The submitted Transport Assessment has undertaken a parking accumulation exercise based upon the forecast trip generation. The assessments forecast a peak of 48 spaces required on a weekday late morning and 59 spaces required on a Saturday late morning.
- 7.46 The submitted Transport Assessment concludes that the proposed access arrangements will operate well within capacity and will not result in a material increase in delay on any of the approaches and the impact on nearby junction was found to be de minimus.
- 7.47 In terms of servicing there is an on-site dedicated servicing bay proposed at the southern side of the store, large enough for a 16.5m articulated lorry. Waste is also collected from this service area by the delivering HGV.
- 7.48 Surrey County Council as the County Highway Authority (CHA) initially raised a concern with the proposal advising that the "primary concern that Surrey County Council, in its capacity of County Highway Authority, raises with this application is the access to Brighton Road (A23), and in particular the right turn lane arrangement that has been proposed. In addition, the proximity of the turning movements required for HGV deliveries to the proposed retail unit to the site access is likely to result in blocking of the site access and vehicles waiting on the highway.
- 7.49 In response the applicant has provided additional survey information, increased their peak modelled arrivals and departures at weekdays and weekends, provided peak morning data, and also made alterations to the Brighton Road (moved further north to allow better access to commercial unit opposite and better flow of vehicles with more capacity in the turn right lane in to supermarket) and Victoria Road (made narrower to make left turn harder) access arrangements. The applicant also agreed to include additional pedestrian improvements, clarification regarding bus stops and site layout for deliveries. They have also agreed to increase the number of electric vehicle charging points.
- 7.50 The CHA has provided the below response following the submission of the additional information and amended plans:
"Our primary area of interest concerns safe access, sufficient car parking and servicing provisions to prevent disruption on the adjacent highway and sufficient measures to promote access by sustainable modes of transport. All of which is in order that the development is compatible with the National

Planning policy Framework, Reigate & Banstead's planning policies and Surrey County Council's Parking Guidance and it's Local Transport Plan. The latter of these seeks to prioritise the movement of people by sustainable modes of transport to significantly reduce carbon emissions from transport to meet the our commitment to net zero emissions by 2050, in line with the Government's national legal commitment.

Access - With regards the access, we are satisfied that the amended access is capable of providing an adequate right turn lane to an appropriate design standard, to accommodate the likely demand of all vehicle types including HGVs. In doing so, we are comfortable that the access can adequately operate in conjunction with the existing traffic signal controlled junction to the north and the access to the commercial units opposite the site on the western side of Brighton Road.

Delivery Vehicles - Further details of the likely turning movements of HGVs have been provided by the applicant. The applicant also proposes surface markings within the site to ensure that customer vehicles entering the site can do so without conflict with an HGV within the site. There remains some potential for conflict at busy periods, which we are satisfied can be satisfactorily mitigated against by restricting the servicing hours. In combination, we are satisfied that this element of our previous objection can be overcome.

Other transport mitigation measures - A set of transport mitigation measures as illustrated in our previous response [this includes improvements to the bus stop on Victoria Road and a number of improvements to the footway up to the town centre] are secured by the above recommended conditions. These will be delivered by the applicant at their own expense after entering into a legal Agreement with the Highway Authority under the terms of Section 278 of the Highways Act 1980. These will promote access to the site by a choice of sustainable modes of transport, for access by both staff and visitors. In combination, we are satisfied that these measures are necessary to meet local and national transport planning policy.

In addition we also expect the development to provide on site electric vehicle charging bays, high quality, covered and illuminated cycle parking with provisions for the charging of E-bikes, staff changing and lockers. These measures are also considered necessary to support access by sustainable modes of transport to help meet local and national transport planning policy."

- 7.51 The scheme has been considered in significant detail by the CHA and subject to compliance with the CHA's recommended conditions as discussed above and set out in their response of 27/03/2023 the scheme would be acceptable on transport and sustainable access grounds and would comply with policy TAP1 of the DMP 2019.

Trees and landscaping

- 7.52 The proposed development would involve the removal of all on site trees and vegetations, which includes 29 individual trees, 3 groups and 10 hedges. The proposal site would not be in close proximity to any neighbouring trees and therefore tree protection is not recommended.
- 7.53 The Tree Officer who considered the original scheme provided the following comments: *“The submitted arboricultural information has been reviewed as a desk top assessment and these comments are only made in relation to this. The proposal requires all of the current on-site vegetation and trees to be removed. Whilst none of the site trees are particularly significant, they still provide a collective verdant landscape that will be lost. There is a lot of hard surfacing in this area and the trees help to break this up and new landscaping and tree planting will be essential to enhance this with the proposed development. The proposed ‘Detailed Soft Landscape Proposals’ provide a plan for new tree planting – this is suitable, but the new trees will take a long time to establish (and may not – the suggested birch and rowan may struggle in this new environment), and the area will look much starker. Further tree planting should be required, particularly along the north side boundary and within the wide parking area. Sites such as this are understandably often reluctant to give up parking space and prominence for tree planting and it is frequently poorly done and inadequate when present. However, feature trees appropriate for the conditions, at suitable locations, with appropriate space to allow for mature growth above and below ground will provide a great deal of benefit to the use and appearance of this area. There is an opportunity here to provide improved landscaping to compensate for what will be lost and to enhance the site in the long term. Substantially increased new tree planting and soft landscaping is required as above.”*
- 7.54 Therefore whilst there was no objection to the loss of the existing trees the original replacement planting scheme was not considered appropriate. Following the alteration to the proposed layout an updated landscaping scheme was submitted.
- 7.55 The Tree Officer who considered this updated scheme originally raised concerns advising that the removal of the healthy trees on site would impact on amenity value of the site and biodiversity of the area and that the proposed replacement planting did not adequately compensate the loss.
- 7.56 A further amended landscaping scheme (revision dated 5/7/2023) was submitted. The Tree Officer then advised the following *“22 semi-mature trees are proposed to be planted to compensate the lost of the trees removed. Additionally small trees and plant in the buffer mix planting are proposed. I do not have objections to the proposed plan; The new trees will be compensate the poor quality trees proposed to be removed.”*

- 7.57 Therefore subject to a condition and informative ensuring the implementation of the submitted landscaping scheme no objection is raised to the proposed tree works.

Ecology

- 7.58 There are no specific ecological designations within or in close proximity to the site, however, as the site contains a number of trees to be removed and the demolition of the existing buildings a preliminary ecological appraisal and the further recommended bat survey were undertaken and submitted with the application. The bat survey recorded no bat emerging or re-entering the building on site and therefore found no constraints to its demolition. The reports recommend a number of enhancement measures and recommendations for lighting to prevent impact on foraging/commuting bats.
- 7.59 Surrey Wildlife Trust (SWT) has assessed the submitted reports and has raised no concern regarding the scope and methodology and conclusions of the reports. Were the application to be approved SWT has recommended that further information is provided prior to commencement in terms of sensitive lighting, landscaping and treatment of invasive plants and that adequate on-site biodiversity enhancements are secured.
- 7.60 In terms of biodiversity net gain following comments from SWT the calculation has been amended by the applicant and now shows a result in a net loss of 32.49% in habitat units which is a significant reduction in biodiversity, even with the replacement trees and planting shown on the latest landscaping scheme.
- 7.61 In such circumstances policy NHE2(b) does allow for a contribution towards off site provision to off-set this impact. The applicant has made clear that they are willing to agree to such a contribution however the Council currently has no mechanism to allow for an off-site contribution, with no projects or sites currently identified for this. The applicant has not identified any local scheme or any land that it could use to off-set the impact.
- 7.62 Such a loss in biodiversity is disappointing and an indication of the extent of tree works to the site, where all existing trees and vegetation are to be removed and the lack of space within the site for compensatory planting. It is noted that the NPPF (para 180 d) requires that when determining planning application Local Planning Authorities should apply the following principle “development whose primary objective is to conserve or enhance biodiversity should be supported; while 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 or enhance public access to nature where this is appropriate.” However as yet the national legislation on net gain is not in force, the NPPF does not require a measurable net gain and policy NHE2 5b. states that schemes will be expected to “be designed, wherever possible, to achieve a net gain in biodiversity.” In this case the applicant has set out that it is not possible to achieve a net gain in biodiversity and given the national and local policy

position it is not considered that this could form a reasonable reason for refusal on its own. The Council would however be willing to discuss the matter further with the applicant post decision, whether approved or refused, so that any possible opportunities for them to contribute towards biodiversity projects elsewhere in the borough can be explored.

Flooding and drainage

- 7.63 The whole of the site lies in Flood Zone 1 (lowest risk level) and the site is also identified as being at low risk of surface water flooding. Nevertheless as required a Flood Risk Assessment (FRA) and Drainage Strategy has been submitted in support of the application to ensure that the proposed development will not worsen flood risk elsewhere, particularly with respect to surface water by increasing the rate of run-off.
- 7.64 The submitted FRA identifies that the site is at risk from groundwater. This covers a large area of Horley Town Centre and wider area of Horley. The NPPF requires that a Sequential Test is undertaken to establish whether there are other available sites which are at a lower risk of flooding. The FRA includes this Test at Appendix N. The report identified 10 nearby sites for consideration but concluded that these were not suitable or at a lower risk of flooding. Given the above conclusions regarding the sequential retail test it is considered a reasonable conclusion. In order to mitigate against the potential groundwater emergence the FRA recommends that the finished floor levels are set at 56.75mAOD. Were the application to be approved a condition could secure this.
- 7.65 The drainage strategy has been considered by Surrey County Council as the Lead Local Flood Authority (LLFA) who has concluded that it meets the minimum requirements of national technical standards. They therefore raise no objection however the response does advise that consideration should be given to utilising additional sustainable drainage features. The LLFA therefore recommend a condition securing finalised details of the drainage strategy and implementation.
- 7.66 In light of the above considerations the development would be acceptable with regard to flooding and drainage matters and would comply with the NPPF and Policy CCF2 of the DMP 2019.

Crime

- 7.67 Policy DES1 requires that all new development “Creates a safe environment, incorporating measures to reduce opportunities for crime and maximising opportunities for natural surveillance of public places. Developments should incorporate measures and principles recommended by Secured by Design.”
- 7.68 The proposed scheme is designed with the building to the rear of the site so that there is good visibility across the site and car park and natural surveillance at the entrance. Given the nature of the use there is no reason

to consider that there would be an increase in crime at the site. Were this application to be approved conditions are recommended to secure further information in relation to Secure by Design.

Sustainable Construction

- 7.69 The proposal is required to meet policy CS11 of the Core Strategy and policy CCF1 of Development Management Plan. This requires the development to meet BREEAM 'very good' and to include renewable or low-carbon energy generation to provide 10% of the expected energy usage of the development.
- 7.70 The submitted reports confirm that the building is aiming to meet the BREEAM 'very good' rating and that it would be able to substantially exceed the 10% requirement (176% of estimated energy demand and 133% of the carbon emissions). Were the application to be approved conditions would be able to secure implementation.

Employment and skills training

- 7.71 Policy EMP5 states that "Requirements for employment and skills training in new development will be secured by means of condition or Section 106 agreements for new residential developments of 25 homes or more and for non-residential development in excess of 1,000sqm size (gross). The Council will seek to secure a minimum of 20% of the total jobs created by the construction of the new development for local residents or apprenticeships. Opportunities for training and placement schemes targeted at local residents in respect of any jobs created through the end use of any non-residential development will also be explored."
- 7.72 As the proposal is for over 1,000sqm were the application to be approved the requirements would be secured for appropriate employment and skills training through a condition of S106 agreement.

Community Infrastructure Levy (CIL) and requested contributions

- 7.73 The Community Infrastructure Levy (CIL) is a fixed charge which the Council will be collecting from some new developments from 1 April 2016. It will raise money to help pay for a wide range of infrastructure including schools, road, public transport and community facilities which are needed to support new development. This development would be CIL liable, although the exact amount would be determined and collected after the grant of planning permission.
- 7.74 The Community Infrastructure Levy (CIL) Regulations were introduced in April 2010 and state that it is unlawful to take a planning obligation into account unless its requirements are (i) relevant to planning; (ii) necessary to make the proposed development acceptable in planning terms; and (iii) directly related to the proposed development. As such only contributions that are directly required as a consequence of development can be

requested and such requests must be fully justified with evidence including costed spending plans to demonstrate what the money requested would be spent on.

