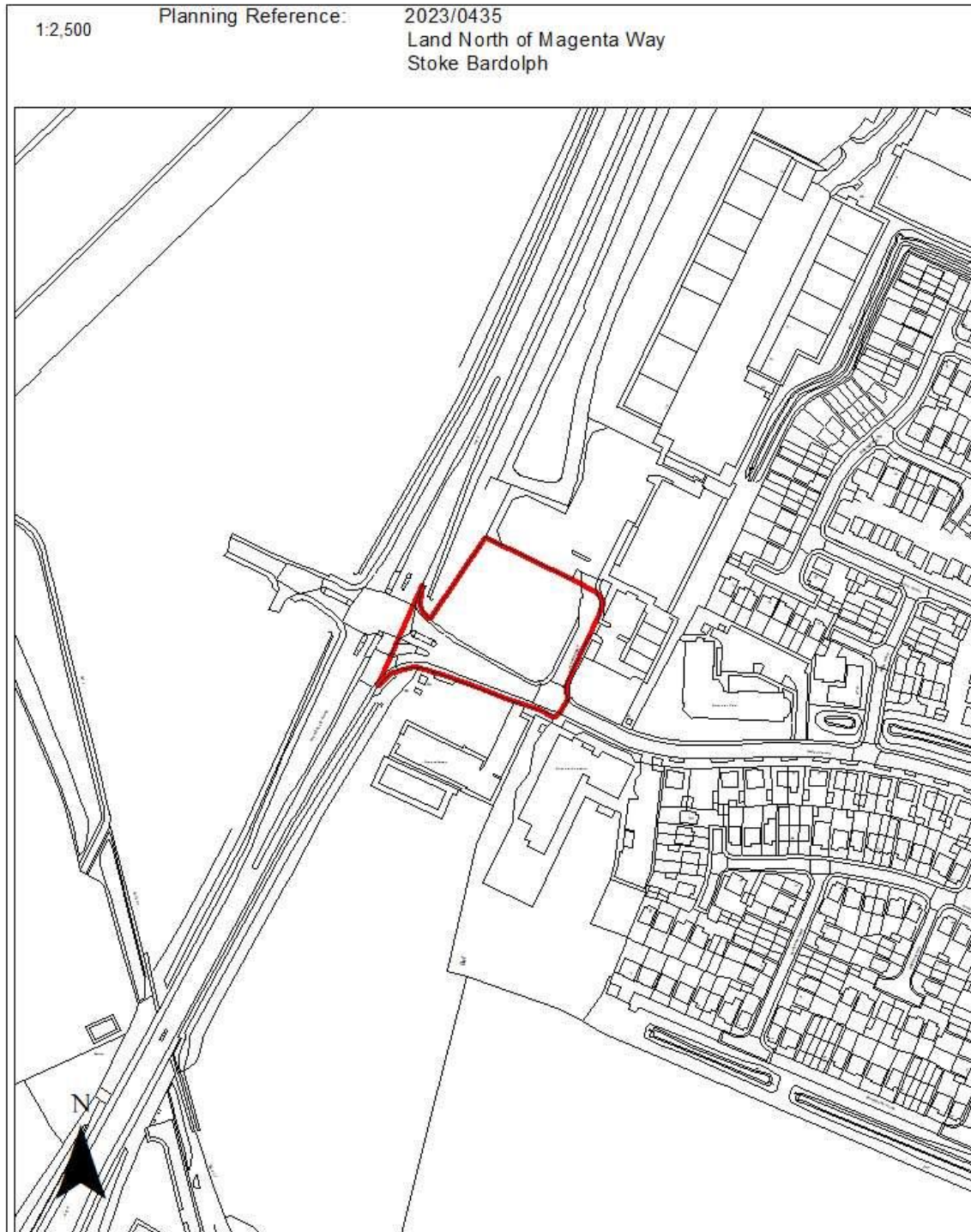




Planning Report for 2023/0435



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Report to Planning Committee

Application Number:	2023/0435
Location:	Land North of Magenta Way, Stoke Bardolph
Proposal:	Erection of a drive thru restaurant, with associated access, car parking, drainage and landscaping.
Applicant:	A.C Llyod Holdings Limited
Agent:	Pegasus Planning Group
Case Officer:	Craig Miles

The application has been referred to Planning Committee by the Planning Delegation Panel to allow matters relating to the potential impact on highways, public health, air quality and how the proposed development respects the character of the area to be considered.