- 7.75 In this case no consultees have requested any contributions and no legal agreement is required.

Summary and balancing exercise

- 7.76 There is no objection to the loss of the existing community asset. It is accepted that the existing store is restricted in terms of its operations and a replacement supermarket would improve the shopping experience for Lidl customers. The key test is however whether this site is sequentially preferable given its out of town centre location and whether the impact on the vitality and viability of the town centre and local centres and future investment in those centres is significantly adverse.
- 7.77 It is accepted that the site is sequentially preferable with no other alternative sites identified which are either within the town centre or closer than this edge of centre location. It is concluded that the closure of Lidl and its relocation to the application site will cause an adverse impact. The negative impacts concern loss of a large convenience retailer reduced turnover and the potential for a large vacancy. The question is whether the level of impact is significantly adverse that would warrant a refusal of planning permission. Overall, it is officers view that this adverse impact will not be significantly adverse
- 7.78 In terms of the impact on the character of the area and heritage assets it is considered that there would be substantial harm to the locally listed building (air balloon pub), due to its complete removal, and there would be less than substantial harm to a designated heritage asset (setting of grade II listed war memorial) due to the unsympathetic scale, form and layout of the proposed supermarket and complete loss of a non-designated heritage asset (the air balloon pub). Therefore the development is contrary to criteria 1 of DMP policy NHE9 which requires development to protect, preserve, and wherever possible enhance, the Borough's designated and non-designated heritage assets. Criteria 3 of policy NHE9 states that the Council will give great weight to the conservation of the asset, irrespective of the level of harm. This is in line with paragraph 199 of the NPPF. In terms of the complete loss of the non-designated heritage asset criteria 5 of the policy NHE9 states that "In considering proposals that directly or indirectly affect other non-designated heritage assets, the Council will give weight to the conservation of the asset and will take a balanced judgement having regard to the extent of harm or loss and the significance of the asset." This test is in line with the NPPG paragraph 203.
- 7.79 Based on the assessment of the impact and consideration of the public benefits set out within the 'Design appraisal and impact on heritage assets' section of the report it was concluded that the benefits would not outweigh the great and considerable weight afforded to the identified harm to the

designated and non-designated heritage asset. The proposed form and scale of the building and complete removal of all existing trees and landscaping would also fail to promote and reinforce local distinctiveness and respect the character of the surrounding area, including positive physical characteristics of local neighbourhoods and the visual appearance of the immediate street scene. The proposal would therefore fail to comply with policy NHE9 and DES1 of the Development Management Plan and the requirements of the NPPF.

7.80 In addition to the above heritage weighing exercise the report has also found that the proposal would result in a significant net loss of biodiversity (-32.49%) on the site, primarily due to the removal of all trees and vegetation within the site. Whilst the net loss of biodiversity is not a reason to refuse the application and it is noted that the applicant has offered to address this through an off-set payment to fund biodiversity improvements elsewhere in the district, such a loss in biodiversity is disappointing and an indication of the extent of tree works to the site, where all existing trees and vegetation are to be removed and the lack of space within the site for compensatory planting. Such matters certainly do not add any weight in favour of the application.

7.81 The application is therefore recommended for refusal.

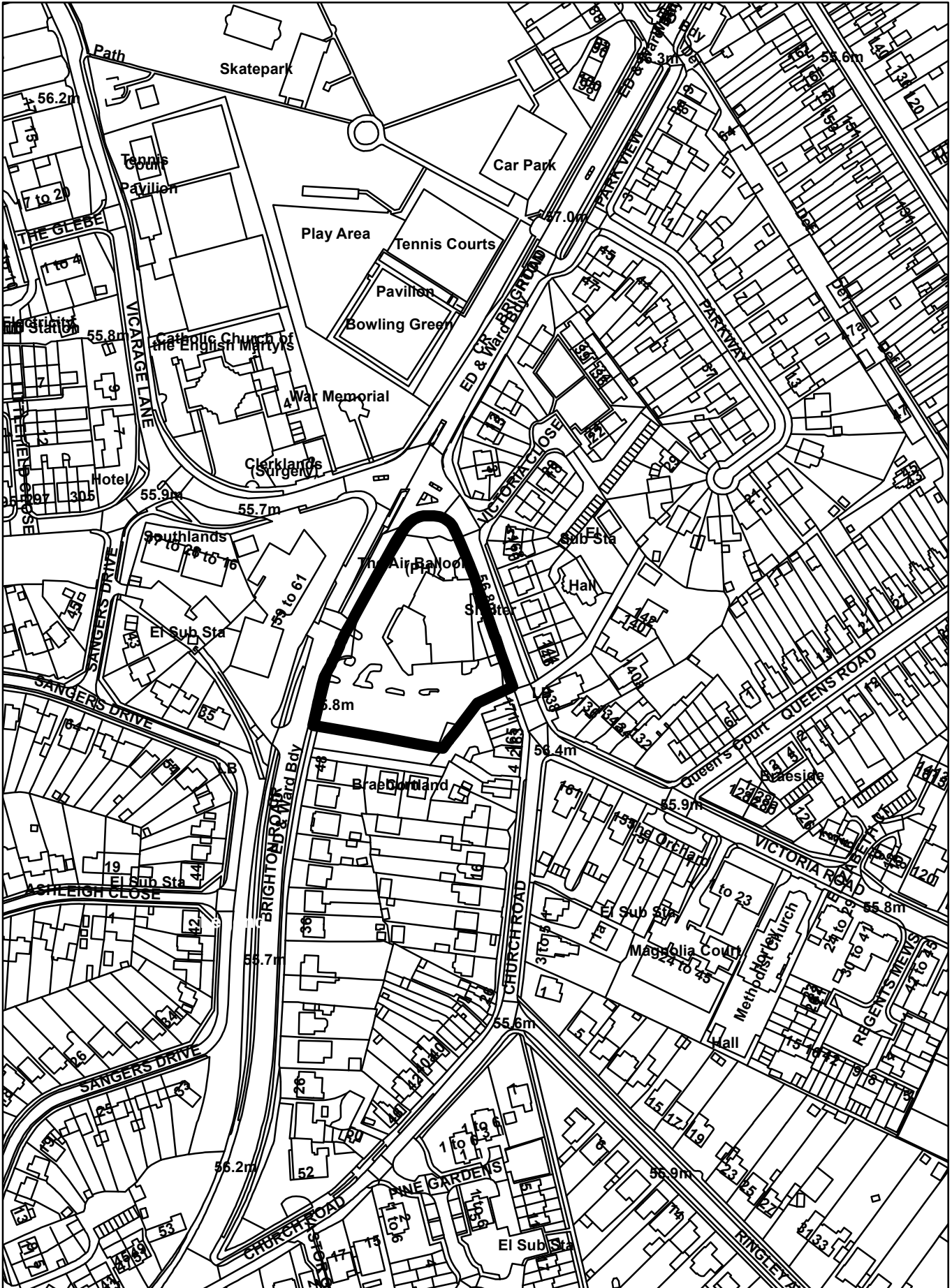
Reason for refusal

1. The proposed development by reason of the complete loss of the locally listed Air Balloon Pub (a non-designated heritage asset) and the unsympathetic scale, form and layout of the proposed supermarket, would result in substantial harm to the locally listed building and less than substantial harm to a designated heritage asset (setting of Grade II listed war memorial). Having considered the benefits of the scheme put forward by the applicant it is considered that there are no public benefits or material considerations which outweigh the great and considerable weight afforded to the identified harm to the designated and non-designated heritage assets (as dictated by Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990, the NPPF and policy NHE9 of the Development Management Plan). The proposal would therefore be contrary to Policy NHE9 and DES1 of the Council's Development Management Plan 2019 and paragraphs 199 to 203 of the NPPF.


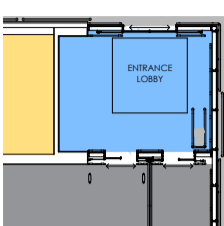
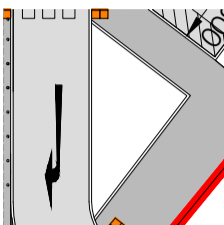
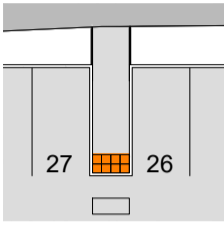
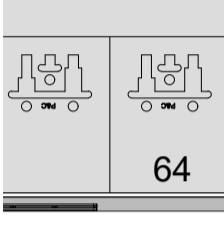
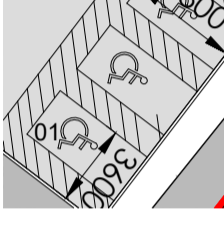
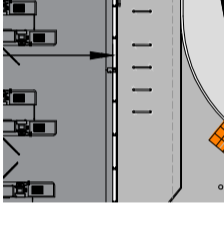
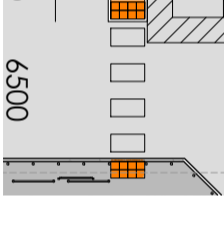
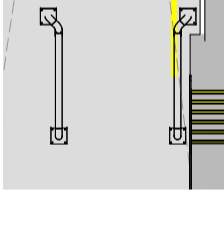
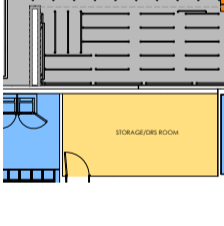
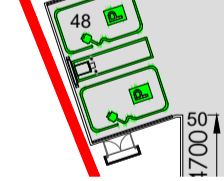
Proactive and Positive Statements

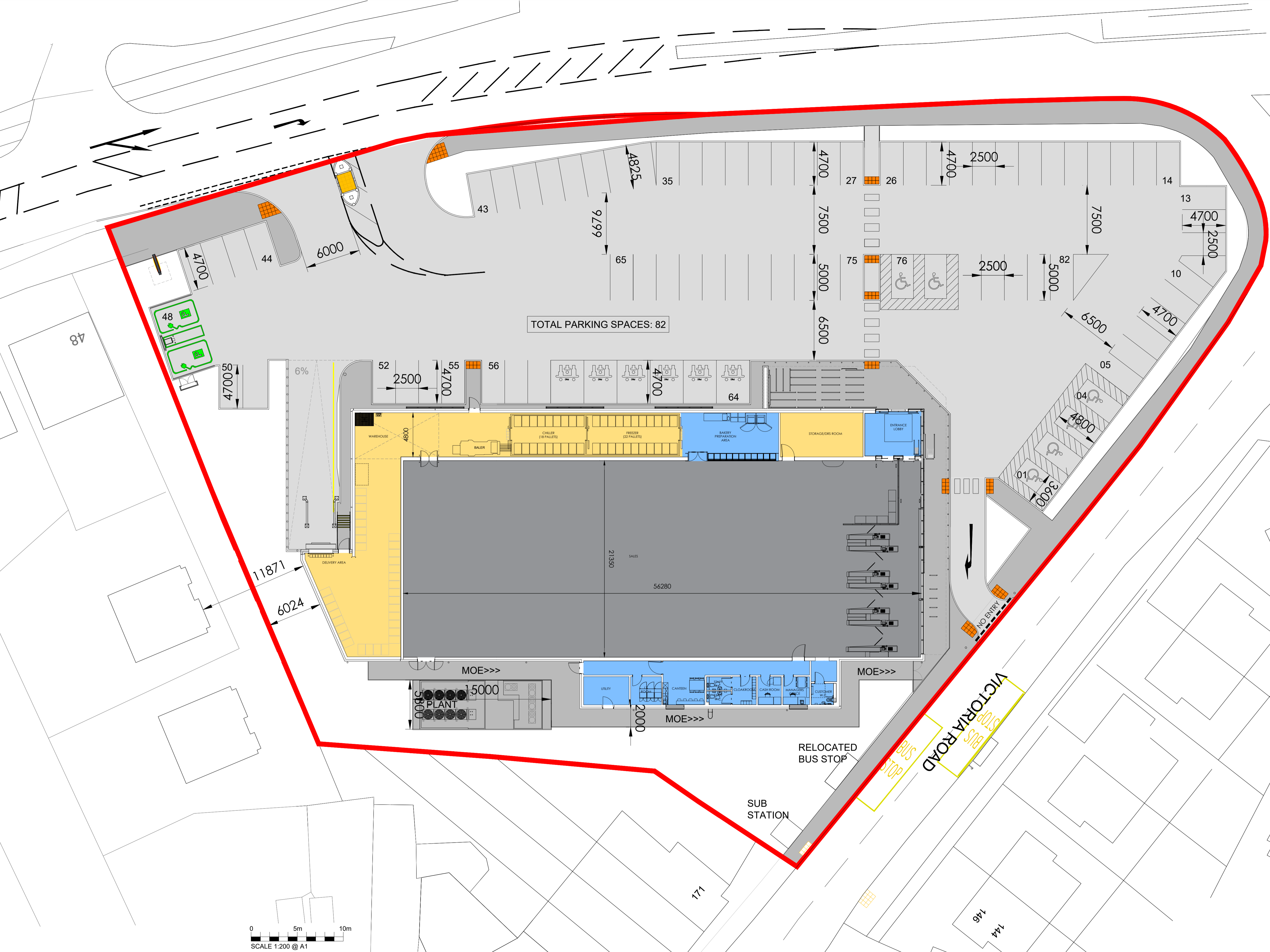
The Local Planning Authority has acted positively and proactively in determining this application by assessing the proposal against all material considerations, including planning policies and any representations that may have been received and whilst planning permission been refused regard has been had to the presumption to approve sustainable development where possible, as set out within the National Planning Policy Framework.