1.0 Site Description

- 1.1 The applicant site is a vacant area of land to the north of Magenta Way and to the east of the A616, Colwick Loop Road. The application site covers an area of some 0.5 hectares and is flat and devoid of any significant features.
- 1.2 The site forms part of the wider Teal Close Strategic Urban Extension development site that was granted outline planning permission for residential development (up to 830 units), employment uses (Use Classes B1/B2/B8), a local centre (Use Classes A1-A5 and D1), primary school, hotel (Use Class C1), care home (Use Class C2), playing pitches and changing facilities, public open space, allotments, structural landscaping, access arrangements and an ecology park, and demolition of existing structures in June 2014 (Ref: 2013/0546).
- 1.3 A subsequent reserved matters application was granted in May 2021 for the local centre site consisting of a public house, commercial/retail terrace and children's day nursery (Ref: 2019/0613). The retail terrace which formed part of the reserved matters has been constructed and the consent remains extant. The children's day nursery and public house have not been constructed and it is the area consented for the public house that is subject of this application.
- 1.4 To the north of the site is an Aldi food store which was previously approved in May 2021 (Ref: 2020/1292) that has also been constructed and is occupied immediately adjacent to the application site. To the south (on the opposite side of Magenta Way) is Rivendale Flying High Academy Primary School and its associated playing fields.

1.5 There are no heritage assets on or close to the site.

2.0 Relevant Planning History

- 2.1 2013/0546 - Outline planning application comprising residential development (up to 830 units), employment uses (Use Classes B1/B2/B8), a community hub (Use Classes A1-A5 and D1), primary school, hotel (Use Class C1), care home (Use Class C2), playing pitches and changing facilities, public open space, allotments, structural landscaping, access arrangements and an ecology park, and demolition of existing structures is approved and subject to a S106 agreement.
- 2.2 2017/0999 - Variation of Conditions 32, 33 & 35 and removal of Condition 34 attached to outline planning application No. 2013/0546 comprising residential development (up to 830 units), employment uses (use classes B1, B2, B8) a community hub (use classes A1-A5 and D1) primary school, hotel (use class C1), care home (use class C2) playing pitches and changing facilities, public open space, allotments, structural landscaping, access arrangements and an ecology park, and demolition of existing structures. Approved 28th February 2018.
- 2.3 2017/0800 - Reserved Matters Application for the erection of 199 dwellings (C3), including 2017/0800 10 affordable units, and the associated infrastructure including landscaping, community uses/changing rooms (D2), playing pitches, a NEAP and public open space and an ecological park. Approved 2nd March 2018.
- 2.4 2018/0951 - Variation of conditions 32 (highway works), 33 (highway works) & 35 (footway/cycleway works) on outline planning permission reference 2017/0999 – Pending consideration.
- 2.5 2018/1189NMA - Non Material Amendment - amendment to the wording of Condition 10 (flood risk measures) on outline planning permission reference 2017/0999. – Approved.
- 2.6 2019/0060NMA - Non Material Amendment to reserved matters approval 2017/0800 - mid-terraced Yarm house type replaced with Bickleigh house type and end terrace Bickleigh house type replaced with Yarm house type, changes to feature plots and amendments to road layouts – Approved.
- 2.7 2019/0208NMA - Non Material Amendment - amendment to the wording of Condition 10 (flood risk measures) on outline planning permission reference 2017/0999 – Pending consideration.
- 2.8 2019/0131 - Reserved matters application for the erection of a 1-form entry primary school with a 26 place nursery with associated external play areas, car parking and associated landscaping and infrastructure pursuant to outline planning permission 2017/0999 – Approved 8th April 2020.
- 2.9 2019/0374 - Variation of Conditions 2 (approved plans), 7 (parameters plan written statement), 10 (flood risk), 28 (highway works), 30 (highway works), 31 (highway works), 32 (highway works), 33 (highway works) and 35

(footway/cycleway) on planning permission reference 2017/0999 – Pending consideration.

- 2.10 2019/0529 - Formation of access and enabling works including drainage and earthworks in relation to the local centre and employment uses – Granted Permission 18th September 2019.
- 2.11 2019/0614 - Approval of reserved matters in relation to appearance, landscaping, layout and scale of the trade park and unit 1 of the employment area pursuant to outline planning permission 2017/0999 – Granted Planning Permission 8th November 2019.
- 2.12 2019/0615 - Approval of reserved matters in relation to appearance, landscaping, layout and scale for the development of the employment area (6no. employment units) pursuant to outline planning permission 2017/0999 – Pending consideration.
- 2.13 2019/1191 – Three Storey Sixty Six Bedroom Residential Care Home for Older People (Use Class C2) with associated access, parking and landscaping. Granted Planning Permission 11th March 2020.
- 2.14 2019/0152 - Reserved matters application for the erection of 353no. dwellings (C3), including 18 affordable units, and the associated infrastructure including landscaping and public open space pursuant to outline planning permission 2017/0999. (Phase 2) – Approved 22nd June 2020.
- 2.15 2019/0560 - Reserved matters application for the erection of 277no. dwellings (C3), including 13 affordable units, and the associated infrastructure including landscaping and public open space pursuant to outline planning permission 2017/0999. (Phase 3) – Approved June 2022.
- 2.16 2020/1292 - Erection of a retail store (Class E) with associated car parking, landscaping and other infrastructure – Approved May 2021.
- 2.17 2021/1008DOC - Discharge of condition C11 (Flood Resilience Measures), Condition 16 (Surface Water Drainage), Condition 17 (Foul Drainage), Condition 18 (Contamination), Condition 19 (Verification), Condition 21 (lighting) and Condition 36 (Local Labour Agreement) of planning permission 2017/0999. Approved 4th January 2022

3.0 Proposed Development

- 3.1 Full planning permission is sought for an alternative form of development, in place of the previously consented public house.
- 3.2 This full application seeks consent for a drive thru restaurant with associated access, car parking, drainage and landscaping. The proposed drive would have a gross internal area of 253m² and it is proposed to be occupied by a Popeyes Louisiana Chicken franchise, although any permission would not be tied to the specific operator.

- 3.3 The proposed drive thru would be located on the west part of the site, with the proposed car park located in the eastern part of the site.
- 3.4 The restaurant building itself would be single storey and measures some 6.8m in height to the ridge. The building is of a modern and contemporary architectural design featuring areas of timber cladding, white brick and grey cladding. A blue canopy would wrap around the building to provide shelter for visitors.
- 3.5 The main entrance to the proposed restaurant building would be on the northern elevation and would comprise of floor to ceiling glazing along the frontage of the building. A separate takeaway collection window would also be located on the northern elevation separated from the main elevation by a timber cladded feature. The floor to ceiling glazing would wrap around the corner of the building providing an active elevation to the eastern elevation, this elevation also features timber cladding along with white brickwork to break the massing of the building. The western elevation would include two glazed drive thru bays, along with timber cladding, white brickwork and grey cladding. The elevation is stepped to provide interest and break the massing of the building. The south elevation features corner, and high-level timber cladding.
- 3.6 Access into the site would be via a new bell mouth junction positioned on the western side of the existing local centre access road which connects into Magenta Way to the south. The proposed bell mouth connects into the existing footpaths either side of the site, providing pedestrian access to Magenta Way and the Aldi development to the north, alongside the existing retail terrace to the east. A drive thru lane is proposed around the rear of the proposed restaurant building.
- 3.7 In terms of car parking, 27 off-street spaces would be provided within the site that would include two Electrical Vehicle spaces. Two additional disabled spaces and four kerb side waste collection spaces would also be provided, located alongside the east elevation. A cycle shelter would be provided outside of the main entrance of the proposed building. Motorcycle spaces would also be provided within the site.
- 3.8 Plant and extraction equipment would be positioned on the roof of the proposed building, but behind a small parapet to ensure so that they are not visible in public views. Lighting columns are proposed within the site so that the car parking, drive thru and other external areas are lit at night.
- 3.9 New landscape planting is proposed around the perimeter of the site in the form of planting of a species-rich native species hedgerow along the boundaries of the development, ornamental shrub planting and a small number of urban trees. This would be separated from the public road by a low timber knee rail fence.
- 3.10 The applicant confirms that the proposed signage would be subject to a separate advertisement consent application.
- 3.11 The application is supported by:
 - Design and Access Statement

- Retail Sequential Assessment
- Transport Assessment and Travel Plan
- Flood Risk and Drainage Strategy
- Noise Impact Assessment
- Air Quality Assessment
- Preliminary Ecological Appraisal and BNG assessment
- Soft Landscaping Plan