The Air Balloon 60 Brighton Road Horley RH6 7HE

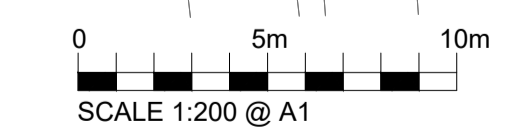


SITE LAYOUT KEY:

-  APPLICATION SITE BOUNDARY
-  PROPOSED ENTRANCE LOBBY
-  PROPOSED LANDSCAPING AREAS
-  PEDESTRIAN FOOTPATH
-  PARENT AND CHILD PARKING
-  DISABLED PARKING
-  CYCLE PARKING
-  ZEBRA CROSSING WITH TACTILE PAVING
-  HGV WHEEL GUIDES
-  TROLLEY BAY
-  PROPOSED EVC BAYS WITH FEEDER PILLAR



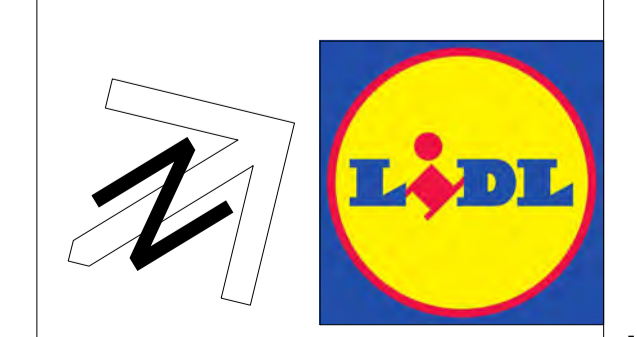
SCHEDULE	
LIDL - BESPOKE ECO STORE	
Sales Area	1200 m ²
Warehouse (Inc. Freezer/Chiller & Storage)	358 m ²
Ancillary	207 m ²
Internal Wall	47 m ²
GIA (Without Canopy)	1812 m ²
GEA (Without Canopy)	1903 m ²
Total Site Area Red (Approximate)	6955 m²
Standard Parking Spaces	68 spaces
Disabled Parking Spaces	06 spaces
P&C Parking Spaces	06 spaces
EVC (Electric Vehicle Charging) Spaces	02 spaces
Total Parking Spaces	82 spaces



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Client: LIDL GREAT BRITAIN LTD.
Northfleet RDC, Crete Hall Road, Gravesend, DA11 9BU
Project: AIR BALLON PUB SITE, HORLEY
Drawing: PROPOSED SITE PLAN

Rev	Description	Date	NE	LMC
1	SITE PLAN AMENDED TO REFLECT HIGHWAYS CONSTRAINTS. DRAWING: SCP_21076_D14_BLOCK_BASED ON_200504_17104_AD 017 - PROPOSED SITE LAYOUT	22.02.23	NE	LMC

Project No: 17104
Functional: Retail
Spatial: Block
Disability Class: D17
Drawn by: AD_110
Checked by: LMC
Date: FEB 2022

Purpose of Issue: PLANNING
Scale @ A1: 1:200
Drawn: OT
Checked: LMC
Revision: A
Date: FEB 2022

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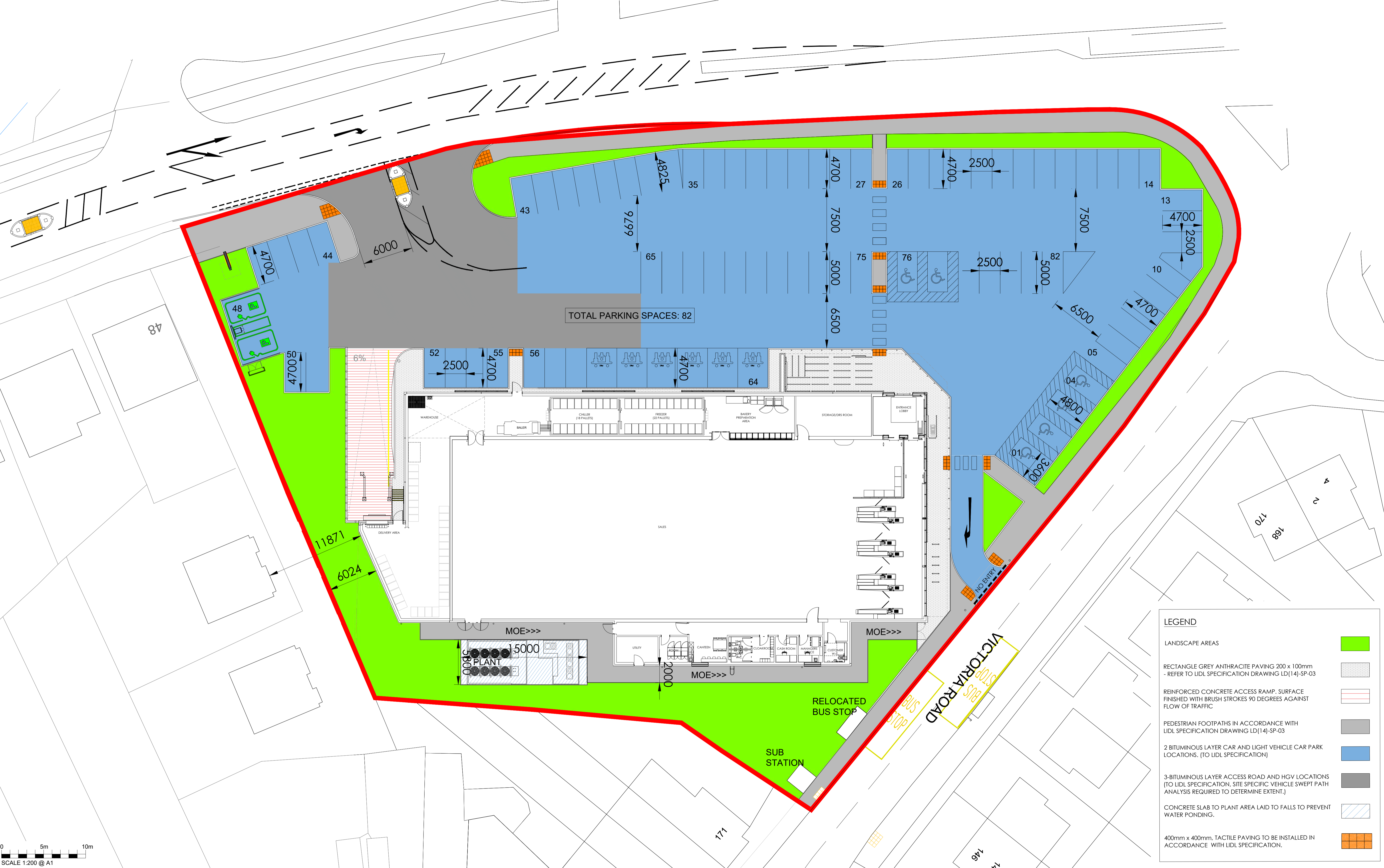
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Notes

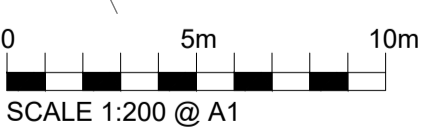
Revisions

Architectural



TOTAL PARKING SPACES: 82

LEGEND	
LANDSCAPE AREAS	
RECTANGLE GREY ANTHRACITE PAVING 200 x 100mm - REFER TO LIDL SPECIFICATION DRAWING LD(14)-SP-03	
REINFORCED CONCRETE ACCESS RAMP. SURFACE FINISHED WITH BRUSH STROKES 90 DEGREES AGAINST FLOW OF TRAFFIC	
PEDESTRIAN FOOTPATHS IN ACCORDANCE WITH LIDL SPECIFICATION DRAWING LD(14)-SP-03	
2 BITUMINOUS LAYER CAR AND LIGHT VEHICLE CAR PARK LOCATIONS. (TO LIDL SPECIFICATION)	
3-BITUMINOUS LAYER ACCESS ROAD AND HGV LOCATIONS (TO LIDL SPECIFICATION, SITE SPECIFIC VEHICLE SWEEP PATH ANALYSIS REQUIRED TO DETERMINE EXTENT.)	
CONCRETE SLAB TO PLANT AREA LAID TO FALLS TO PREVENT WATER PONDING.	
400mm x 400mm, TACTILE PAVING TO BE INSTALLED IN ACCORDANCE WITH LIDL SPECIFICATION.	