4.0 Consultations

- 4.1 Nottinghamshire County Council Highway Authority – Having considered the Transportation Statement submitted with the application, they have no objection to the proposals as the level of car parking is sufficient and includes cycle, motorcycle parking and servicing spaces. They also confirm that the swept path analysis for larger vehicles delivering goods is acceptable. They state that a Traffic Regulation Order is being made on Magenta Way to control parking in the vicinity of the access/school. In respect of the submitted Travel Plan, they recommend that further changes are required, but, if necessary, a condition could require a new Travel Plan to be submitted and approved prior to occupation.
- 4.2 Nottinghamshire County Council Local Lead Flood Authority – No objection.
- 4.3 Environment Agency – Confirm that they have reviewed additional submitted documents and consider that it satisfactorily addresses earlier concerns. They do not object to the proposals and acknowledge that the development is not located within flood zone 3b. They recommend conditions to ensure that the development complies with the submitted Flood Risk Assessment and the finished floor levels are set no lower than 20.96m above AOD.
- 4.4 Gedling Borough Council Scientific Officer (Air Quality and Contamination) – Notes the applicant's statement that remediation has been undertaken in accordance with a previous permission and has no objection subject to conditions requiring a verification statement being provided. Advises that having considered the air quality assessment the provision of Electric Vehicle charging points and a Construction Environment Management Plan would be required as recommended within the document.
- 4.5 Gedling Borough Council Tree Officer - No objections subject to a condition requiring that the maintenance aftercare for trees should be a minimum of 3 years from completion of development works and not only 12 months.
- 4.6 Gedling Borough Council Parks and Street Care – No comments.
- 4.7 Nottingham Wildlife Trust - No comments.
- 4.8 Nottinghamshire Police Designing Out Crime Officer – Does not object to the application but suggests that there should be plan in place for the security of the premises during construction and that development should be undertaken following the principles of Secure by Design.

4.9 Members of the Public - A press notice was published, site notices were displayed, and neighbour notification letters were posted. In total 48 letters of objections were received which were made on the following grounds:

- The development would lead to noise and disturbance to nearby residents;
- It would have harmful impact on road safety;
- It would encourage anti-social behaviour;
- The proposed drive thru would limit access to the adjacent housing estate at busy times;
- It should be located elsewhere;
- It would be located close to a primary school;
- There is no capacity within the local road network;
- There is no demand for such a facility as there are other outlets at Netherfield Retail Park;
- Potential for queuing traffic onto the public road;
- It would have an adverse impact on health;
- Harmful odours would affect local residents;
- It may affect heritage assets;
- It would create drainage problems; and
- It would lead to littering that would harm amenity

5.0 Relevant Planning Policy

5.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 (as amended) requires that 'if regard is to be had to the development plan for the purpose of any determination to be made under the planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise.'

Development Plan Policies

5.2 The Local Planning Authority adopted the Local Planning Document (LPD) on the 18th July 2018. The most pertinent policies to the determination of this application are as follows:

- LPD 3 – Managing Flood Risk
- LPD 4 – Surface Water Management – sets out the approach to surface water management.
- LPD 7 – Contaminated Land – sets out the approach to land that is potentially contaminated.
- LPD 10 – Pollution – sets out the criteria that a development will need to meet with respect of pollution
- LPD 11 - Air Quality - states that planning permission will not be granted for development that has the potential to adversely impact upon air quality unless measures to mitigate or offset have been incorporated.
- LPD 32 – Amenity – planning permission will be granted for proposals that do not have a significant adverse impact on the amenity of nearby residents or occupiers.
- LPD 57 – Parking Standards - sets out the parking requirements for non-residential small shops and supermarkets below 3,000 m². Appendix D Parking Provision – Non-Residential Development.

- LPD 61 – Highway Safety – Planning permission will be granted for development proposals which do not have a detrimental effect on highway safety, patterns of movement and the access needs of all.
- 5.3 The Aligned Core Strategy was Adopted in September 2014, the following policies are considered most pertinent to the determination of the application; Policy A – Presumption in Favour of Sustainable Development; Policy 1 – Climate Change - Parts 1, 2 and 3 set out sustainability criteria; Part 6 that deals with flood risk; and Policy 10: Design and Enhancing Local Identity – that sets out the criteria that development will need to meet with respect to design considerations.
- 5.4 With respect of the National Planning Policy Framework 2023 (the NPPF), the following chapters are considered to be most pertinent to the determination of the application; Section 2 – Achieving sustainable development - Para 11 – presumption in favour of sustainable development; Section 4 – Decision-making - Paragraph 47 of the NPPF states that planning law requires applications for planning permission be determined in accordance with the Development Plan, unless material considerations indicate otherwise; Section 6 – Building a Strong, competitive economy - Paragraph 80 states planning decisions should help create conditions in which businesses can invest, expand and adapt; Section 8 – Promoting healthy and safe communities Paragraph 91 - Planning policies and decisions should aim to achieve healthy, inclusive and safe places which:
 - c) enable and support healthy lifestyles, especially where this would address identified local health and well-being needs – for example through the provision of safe and accessible green infrastructure, sports facilities, local shops, access to healthier food, allotments and layouts that encourage walking and cycling; Section 9 – Promoting sustainable transport; Section 12 – Achieving well-designed places. Paragraph 130 states that permission should be refused for development of poor design; Section 14 – Meeting the challenge of climate change, flooding and coastal change - Paragraph 163 - states a site-specific flood risk assessment is required. The applicant has submitted a flood risk assessment; Section 15 – Conserving and enhancing the natural environment - Paragraph 170. Planning policies and decisions should contribute to and enhance the natural and local environment.
- 5.5 Other policy guidance of note includes: ‘Parking Provision for Residential and Non-Residential Developments Supplementary Planning Document’ (2022).

6.0 Planning Considerations

Principle of Development

- 6.1 The Teal Close urban extension is identified in the ACS within Appendix A – Strategic Site Schedules and Plans and specifies that the Local Centre should be up to 2,800 m² and should comprise of a variety of commercial uses. This

criterion was translated into the conditions of planning permission 2013/0546 (as varied by 2017/0999).

- 6.2 The proposed drive thru restaurant (albeit a *sui generis* use) broadly falls within the (now replaced) Use Classes permitted by the ACS within Appendix A – Strategic Site Schedules and Plans which included A5 - hot food takeaways and A3 - Restaurants.
- 6.3 In relation to the restriction of the total amount of floor area for local centre uses to a maximum of 2,800m² it should be noted that the overall gross internal area of the proposed drive thru restaurant is much smaller than the consented public house. The consented and extant permission for the public house on the site would have a gross internal floor area of 752.5 m² and the proposed drive thru restaurant would have a gross internal area of 253m².
- 6.4 In addition, it should be noted that the previous consent for a public house contained plans for hot food to be served within it.
- 6.5 The applicant has also submitted a “Drive Thru Sequential Assessment” outlining the reasons for why this site has been selected in lieu of others, however having regard to the requirements set out in the NPPF there is only a requirement to undertake a sequential assessment where the site is outside any defined town or local centre and it is above 2,500m². In this instance, the wider approved masterplan for the area and extant planning permission includes a new local centre, and nevertheless the proposals do not exceed the impact assessment threshold of 2,500m² being only 253m². The store size is also below the identified threshold of 500m² in policy LPD52. The adopted development plan actively allows for the proposed use and permission has already been granted for a larger public house (including restaurant).
- 6.6 In these circumstances, the principle of development is therefore considered acceptable given the planning history of the site as well as the overall intention for the site set out in within Appendix A – Strategic Site Schedules and Plans of the ACS.

Design and Layout

- 6.7 The proposed drive through building would be of an individual and modern architectural design primarily based on the applicant’s company branding. It would be single storey in height up to a maximum height of 6.85m and would be viewed in the context of the much larger commercial units and supermarket located to the rear (north). This accords with the heights set out in the parameters plan approved by planning permission 2017/099 which specifies that the local centre buildings should not be no more than two storey and not exceed 9 metres in height.
- 6.8 The nearest existing residential properties are located to the north-east (Planning Permission 2019/0152) a significant distance away from the proposed restaurant building and as such there would be no significant impact on the amenity of neighbouring occupiers from the development from loss of light or by having an overbearing impact.