Revisions				
Rev	Description	Date	Rev by	Chk by
A	SITE PLAN AMENDED TO REFLECT HIGHWAYS CONSTRAINTS. DRAWING: SCP_21076_D14_BLOCK_BASED ON: 220224_17104_AD 017 - PROPOSED SITE LAYOUT	22.02.23	NE	LMC

Client
 LIDL GREAT BRITAIN LTD.
 Northfleet RDC, Crete Hall Road,
 Gravesend, DA11 9BU
 Project
 AIR BALLON PUB SITE,
 HORLEY
 Drawing
 PROPOSED SITE FINISHES
 Project No: 17104 Functional: Spatial
 Original: Breakdown: Breakdown Form: Discipline: Class: Draw No:

Purpose of Issue
 PLANNING
 Scale @ A1
 1:200
 Drawn
 OT
 Checked
 LMC
 Revision
 A
 Date
 FEB 2022

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 Tel: 01274 591188
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***TOPOGRAPHICAL SURVEY HIGHLIGHTED/OVERLAID IN RED* BY 'MIDLAND SURVEY LTD' DRAWING USED: "39300 - 1 TOPOGRAPHICAL AND UTILITY SURVEY" DATED: JUNE 2021**



SITE PLAN AMENDED TO REFLECT HIGHWAYS CONSTRAINTS.
 DRAWING: SCP_21076_D14_BLOCK_BASED
 ON_200594_17104_AD D17 - PROPOSED SITE LAYOUT

Rev	Description	Date	NE	LMC
17104		22.02.23		

Client
LIDL GREAT BRITAIN LTD.
 Northfleet RDC, Crete Hall Road,
 Gravesend, DA11 9BU
 Project
**AIR BALLON PUB SITE,
 HORLEY**
 Drawing
PROPOSED SITE TOPO OVERLAY

Purpose of Issue
PLANNING

Scale @ A1
1:200

Drawn
 OT

Checked
 LMC

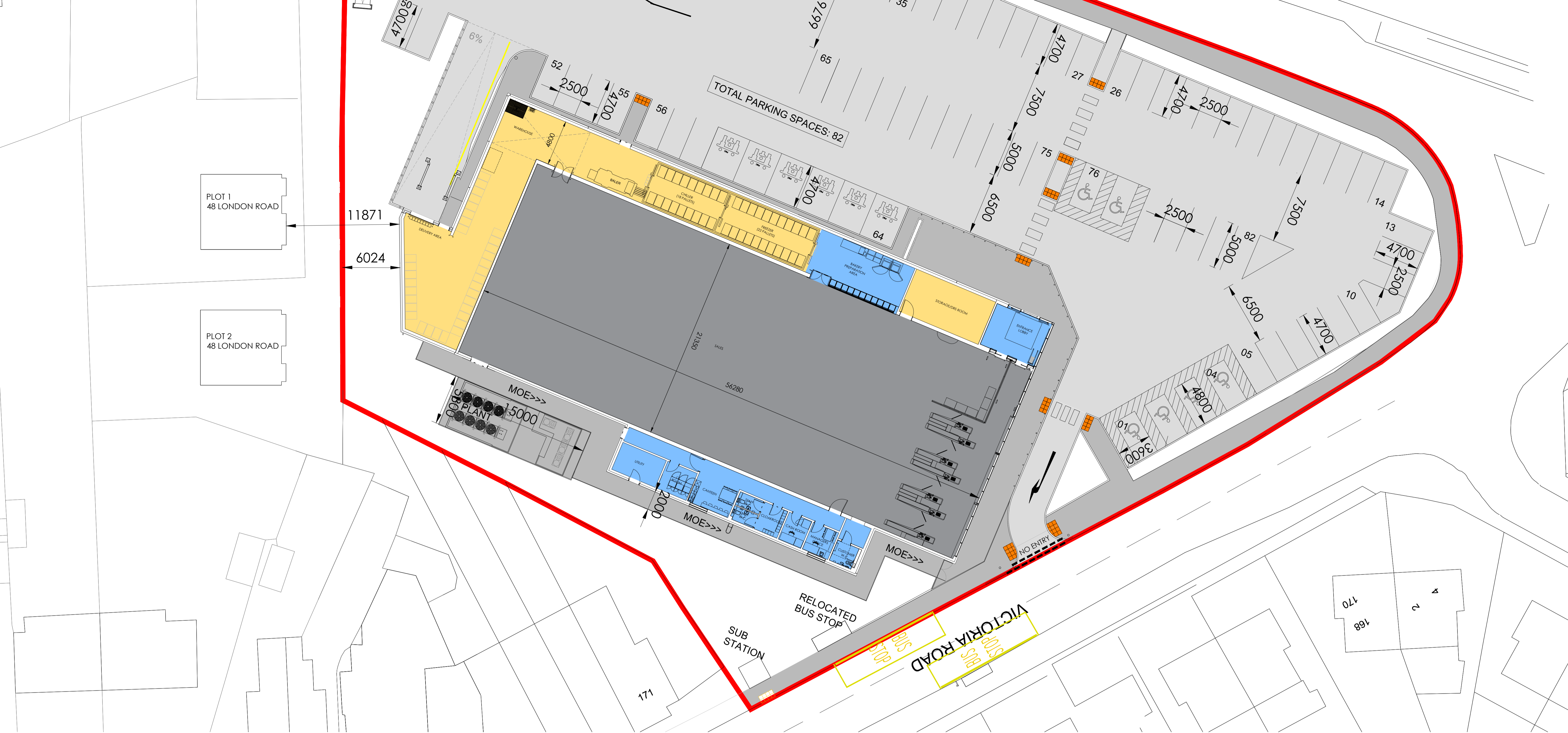
Revision
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Date
FEB 2022

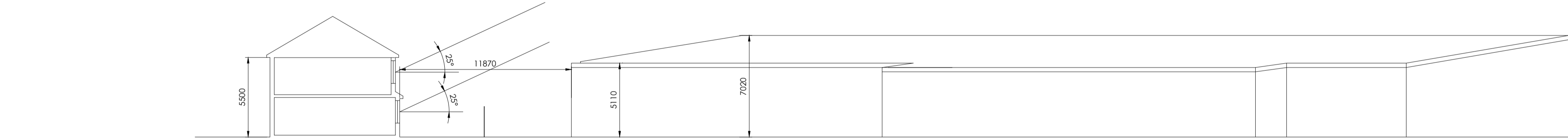
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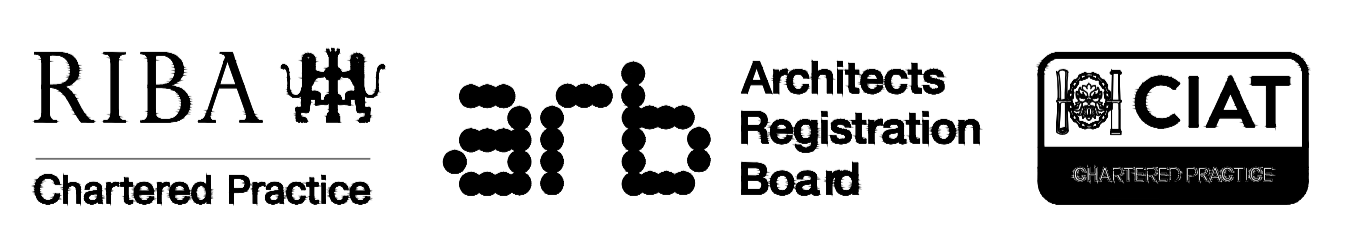


SITE PLAN



ELEVATION OF RELATIONSHIP OF PLOT 1/2 AT 48 LONDON ROAD AND LIDL STORE

NOTE: ALL RELATIONSHIP HEIGHTS ARE APPROXIMATE AS LEVELS TO 48 LONDON ROAD ARE UNAVAILABLE



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Notes



SITE PLAN AMENDED TO REFLECT HIGHWAYS CONSTRAINTS.				
Rev	Description	Date	Rev by	Chk by
*A	DRAWING: SCP_21076_D14_BLOCK_BASED ON: 202004_17104_AD 017 - PROPOSED SITE LAYOUT	22.02.23	NE	LMC

Client
LIDL GREAT BRITAIN LTD.
Northfleet RDC, Crete Hall Road,
Gravesend, DA11 9BU
Project

Drawing
PROPOSED SITE CONTEXT PLAN

Project No: 17104 Functional: Spatial
Revision: A Date: FEB 2022

Purpose of Issue
PLANNING

Scale @ A1
1:200

Drawn
OT

Checked
LMC

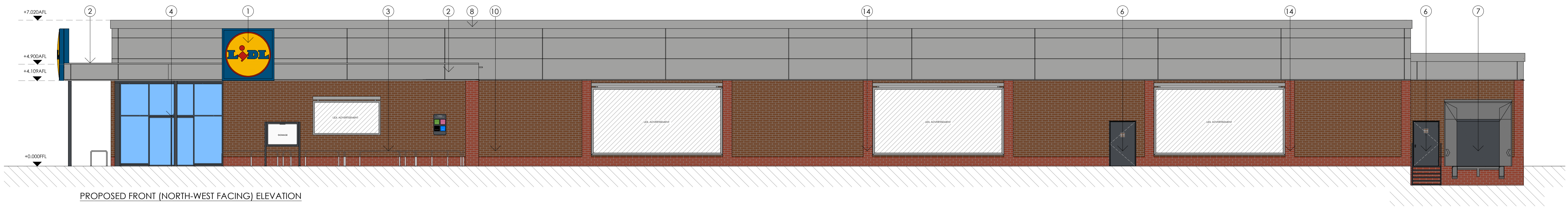
Revision
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Date
FEB 2022

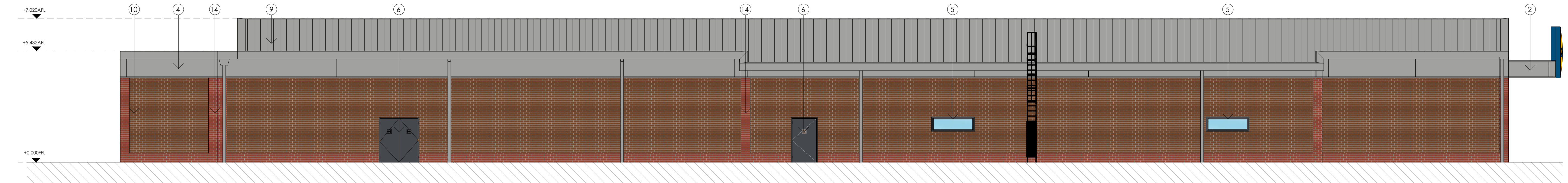
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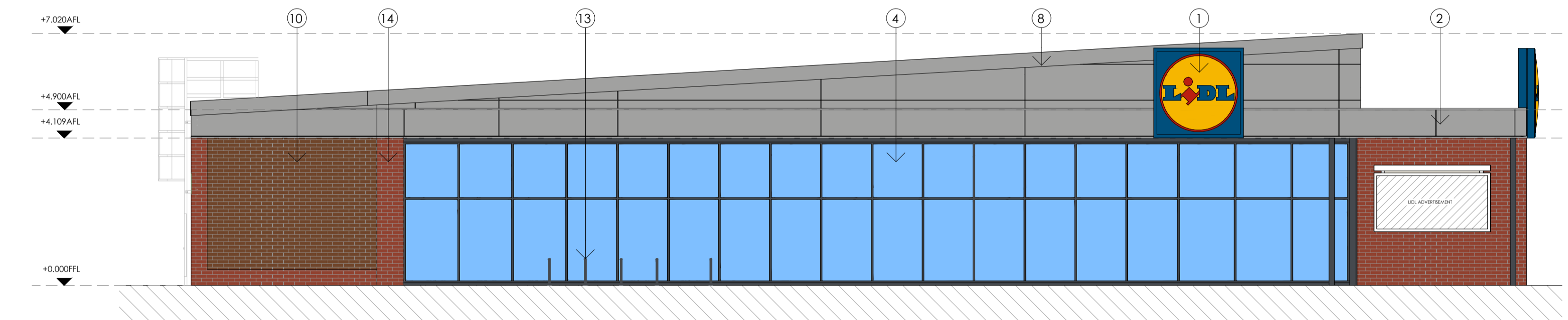
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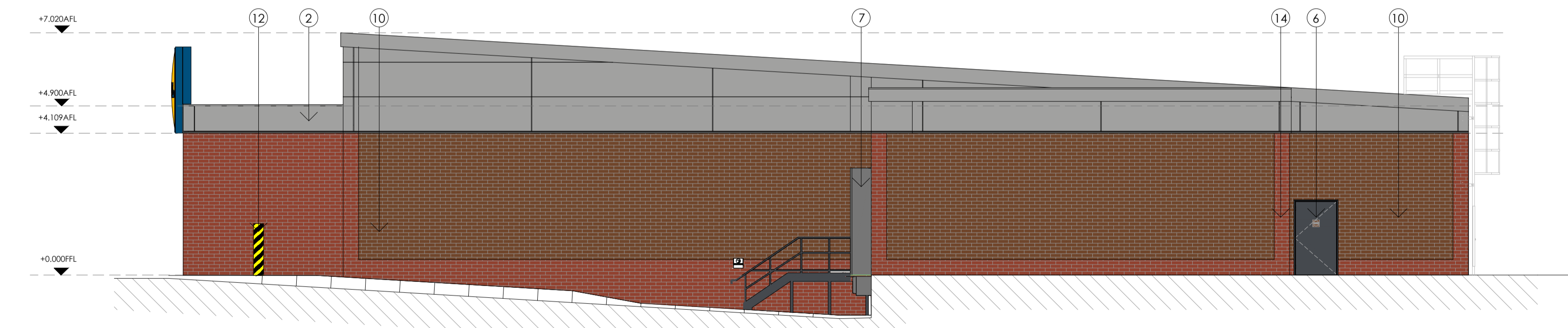
PROPOSED FRONT (NORTH-WEST FACING) ELEVATION