- 6.9 It is considered that the proposed restaurant building would be proportionate to the size of the site, and that there would be sufficient space within the site for pedestrians and vehicles to move around the site and exit safely.
- 6.10 In terms of materials and architectural features, it is stated within the submitted design and access statement that *“the main body of the building will be white brick slips which is complimented by dark timber effect aluminium cladding. Microrib cladding of a contrasting mid grey encloses the service areas of the building. Full height glazing is provided to the main entrance and restaurant area which fronts the access and greets customers as they enter the site. The doors and windows will be in a dark grey polyester powder coated finish. All associated flashings will match the adjacent cladding and window colours.”* The applicant also states that the *“proposed building elevations reflects the palette of materials used in the construction of the adjacent retail terrace together with the adjacent Aldi to ensure a coherent character across the local centre site.”*
- 6.11 In these circumstances, it is considered that the overall design of the building compliments the local centre proposals submitted and granted approval in reserved matters application 2019/0613 and is considered to enhance the character and visual amenity of the local area. Therefore, the proposals consist of a high-quality design and is in compliance with the NPPF, ACS Policy 10, LPD57 and LPD61 and Appendix D of the LPD.

Highway Matters

- 6.12 Access to the application site and that of the wider Teal Close development is established by the grant of outline planning permission 2017/0999. This would be from Magenta Way via the new signalised junction with the Colwick Loop Road.
- 6.13 It should be noted that the outline planning application and associated transport assessment modelled the trip generation and highway impact of the whole development, including a food store together with a 150-bed hotel that is no longer proposed. It should also be acknowledged that previous (extant) permission remains in place for a public house / restaurant with associated parking and new access.
- 6.14 The application has been submitted with a Transport Assessment which states in terms of vehicle movements that: *“The assessment of the proposed development is based on a realistic comparison between the proposed fast-food restaurant and the permitted pub, alongside the baseline position of the cumulative residual traffic inherent from the approved Aldi development within the Local Centre envisaged under the outline permission. The proposed development represents a scenario in which the total development related vehicle movements are fewer than those associated with the Local Centre envisaged under the outline planning permission.”*
- 6.15 It highlights that the proposed drive-thru restaurant would be a substitute for the public house which forms part of the extant Local Centre permission, and that the Local Centre would now comprise of development that would be under the floor area permitted in the original outline permission once the proposed development is included.

- 6.16 In terms of its location, the site is accessible by a choice of travel modes that would help in reducing reliance on the private car, consistent with national and local planning policy. A draft travel plan has been submitted that outlines measures to reduce car use.
- 6.17 As previously stated, 27 spaces would be provided within the site that would include two Electrical Vehicle spaces. Two additional disabled spaces and four kerb side waste collection spaces would also be provided, located alongside the east elevation. A cycle shelter would be provided outside of the main entrance of the proposed building. Motorcycle spaces would also be provided within the site.
- 6.18 The Highway Authority confirm that it has been demonstrated that the service arrangements will be able to accommodate delivery traffic and that the proposed development accords with local car and cycle parking standards. They do not object to the proposals on the basis that conditions are in place to ensure all car parking spaces are in place prior to occupation and that an updated travel plan, including clarification on monitoring and evaluation, be provided.
- 6.19 Whilst noting the concerns of the members of the public in relation to the access and its proximity to the junction and new school to the south it is considered that the access is acceptable. Magenta Way is a new access road designed to serve the development. Each proposal has not been assessed in isolation. During the consideration of the adjacent school application full consideration of the local centre was considered.
- 6.20 The NPPF is very clear in relation to advice when considering highway matters. At para 109 it states: "*Development should only be prevented or refused on highway grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe*".
- 6.21 The Highway Authority has confirmed that the proposal is acceptable and has raised no objection subject to conditions ensuring the parking, turning and servicing areas are available and retained for the life of the development. As such it is considered that there is no justification to refuse planning permission on highway grounds.
- 6.22 In relation to the above matters, it is considered that the scheme would be acceptable from a highway perspective and complies with policies LPD 57, LPD 61 and the relevant guidance contained within Section 9 of the NPPF.

Residential Amenity

- 6.23 It should be noted that the application site forms part of a defined local centre and wider commercial area where it is expected that levels of noise and disturbance would be higher than purely a residential area.
- 6.24 The application site is a significant distance away from the nearest residential property as approved by reserved matters application 2019/0152 to the east. The nearest property being some 70m away and forming Rivendell View Care

Home. It is situated behind (east) of the consented nursery building. On the south side of Magenta Way some 90m from the application site is the beginning of the wider housing development forming Bardolph View.