PROPOSED REAR (SOUTH-EAST FACING) ELEVATION

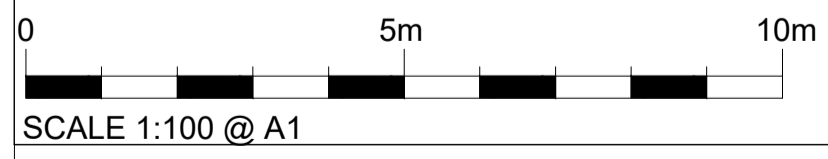


PROPOSED FRONT (NORTH-EAST FACING) ELEVATION



PROPOSED SIDE (SOUTH-WEST FACING) ELEVATION

- PROPOSED MATERIAL FINISHES**
DRAWING TO BE READ IN CONJUNCTION WITH LIDL SPECIFICATION.
MATERIALS INDICATED ARE ILLUSTRATIVE ONLY AND MAY NOT MATCH THE FINAL FINISH.
- ① NEW LIDL SIGNAGE INTERNALLY ILLUMINATED 2500mm x 2500mm
 - ② PARKET CLADDING COLOUR SILVER RAL 9006
 - ③ STAINLESS STEEL TROLLEY BAYS
 - ④ PROPOSED FULL HEIGHT CURTAIN WALL GLAZING COLOUR GRAPHITE GREY RAL 7024
 - ⑤ PROPOSED WEARABLE WINDOW COLOUR GRAPHITE GREY RAL 7024
 - ⑥ PROPOSED DOCKSWAY DOORS/UTILITY ROOM COLOUR GRAPHITE GREY RAL 7024
 - ⑦ PROPOSED DELIVERY DOCK SECTION DOOR COLOUR GRAPHITE GREY RAL 7024 WITH DOCK SHELTER
 - ⑧ NEW METAL CLADDING TO SORREL FACIAS, NEW BRG FLASHING, GUTTERS AND RWP COLOUR SILVER RAL 9006 RWP, 60MM WATER PIPE WITH ANTI CLIMB GUARDS
 - ⑨ PROPOSED ROOF CLADDING SILVER RAL 9006
 - ⑩ WERNBERGER - HUCOMBE MULTI STOCK OR SIMILAR APPROVED
 - ⑪ PROPOSED ELEVATIONAL CLADDING COLOUR WHITE RAL 9010
 - ⑫ HGV ROLLARD 1500mm HIGH BLACK AND YELLOW
 - ⑬ GALVANISED SHEFFIELD CYCLE STANDS
 - ⑭ WERNBERGER - HUBBARD RED, WALS OR SIMILAR APPROVED PLUMB AND COLUMNS
 - CLADDING PANELS IN SILVER METALLIC RAL 9006



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Client
LIDL GREAT BRITAIN LTD.
Northfleet RDC, Crete Hall Road,
Gravesend, DA11 9BU
Project
AIR BALLON PUB SITE,
HORLEY
Drawing
PROPOSED ELEVATIONS
Project Number 23019
Drawing Number AD_113 REV B

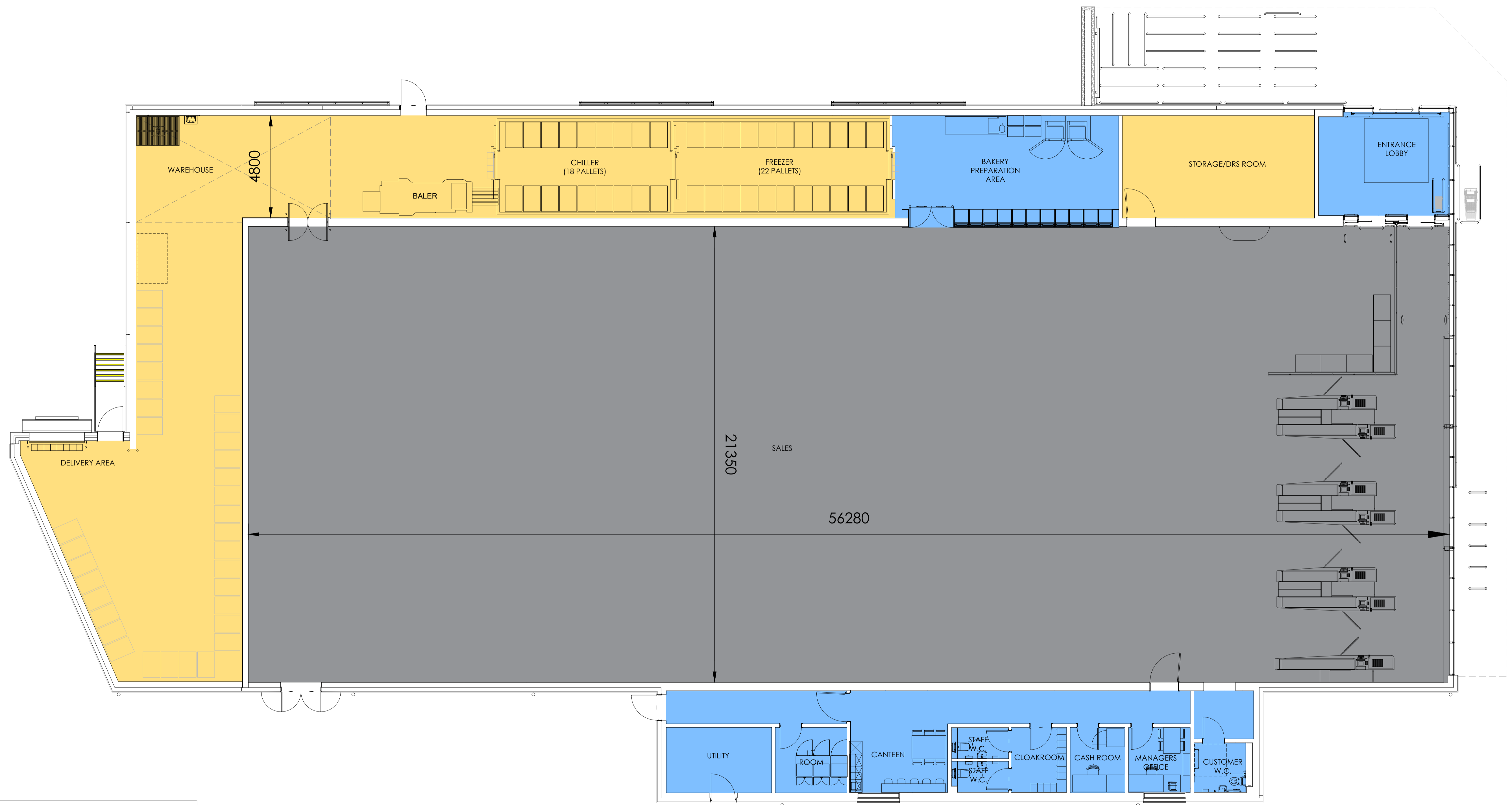
Purpose of Issue
PLANNING
Scale @ A1
1:100
Drawn by LMC
Checked by
Revision -
Date JUNE 2023

MONO Architectural Design Ltd
Salts Mill, Suite J, Victoria Road, Saltaire, BD18 3LA
www.mono-ad.co.uk hello@mono-ad.co.uk
Registered in England & Wales No: 14857583

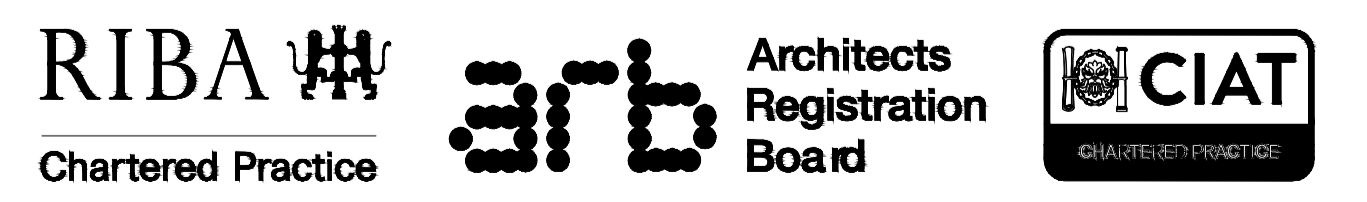
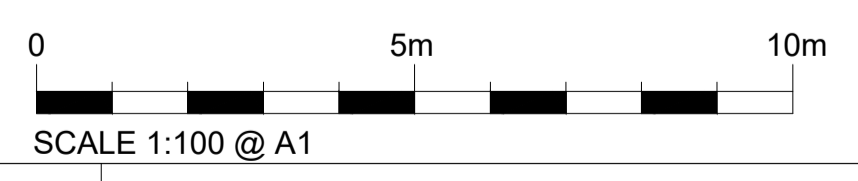
Notes

Revisions

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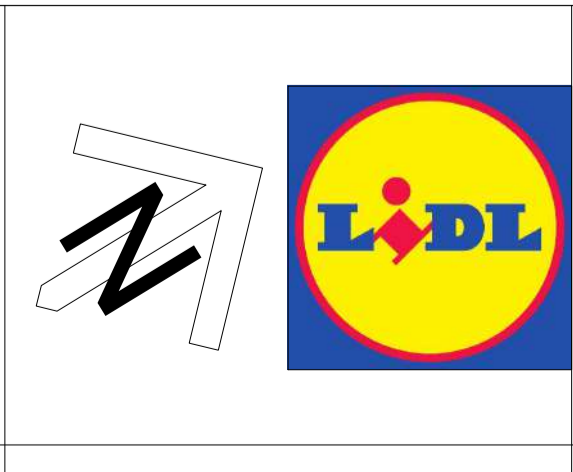


SCHEDULE	
LIDL - BESPOKE ECO STORE	
Sales Area	1200 m ²
Warehouse (Inc. Freezer/Chiller & Storage)	358 m ²
Ancillary	207 m ²
Internal Wall	47 m ²
GIa (Without Canopy)	1812 m ²
GEA (Without Canopy)	1903 m ²



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Notes



Revisions		Date	Rev by	Chk by
A	PLAN AMENDED TO REFLECT HIGHWAYS CONSTRAINTS. DRAWING: SCP_21076_D14_BLOCK_BASED ON: 202024_17104_AD 017 - PROPOSED SITE LAYOUT	22.02.23	NE	LMC

Client
LIDL GREAT BRITAIN LTD.
Northfleet RDC, Crete Hall Road,
Gravesend, DA11 9BU
Project
AIR BALLON PUB SITE,
HORLEY
Drawing
PROPOSED GROUND FLOOR PLAN

Purpose of Issue
PLANNING
Status

Scale @ A1
1:100

Drawn
OT
Checked
LMC

Revision
A
Date
FEB 2022

One Design Architects Ltd, The Orange Studio, First Floor Main building, Salts Mill, Victoria Road, Saltaire, West Yorkshire, BD18 3LA
Tel: 01274 591188
www.onedesignarchitects.com mail@onedesignarchitects.com
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STREET SCENE A-A



STREET SCENE B-B

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Notes



A - 3D PLAN/SECTION		1:1000	
Rev	Description	Date	Rev. by

Client: **LIDL GREAT BRITAIN LTD.**
 Northfleet PDC, Crane Hill Road,
 Gravesham, DA11 9SU
 Project: **AIR HALLON PUB SITE,
 HORLEY**
 Drawing: **PROPOSED STREET SCENE**
 Project No: 17104 Drawing No: AD_201

Purpose of Issue	
Drawn	Checked
AM	LMC
Revision	Date
A	JUNE 2022

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One Design Architects Ltd, Unit 5 Mercury Quay, Ashley Lane, Shipley, West Yorkshire, WF10 3QB
 Tel: 01274 581100
 www.on1designarchitects.com on1@on1designarchitects.com
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Appendix A



Air Balloon, 60 Brighton Road, Horley

Review of Sequential Test and Retail Impact

Assessment - FINAL

On behalf of Reigate & Banstead Borough Council

February 2023

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1 Introduction

- 1.1 Q+A Planning Ltd have been instructed by Reigate and Banstead Borough Council (RBBC) to provide an independent planning review of whether proposals for a new foodstore on the site named 'Air Balloon', 60 Brighton Road, Horley' satisfy the sequential test and would not represent a likelihood of a significant adverse impact on Horley town centre, as required by development plan and national planning policy.
- 1.2 Staff at Q+A Planning Ltd were involved in the preparation of the RBBC Retail Needs Assessment (RNA) (June 2016), and we are familiar with shopping patterns in Horley. Q+A Planning Ltd have no conflicts of interest and we can provide independent advice on the extent to which, in our judgement, the application satisfies the relevant planning policies on the sequential test and retail impact. This advice does not address any other planning policies or material considerations.
- 1.3 A planning application has been submitted by Lidl Great Britain Ltd (Reference 22/01400/F) for a new foodstore on the application site. Lidl already trade from a store in Horley town centre and, should planning permission be granted, they would vacate their existing store and market it for a different occupier. There have been a series of documents and correspondence concerning the sequential test and retail impact from the applicant, a third party (namely on behalf of Waitrose as a town centre retailer) and the Council's own planning policy team. This documentation is listed below in chronological order:
- Planning & Retail Statement (PRS) (June 2022) produced by RPS for the applicant;
 - RBBC planning policy comments dated 29th July 2022 which includes comments on the sequential test and retail impact;
 - Representations from First Plan on behalf of Waitrose & Partners dated 10th August 2022 objecting to the application;
 - Letter from RPS on behalf of the applicant dated 1st September 2022 responding to the planning policy comments and the representations from Waitrose;
 - Letter from RPS on behalf of the applicant dated 16th September 2022 enclosing marketing particulars of the existing Lidl building;
 - Letter from First Plan on behalf of Waitrose & Partners dated 4th October 2022 providing a further response to the application addressing comments from the applicant and planning policy team;
 - RBBC planning policy comments dated 19th October 2022 addressing retail impact matters;
 - RBBC planning policy comments dated 2nd November 2022 addressing the sequential test;
 - Letter from RPS on behalf of the applicant dated 2nd November 2022 addressing retail impact matters;

- Letter from First Plan on behalf of Waitrose & Partners dated 25th January 2023 providing a further objection to the application taking into account the November 2022 correspondence from the applicant.
- 1.4 To provide an independent review of the case, we have reviewed all the documentation listed above and, in addition, we undertook site visit in early February 2023. Our report considers the main issues in respect of the sequential test and retail impact assessment that are relevant as to whether these policy tests are satisfied.
- 1.5 Following the completion of our draft report, the Council received a late representation produced by Martin Robeson Planning Practice on behalf of Tesco Stores Limited, dated 3rd March 2023. This representation objected to the application and included comments on both the sequential test and retail impact. We have reviewed the content of this representation as we have finalised this report.
- 1.6 For the avoidance of doubt, this advice does not consider the merits or implications of a proposal from Aldi for a new foodstore on Bonehurst Road, Horley (Reference 21/00720) and we only refer to this proposal where it has been referred to by either the applicant or third parties in respect of the Air Balloon site.
- 1.7 It is worth mentioning at the outset that we have noted various comments from the applicant in respect of its future trading intentions in Horley and the purpose of this application. It is worth rehearsing these extracts:
- PRS para 3.4: *'Lidl have identified a need to provide an improved offer in Horley, both because local residents should be able to access the same quality of offer as Lidl provide elsewhere, but also to safeguard their market share in the face of increasing competition'*;
 - PRS para 3.4: *'...should Aldi be granted planning permission for this out-of-town development, the quality of their proposed retail offering, in comparison to Lidl's existing small and dated store in the town centre, would make it very challenging for Lidl to compete effectively against them. They have therefore decided that to guarantee their presence in Horley for the long term, the Lidl retail offering to local residents must be improved and the only way to achieve that is to relocate elsewhere in the town'*;
 - RPS Letter 2/11/22 *'The operational, physical and financial deficiencies of their existing unit are such that Lidl cannot continue to trade from it for much longer...'*;
 - RPS Letter 2/11/22 *'The relocation of the store will not give rise to a serious impact on the town centre, whereas Lidl closing and leaving Horley altogether, which is the scenario should the planning application be refused....'*
- 1.8 As an existing retailer and investor in Horley town centre, Lidl's intentions are a material consideration and should be carefully considered by the Council, particularly in respect of the retail impact test. It appears that Lidl were reviewing the operational constraints of their Horley store but the potential competition from Aldi has focused its attention on its future trading intentions in Horley. From our reading of the documentation, it is not stated that the competition from Aldi is the sole reason for the proposed relocation. In our experience, this is a fair explanation.

1.9 If the application on the Air Balloon site is refused, the correspondence does not state explicitly that Lidl will close their existing store immediately. Indeed, the marketing particulars for the existing store are clear that its availability is subject achieving permission for its relocation. We need to take these comments from the applicant at face value, but in our view - in the short term at least - Lidl would remain trading in the town if they do not achieve permission for an alternative store. This is because they have the long leasehold commitment on the existing store and the competition from nearby discount foodstores is limited. As such, we consider it unlikely Lidl would close and give up that market share in the short term.

1.10 The remainder of our report is structured as follows:

- Section 2 – we consider the sequential test;
- Section 3 – we consider the retail impact assessment;
- Section 4 – we set out our conclusions.

2 Sequential Test

Introduction

- 2.1 The sequential test is a well-established planning policy test for edge and out of centre retail proposals that are not in accordance with an up-to-date development plan. This test is set out in Policy RET5 of the Development Management Plan (DMP). It is also required by paragraph 87 of the National Planning Policy Framework (NPPF). If the sequential test is failed, then paragraph 91 of the NPPF says that the application should be refused.
- 2.2 The key test is as follows from paragraph 87 of the NPPF:

*'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' (our emphasis)*

- 2.3 There is extensive case law cited within the PRS, which we do not rehearse. We are familiar with this case law and in this report reach a judgement on whether the proposal meets the sequential test taking into account these various judgments and decisions. In particular, paragraph 88 of the NPPF:

'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.'

- 2.4 The key question is whether there is a sequentially superior site that is suitable for the proposed development (allowing for flexibility) that is also available within a reasonable period. When applying the sequential test, the identity and personal or corporate attitudes of an individual retailer is not, generally speaking relevant. However, it is agreed that the sequential test can consider the operational merits for a Limited Assortment Discounter (LAD) as a category of foodstore operator.

Sequential Status of Application Site

- 2.5 The site itself is referred to as 'edge of centre' by the applicant and the Council's policy team. It is referred to as 'out of centre' by Waitrose. 'Edge of centre' is defined by the NPPF (Annex 2: Glossary) as *'For retail purposes, a location that is well connected to, and up to 300 metres from, the primary shopping area'*. The definition also states that *'In determining whether a site falls within the definition of edge of centre, account should be taken of local circumstances.'*
- 2.6 Considering local circumstances, an 'edge of centre' site needs to be 'well connected' and 'up to 300 metres from its boundary'. The 300 metres figure is the outer threshold.

- 2.7 The primary shopping area of Horley town centre ends on Victoria Road and at its closest point to the application site, this is on the western side of the entrance to Victoria Road car park. Based on a basic Google Earth measurement, it appears the distance to the edge of the application site is approximately 300 metres. Therefore, it does appear to be on the threshold as to whether it is an edge or out of centre site.
- 2.8 Considering local circumstances based on our own site visit and observations, it is our judgement that the application site is well connected to the primary shopping area. This is because there is no need to cross any major roads and there is a single footpath that links the application site to the edge of the primary shopping area. In terms of crossing adopted roads, there is only the need to cross the junction of Victoria Road and Church Road, which in our view is a quiet intersection. There are two private access roads that need to be crossed, but in our view that does not undermine the connectivity of the site to the primary shopping area. Whilst there are residential uses on this stretch of Victoria Road, there are also main town centre uses in form of the parade of shops on Victoria Road plus a Church and a health hub. The absence of direct visibility is not a reason to treat the site as out of centre for the purposes of the NPPF Glossary.
- 2.9 Whilst not a sequential point directly, it is recognised that the footpath connection to the primary shopping area could be improved, and this matter is addressed as part of our impact considerations.
- 2.10 Therefore, based on the information before us, we agree that the application site can be judged as 'edge of centre' for the purposes of the sequential test.

Review of Sequential Test

- 2.11 The PRS provides helpful background in Section 3 in respect of the proposed store and Lidl's existing store in Horley and the proposed business model. The constraints of the existing store are noted and accepted. In our view, this shows that Lidl have been flexible in their trading format to date.
- 2.12 Section 5 applies the sequential test to the proposed development. Paragraph 5.7 of the PRS sets out the parameters used. We set these out below in italics and then address our views on those parameters in the subsequent text.
- *'The minimum site area is now 0.6ha for a standalone store, with unit sizes of between 1,672sq m and 2,461sq m'*. This appears fair and reflects the desire of the application to deliver a larger store and we note that there is scope for flexibility in the net sales area (principally the width of the aisles), in the rear warehouse and the amount of customer parking.
 - *'A single storey, open and unrestricted sales floor with a flat/level topography'* It is recognised that a store would need to be single storey, but we are unclear what open and unrestricted sales floor area means in this context. It is possible to design developments with varying levels to achieve a single storey store, with retaining structures where necessary. It will depend on the site and is potentially a constraint on sequential alternatives.

- *‘Provision of dedicated surface level parking so customers can easily transfer their shopping to their vehicles.’* This appears fair, although the sequential test should allow for shared parking spaces as we are aware that many foodstores used shared parking arrangements.
- *‘Adequate service access that can allow the safe manoeuvring of delivery vehicles and a dedicated rear service area to the rear of the store.’* Whilst service access needs to be safe, having a dedicated rear access area appears to be unreasonably restrictive. We are aware of numerous examples of similar stores where different servicing arrangements are proposed, including stores that have no dedicated service area. Whilst this might be a preferred operational solution, it should not be a reason to dismiss a sequentially preferable site on its own.
- *‘The store must be directly visible from the main road network, so it can attract passing trade.’* In our view, this appears to be an unreasonable constraint. Visibility from the main road network will inevitably lead to only certain sites being suitably and typically those outside of a town centre. Furthermore, the PRS does not at any point suggest this store is dependent on ‘passing trade’ to succeed and in any event, how passing trade is defined in this situation is not clear (i.e. where is the trade coming from and going to).

2.13 Broadly speaking, the methodological approach to the sequential test is agreed in terms of the size threshold of 0.6 hectares and the need to deliver a store of between 1,672 sq.m and 2,461sq.m. It is noted that the Tesco representations suggest there are situations where similar schemes have been delivered on sites as small as 0.3 hectares. However, we are reaching conclusions on Horley, based on the characteristics of the proposals put forward by the applicant. Therefore, we do not consider this evidence warrants a smaller site search criterion, albeit we recognise that the applicant has assessed a number of sites that are smaller than 0.6 hectares.

2.14 However, despite our agreement to the 0.6 ha area threshold, we do consider some of the other search criteria to potentially be limiting the flexibility in the search, as we have highlighted above. In a practical sense, this will be a concern for the findings of the sequential test if a site has been eliminated because of one of these additional factors. Based on our review of the PRS, this does not appear to be the case.

2.15 Surprisingly, the PRS is silent on the timescale for availability of sites. The NPPF makes it clear that availability should be within a ‘reasonable period’. Given that this store is seeking to meet an evidenced current requirement for a new modern LAD store to serve Horley, it is recognised that the timescale availability can be short. In our view, in this case a ‘reasonable period’ should be at least 1 year.

Assessment of Sites

2.16 In Section 5, the PRS has identified seven sites within Horley town centre. It has also considered 1 edge of centre site and then five local centres. No sites are found in the five local centres. In our view, the search is thorough and addresses the main sequential alternatives.

2.17 Site 1 is the Former Library site, and we address this site separately on the basis it has been subject to wider correspondence from third parties.

2.18 Our comments on the other sites are as follows:

- **Site 2 – Telephone Exchange:** it is agreed that this site is not available as the site is in active use by BT. The site in isolation is too small and therefore not suitable, albeit if it was combined with the Victoria Road car park, it could be a suitable alternative. However, on account of its availability, it is dismissed as an alternative.
- **Site 3 – Victoria Road Car Park:** it is agreed that this site is not available as it is currently in use as a public car park and there is no evidence it will come forward for development in a reasonable period. The absence of visibility from a main road is not a reason to dismiss the site, but the site is too small in isolation albeit could come forward in combination with Site 2. However, on account of its availability, it is dismissed as an alternative.
- **Site 4 – High Street Car Park:** it is agreed that this site is not suitable on account of the site's size and is not available on account of its existing car parking use.
- **Site 5 – Horley Central Car Park:** it is agreed that this site is not suitable on account of the site's size and is not available on account of its existing car parking use.
- **Site 6 - Land at 50-66 Victoria Road:** it is agreed that this site is not suitable on account of the site's size and is not available within a reasonable period due to the multiple ownership of the site.
- **Site 7 - Horley Police Station, 15 Massetts Road:** it is agreed that this site is not suitable on account of the site's size.
- **Site 8 - Land at The Grove:** it is agreed that this site is not suitable on account of the site's size and it also does not appear to be available.

2.19 Therefore, it is agreed that Sites 2-8 are not suitable or available alternatives.

2.20 Following the Tesco representations, the concept of availability requires a further comment. The NPPF simply refers to sites being available or expected to become available within a reasonable period. There is reference to Judgment of Tesco Stores Limited v Antrim and Newtownabbey Borough Council ([2022] NIKB 21/038671/01) and the reference to the passage '*Sites can be marketed quietly; and sometimes a landowner is open to the possibility of sale notwithstanding that they are not actively seeking to sell their property*'.

2.21 We recognise that the concepts of sites being marketed quietly and this is entirely possible. However, our conclusions are based on the evidence before us, and we cannot speculate what might be available without any further evidence. For example, if a site is in active use as a car park and there is no evidence provided by the site owners or any other third parties that it will become available for development within a reasonable period, in our view that is sufficient evidence that the site is not available.

2.22 The practice guidance states that *'the application of the test will need to be proportionate and appropriate for the given proposal'*. It is our advice that the sequential test applied by the applicant in this case is sufficiently robust when considering site availability. The comments from Tesco are appreciated, but equally the exercise needs to be proportionate and appropriate. In our view, the exercise is proportionate and appropriate for the application proposals. However, should further evidence come to light that there is a potentially available site, then we can review our advice on the sequential test.

Former Library

2.23 The reason Site 1 – Former Library has been considered separately is due to its adjacency to the existing Lidl store and the fact that the site has been recently cleared for development. It has also been subject to correspondence from Waitrose and the Council's policy team.

2.24 The site is 0.3 hectares and therefore individually the site would be unsuitable on account of its size. It is also subject to an allocation for residential development in the DMP. The site is also technically 'edge of centre', which means it is sequentially equivalent to the application site. However, it is recognised that the connections to the primary shopping area would be superior to the application site.

2.25 It is noted that the Council's policy comments originally concluded that the sequential test was met. However, following further investigation, they concluded the following:

'However, the July policy comments refer to a vacant unit on the same block as the existing Lidl store, which is currently being marketed. The building is on the corner of Victoria Road and Consort Way, Horley. Land assembly opportunities within Horley town centre must be explored by Lidl to determine whether Lidl could stay in Horley Town Centre and expand its floorspace with a larger and more updated store. Without having considered land assembly opportunities within the town centre, we cannot conclude that the application has passed the retail sequential test required under National Planning Policy Framework paragraphs 87, 88 and 91.'

2.26 It is entirely reasonable for conclusions on the sequential test to change because the judgements are related to information about the suitability and availability of a site at any given time. Indeed, we recognise that delivering a redeveloped block that combined Site 1 and the existing Lidl site in a mixed use development would represent the optimum outcome in respect of improving the town centre vitality and viability. For this to be successful, it is our view that the following would be required:

- Vacant possession can be delivered within a reasonable period on both the former library site and the existing Lidl site (including the existing car park);
- A scheme can be provided which delivers the 35 dwellings as per the site allocation and a modern foodstore and sufficient car parking for all the uses proposed;
- The scheme is viable.

- 2.27 We are aware that Lidl have anchored similar mixed use developments in Surrey and elsewhere. But we appreciate such developments will be both site and market specific.
- 2.28 We have some sympathy with the suggestion that Lidl should explore land assembly opportunities. However, the sequential test is based on whether the site is available (within a reasonable period) and suitable, subject to flexibility. There is no requirement to actively consider land assembly opportunities beyond those considerations. Indeed, the practice guidance makes it clear that the concept of flexibility applies to the proposal individually '*...rather to consider what contribution more central sites are able to make individually to accommodate the proposal*'. However, the impact on possible land assembly aspirations would form part of the impact considerations in respect of planned investment.
- 2.29 It is our judgment that the former Library site is not a suitable alternative individually on account of its size and residential allocation. In respect of the potential for a combined site, considering the three bullets we have listed at 2.26 there is no evidence that this is a deliverable prospect. There is no evidence that the combined site could deliver a foodstore and residential development and there is no evidence that vacant possession can be secured on the Lidl site within a reasonable timeframe given there are other ownership interests in the block.
- 2.30 Therefore, at the time of writing, we are not persuaded that the combined site would be a suitable or available alternative to the application site. As such, we are satisfied that the former Library site can be dismissed as a sequential alternative. Should further evidence of the deliverability of the combined site come forward, we can review our advice on this matter.

Overall Conclusion

- 2.31 In this Section, we have carefully considered the applicant's approach to the sequential test. We agreed to the search parameters in terms of floorspace and site size, but we consider that some of the search parameters appear to be too constrained and thus display a lack of flexibility. That said, this has not resulted in any sites being missed within the analysis or being dismissed solely for these reasons. Having reviewed the sequential test, in our judgement there are no sites that would be sequentially preferable to the application site. Therefore, it is our advice that the sequential test is satisfied.

3 Retail Impact

Introduction

- 3.1 The site is edge of centre and exceeds 250 sqm and therefore a retail impact assessment is required under Part 2 of Policy RET5 of the Development Management Plan (DMP). This is consistent with paragraph 90 of the NPPF which requires an impact assessment to assess:
- 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;*
 - 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).*
- 3.2 The PRS includes an assessment of retail impact in Section 5. There has been extensive correspondence between the parties on the robustness of the assessment and the consequences of the impact levels forecast. In our advice, we do not review each exchange in detail but rather focus on the main issues surrounding the quantitative impact levels forecast, the linked trips debate and then explore whether the levels of impact on investment and town centre vitality and viability are acceptable in our judgement.

Quantitative Impact

- 3.3 Quantitative impact is important as it allows the decision to make to make informed judgements on the consequences for the town centre, particularly in respect of vitality and viability. It is a tried and tested approach, which is referenced in the planning practice guidance. The PRS uses a standard approach by estimating spending patterns and then diverting trade generated from existing stores to calculate an expected negative impact.
- 3.4 It is noted that the impact assessment does not allow for the reoccupation of the existing Lidl store or incorporate any linked trips spending.
- 3.5 We note there is correspondence from Waitrose on the methodological approach and this resulted in an updated set of impact forecasts from the applicant in their letter dated 1st September 2022. In addition, a 'combined impact' estimate is presented in the letter from the applicant dated 2nd November 2022.
- 3.6 To judge the robustness of the quantitative impact forecasts, we have reviewed the method against the checklist in the planning practice guidance.

Table 3.1 Review of Applicant’s Quantitative Model

NPPG Checklist	Comments on PRS Approach
<p>establish the state of existing centres and the nature of current shopping patterns (base year)</p>	<p>The PRS utilises survey data, expenditure and population data from the Planning Statement prepared by Planning Potential and submitted in support of application for new Aldi store on Bonehurst Road, Horley (ref. 21/00720/F). This appears to be a reasonable starting point.</p> <p>The base position is 2020 based on the year of the survey. This is over 2 years old but for the purposes of the impact assessment is a reasonable starting point.</p>
<p>determine the appropriate time frame for assessing impact, focusing on impact in the first five years, as this is when most of the impact will occur</p>	<p>The PRS estimates turnover in 2022 (they year of the application) and then tests impact in 2026. Given it is likely that a new store would open at the earliest at some point in 2024 and a permission will run for three years, a 2026 impact year is reasonable.</p>
<p>examine the ‘no development’ scenario (which should not necessarily be based on the assumption that all centres are likely to benefit from expenditure growth in convenience and comparison goods and reflect both changes in the market or role of centres, as well as changes in the environment such as new infrastructure);</p>	<p>The PRS bases the no development scenario on the implied turnovers from the 2020 survey, with one notable exception – namely the turnover of the existing Lidl store itself. Based on the September 2022 sensitivity, the implied turnover of the existing Lidl is £14.68 million in 2022 and would increase to £15.18 million in 2026. It is stated in the PRS that this is an incorrect estimate as that would result in a turnover of 2.5 x the company average. In a constrained market, it is possible for the store to trade at much higher levels and it is noted that the Retail Needs Assessment in 2016 also showed the store trading significantly above its benchmark.</p> <p>Lidl have stated that the store trades at around its company average of £6.0 million. Given the store is an old format layout and the parking is constrained, we do agree that it would be unlikely for the store to deliver such high levels of sales. But equally, it is acknowledged there is no meaningful local competition</p>

NPPG Checklist	Comments on PRS Approach
	<p>for a LAD type store and two separate surveys some 4 years apart have both found the store to trade well above its benchmarks. Whilst we appreciate the comments from the applicant on this point, it is expected that the reality is that the store will turnover above its benchmark but not at the level as derived from the 2020 survey.</p> <p>We return to the implications of this below.</p> <p>It is appreciated that the PRS uses a turnover of £6.0 million for the Lidl rather than the survey derived turnover. Using this approach, we agree that the turnover should be re-apportioned to other destinations based on existing shopping patterns, which is the approach taken in the September 2022 sensitivity exercise.</p>
<p>assess the proposal’s turnover and trade draw* (drawing on information from comparable schemes, the operator’s benchmark turnover of convenience and comparison goods, and carefully considering likely catchments and trade draw)</p>	<p>Given the lack of competition and the likely trading performance of the existing store and the visibility of the application site, we would expect a new store on this site to trade successfully and potentially exceed company averages. Conveniently these exercises rely on the company averages, and we turn to the implications of this below.</p> <p>It is recognised that the estimate of the store’s turnover in the September 2022 uses company benchmarks and therefore is a reasonable starting point.</p> <p>We note there is no discussion on the trade draw of the proposal and therefore assume that 100% of the trade is drawn from the study area used, which is a fair assumption.</p>
<p>consider a range of plausible scenarios in assessing the impact of the proposal on existing centres and facilities (which may require breaking the study area down into a series of zones to gain a finer-grain analysis of anticipated</p>	<p>The assessment of impact scenarios does not break the trading patterns into zones as suggested by the practice guidance. However, the September 2022 sensitivity does run alternative scenarios, which includes a 50% uplift</p>

NPPG Checklist	Comments on PRS Approach
impact)	on the diversions from other town centre stores. In our view, this appears to be the most realistic outcome (subject to our comments on turnover).
set out the likely impact of the proposal clearly, along with any associated assumptions or reasoning, including in respect of quantitative and qualitative issues any conclusions should be proportionate: for example, it may be sufficient to give a broad indication of the proportion of the proposal's trade draw likely to be derived from different centres and facilities in the catchment area and the likely consequences for the vitality and viability of existing town centres	The PRS and subsequent correspondence clearly sets out the impact levels and the consequences for the vitality and viability of the existing town centre. We note the combined impact levels presented in the November 2022 response.

- 3.7 In terms of the method presented, our favoured outcome as a 'worse case' exercise is to consider the increased diversions and to incorporate the redistributed trade from the Lidl on the basis it is appropriate to make some adjustments to the existing turnover of the Lidl store.
- 3.8 We have some methodological comments, particularly in respect of the turnover of the existing Lidl store and consequently the proposed Lidl store. If the turnover of the existing Lidl were higher than assumed in the RPS impact assessment, this in turn would mean the level of diversion away from the town centre from its relocation would be higher. Similarly, if the new store achieves a higher turnover than the benchmark then this also would result in higher levels of diversion from the town centre.
- 3.9 On the other hand, the impact assessment in the PRS and the September sensitivity test looks at the convenience sector impact, rather than the total turnover of the town centre. As such, in percentage terms, the level of impact would inevitably be lower. It is appreciated that the November 2022 response does present a combined impact output incorporating convenience and comparison turnover, but not any other town centre spending. We also agree that by not allowing for the re-occupation of the existing Lidl store means that the impacts would be lower if it were re-occupied by another retailer.
- 3.10 There are clearly differing opinions on the percentage impact on the town centre. However, due the closure of the Lidl store, the convenience percentage impact on the town centre is likely to exceed 20% whichever approach is used. We note that the combined impact presented in the November 2022 response from the applicant is expected to be 12.85%.
- 3.11 These levels of impact ought to be carefully considered and there will be some harm to the town centre. Even a small negative impact can cause an unacceptable harm on the town centre; the planning practice guidance states the following:

'A judgement as to whether the likely adverse impacts are significant can only be reached in light of local circumstances. For example, in areas where there are high levels of vacancy and limited retailer demand, even very modest trade diversion from a new development may lead to a significant adverse impact.'

- 3.12 The Tesco representations warrant one comment of clarification, where it is stated *'diversions in excess of 10% are routinely considered to be in the realm of what might constitute "significant adverse impact"*, justifying the refusal of planning permission (see NPPF at paragraph 91). This is a misleading and is not based on any policy or practice guidance. It is an established retail planning principle that there is not a 'one site fits all' approach to the percentage levels of impact that are unacceptable.

Linked Trips

- 3.13 There is extensive correspondence on linked trips from Waitrose and the Council's policy team. Tesco suggests that there are considerable linked shopping trips between Lidl and other shops and services. The argument goes that if there is a reduced level of linked trips spending, then the quantitative impact on the town centre would be higher than as forecast within the quantitative impact assessment.

- 3.14 No empirical evidence has been provided by any party that quantifies the existing level of linked trip spending between the Lidl store and other shops in Horley town centre. Similarly, no evidence has been provided which shows what the linked trip spending will be from the new store. Therefore, it is only possible to make broad qualitative comments on this point.

- 3.15 In respect of the existing store, given it is in the town centre it does have the potential to provide spin off trade to other shops and services. However, in the absence of any other evidence, it is our judgement that the existing Lidl store generates limited linked trip spending to other businesses for the following reasons:

- The car park is free but just for 90 minutes and is also a constrained car park with limited circulation space. If you are visiting that car park, it is expected you would also be shopping in Lidl but that would give much less time to visit other shops and services.
- There is an opportunity to use the car park for free for 90 minutes and then visit elsewhere in the town centre. However, the pedestrian route from the car park into the town (and not via Lidl) is inconvenient and it does not appear to be well used.
- The entrance of the store is right on the edge of the primary shopping area and is not close to other areas of activity which would encourage multiple activities on the same trip.

- 3.16 If we are correct, then the loss of the store from the town centre will not directly harm the turnover of other shops or services through the breakdown of linked trips spending.

- 3.17 It is recognised that there will be some linked trips associated with the Lidl store, likely to be through walk in trade, but as a proportion of turnover we consider it would be a lot

less than as associated with Waitrose, for example. This is because Waitrose has a 2 hour car park which is surface level and the access into the remainder of the town centre is much more convenient than for Lidl.

- 3.18 Turning to the proposed store, given it is further away from the primary shopping area, the potential for linked trips by foot would logically appear to be less. However, the store and therefore turnover is larger and so, if there are more visitors to the store, this may offset any loss of linked trips spending. Also, there could be some spending through a further car journey into the town centre from the new Lidl, albeit we recognise this would not be a sustainability benefit.
- 3.19 Furthermore, based on our site visit we did observe what appeared to be linked trip activity taking place between the Lets Explore soft play and day nursery on Brighton Road (which is further away than the proposed Lidl site) and the town centre. This was based on observations of regular pedestrian activity along Victoria Road. Therefore, it is not out of the question for linked trips spending by foot to take place between the application site and the town centre.
- 3.20 Overall, we consider the impact on linked trips spending associated with the relocation of the store is likely to be neutral. Indeed, there could in fact be a benefit depending on who occupies the vacated Lidl store and how its existing car park is managed.

Impact on Investment

- 3.21 The NPPF impact test on investment concerns existing, committed and planned public and private investment.
- 3.22 Lidl is an existing investor in the town centre that has a long leasehold commitment on their existing property. It is our understanding that Lidl would need to find a new occupier for their property due to the long leasehold commitment they hold. Therefore, to some extent, they will need to have confidence in the ability to attract a new occupier for the premises.
- 3.23 Waitrose is also an existing investor and they have expressed concern about the impact on the town centre by objecting to the proposals. However, they do not raise any concerns about their future trading presence in the town centre or any future impact on investment decisions for the existing store (i.e. any improvements required).
- 3.24 To our knowledge, no other existing investors in the town centre have commented on the proposals.
- 3.25 There is no committed investment that we are aware of that would be impacted by the proposal.

3.26 On planned investment, this would be a factor if the land assembly aspirations to combine the library site and the Lidl site were being planned for in a Local Plan or another policy document. However, we are not aware of any policy document that plans for such a scenario. Therefore, in our judgement there is no adverse impact on planned investment in the town centre.

3.27 Therefore, we agree that there will not be a significant adverse impact on investment.

Impact on Vitality and Viability

3.28 The NPPF impact test on vitality and viability includes a consideration of local consumer choice and trade in the town centre. We have reviewed the health check assessment and the comments from the Council's policy team and Waitrose and supplements these with our own observations of the town centre.

3.29 We agree with the RPS characterisation that Horley is a popular centre with a reasonable level of vitality and viability. This is broadly consistent with the previous health check in 2016 from the Retail Needs Assessment, which did identify some weaknesses.

3.30 One point to clarify concerns the apparent level of convenience floorspace against national averages. The RPS health check looks at unit numbers rather than floorspace and if the floorspace figures are considered, the proportion of floorspace would exceed the national average due to the presence of Waitrose in the town centre.

3.31 The level of vacancies is lower than the national average and appears to be broadly stable.

3.32 Irrespective of the technical debate over the impact figures, it is clear there would be a series of negative impacts through the closure of the Lidl and its relocation to the edge of centre site. These are as follows:

- It would remove the second largest convenience retailer in the town centre, reducing local consumer choice in the primary shopping area;
- There would be an overall reduction in retail trade in the town centre;
- It would result in a large vacancy within the primary shopping area and there is no current plan for its reoccupation, which could result in a long term vacancy.

3.33 These factors count against the proposal and could potentially be reasons to refuse the application on the grounds of retail impact.

3.34 However, in favour of the proposal, we find the following:

- The existing vacancy level for Horley is low and it appeared to benefit from a reasonable range of shops and services, given its size.

- The centre does not appear to rely on Lidl as an anchor store and we consider the benefit it provides to the wider centre through linked trips is limited.
- The existing Lidl site could offer an opportunity for either re-use from another town centre retailer or main town centre use, or even redevelopment. Given that Lidl have a long leasehold commitment on the property, it will be in their interests to find a viable reuse for the site.
- Other than Waitrose, we are not aware of any other town centre retailers that have objected to Lidl's relocation to an edge of centre site.
- There are qualitative reasons for an improved foodstore in Horley and whilst this would divert some trade from town centre locations, it would also attract trade from out of centre locations to a more sustainable edge of centre site.
- A modern Lidl store would clearly improve consumer choice - whilst the application site is not within the town centre, it is edge of centre, and we consider the level of linked trips is unlikely to be different to the existing store.

3.35 Ultimately, reaching a judgement on whether the impact of is significant or not comes down to how much weight is apportioned to the factors listed in paragraphs 3.32 and 3.34.

3.36 Overall, it is our judgement based on our review of the evidence and our own experience is that that the impacts that Horley town centre in terms of vitality and viability do not represent a likelihood of a significant adverse impact.

Overall Conclusions

3.37 The closure of Lidl and its relocation to the application site will cause an adverse impact. This is agreed by all parties. The negative impacts concern loss of a large convenience retailer reduced turnover and the potential for a large vacancy. The question is whether the level of impact is significantly adverse that would warrant a refusal of planning permission. Reaching a conclusion on whether there is a likelihood of an adverse impact, we have considered all the evidence submitted and our own observations of the site and surroundings.

3.38 Overall, it is our judgement that this adverse impact will not be significantly adverse. In summary, the reasons for this are as follows:

- There is no evidence of any adverse impact on existing, committed and planned public and private investment.
- The centre does not appear to rely on Lidl as an anchor store and we consider the benefit it provides to the wider centre through linked trips is limited.
- The existing Lidl site could offer an opportunity for either re-use from another town centre retailer or main town centre use, or even redevelopment.
- There are qualitative reasons for an improved foodstore in Horley and whilst this would divert some trade from town centre locations, it would also attract trade from out of centre locations to a more sustainable edge of centre site.

- A modern Lidl store would clearly improve consumer choice - whilst the application site is not within the town centre, it is edge of centre, and we consider the level of linked trips is unlikely to be different to the existing store.
- The applicant has agreed to fund the improvements to the footpath to the town centre – we consider this is a necessary requirement, as the link now is in poor condition and the developing the application site will increase its use.

3.39 It is recognised that this is a balanced judgement and other parties may apportion more weight to the negative impacts on the town centre and could reach an alternative conclusion.

4 Conclusions

- 4.1 Q+A Planning Ltd have been instructed by Reigate and Banstead Borough Council (RBBC) to provide an independent planning review of whether proposals for a new foodstore on the site named 'Air Balloon', 60 Brighton Road, Horley' satisfy the sequential test and would not represent a likelihood of a significant adverse impact on Horley town centre, as required by development plan and national planning policy.
- 4.2 In this report, we have considered all relevant evidence and correspondence.
- 4.3 Having reviewed the sequential test, in our judgement there are no sites that would be sequentially preferable to the application site.
- 4.4 In respect of retail impact, there clearly will be an adverse impact on the town centre. The negative impacts concern loss of a large convenience retailer reduced turnover and the potential for a large vacancy. The question is whether the level of impact is significantly adverse that would warrant a refusal of planning permission. Reaching a conclusion on whether there is a likelihood of an adverse impact, we have considered all the evidence submitted and our own observations of the site and surroundings.
- 4.5 Overall, it is our judgement that this adverse impact will not be significantly adverse. In summary, the reasons for this are as follows:
- There is no evidence of any adverse impact on existing, committed and planned public and private investment.
 - The centre does not appear to rely on Lidl as an anchor store and we consider the benefit it provides to the wider centre through linked trips is limited.
 - The existing Lidl site could offer an opportunity for either re-use from another town centre retailer or main town centre use, or even redevelopment.
 - There are qualitative reasons for an improved foodstore in Horley and whilst this would divert some trade from town centre locations, it would also attract trade from out of centre locations to a more sustainable edge of centre site.
 - A modern Lidl store would clearly improve consumer choice - whilst the application site is not within the town centre, it is edge of centre, and we consider the level of linked trips is unlikely to be different to the existing store.
 - The applicant has agreed to fund the improvements to the footpath to the town centre – we consider this is a necessary requirement, as the link now is in poor condition and the developing the application site will increase its use.
- 4.6 It is recognised that this is a balanced judgement and other parties may apportion more weight to the negative impacts on the town centre and could reach an alternative conclusion.