- 6.25 The building would be orientated with the front elevation facing north and east towards the parking area. Taking the above matters into account this separation is of sufficient distance to ensure no significant overshadowing/overlooking would occur.
- 6.26 In terms of potential disturbance as a result of noise, the applicant has submitted a noise assessment in support of the application. It considered the potential noise as a result of noise from mechanical equipment (i.e., plant and machinery), noise from car parking activity, noise from drive thru activity, and noise from delivery activity. The assessment concludes that the impact from car parking activity; the noise from drive thru activities; and by deliveries would all be below the WHO Guideline Values and therefore no mitigation would be required. It therefore accepted that the anticipated noise impact from the proposed development would not adversely harm the amenity of local residents.
- 6.27 A lighting design risk assessment has also been submitted to consider light pollution. It concludes that the effect on sensitive receptors would be mitigated through the use of low light pollution fittings which would retain light spill to within the development area and therefore limit glare discomfort on neighbouring receptors. These matters can be controlled by condition.
- 6.28 Subject to these conditions and taking the above matters into account, the proposals would not result in any significant noise disturbance and is considered to accord with LPD 32.

Landscaping

- 6.29 Whilst accepting that there is limited opportunity for landscaping as a large proportion of the site would be hard surfaced to provide appropriate parking, turning and servicing provision, the perimeters of the site would mostly be softened with a hedge and tree planting adjacent to the boundary of the site. These measures would help to limit noise emissions and views of parts of the site (such as the car parking area). The Tree Officer does not object to these proposals on the basis that there is a condition in place requiring that the maintenance aftercare for new trees should be a minimum of 3 years from completion of development works rather than for only 12 months.
- 6.30 Subject to this a planning condition, the proposal therefore complies with the objectives of the NPPF and ACS Policy 10.

Flood Risk and drainage

- 6.31 The site is located within Flood Zones 2 and 3. The submitted flood risk assessment correctly identifies the food store as a less vulnerable use and as per guidance prescribes a minimum floor level of 20.66m above ordnance datum. This would ensure that the proposal would not be at risk from flooding.

- 6.32 This has been confirmed by the comments of the Environment Agency and will be secured by an appropriately worded condition.
- 6.34 Drainage for the site would feed into the approved drainage strategy for the wider Teal Close development. Specifically, the drainage swale and piped network to the north of the site.
- 6.35 As such the proposed development is not considered to be at risk from flooding and would not result in increased flood risk elsewhere. The proposal is considered to accord with LPD4.

Ecology

- 6.36 Submitted in support of the application is an ecological appraisal that concludes that the proposed development would be unlikely to have any adverse effect on any statutory international or national nature conservation designation, nor would it have an adverse effect on any non-statutory designations.
- 6.37 The desk study did not reveal any existing records from within the past decade directly associated with the site but indicated the presence of a range of protected and notable species that have been recorded in the wider area in the past decade.
- 6.38 The habitat survey determined that the site was formed of existing roads (Magenta Way and the access into the adjacent Aldi store) and an area bounded by a close-spaced wooden board fence around the main development area. It states that “the fenced off area has previously been prepared for development as part of the wider Teal Park development and is formed by a gravelly substrate with the early stages of development of ephemeral/short perennial vegetation with much bare ground. Bunds along the south, east and north boundaries tend to have more advanced development of vegetation, formed by typical pioneer species. The habitats are considered to be of low nature conservation value.”
- 6.39 The survey confirms that “no evidence of the presence of protected or notable species was recorded during the habitat survey and the habitats were not considered to be suitable to support such species.”
- 6.40 By way of enhancement, it is stated that the proposed soft landscaping scheme includes “the planting of a species-rich native species hedgerow along the west boundary of the development, ornamental shrub planting and a small number of urban trees. These features will provide foraging and nesting habitat for the local urban bird assemblage and will be of value to invertebrates and a considered to be an enhancement to the bare ground which forms a significant part of the site.”
- 6.41 In these circumstances it is considered that the proposals meet the requirements set out in LDP - Policy 18.

Air Quality

- 6.42 An air quality assessment has been submitted in support of the application. This considers air quality matters arising during the construction phase including construction activities on the site and construction vehicle movements to and from the site.
- 6.43 Additionally, a travel plan has been submitted which promotes and encourages sustainable travel options. It should also be noted that the proposal includes two electric charging points.
- 6.44 These elements have been assessed by our Scientific Officer who has raised no objection to the scheme subject to a number of conditions in relation to Electric Vehicle charging points and a Construction Emission Management Plan.
- 6.45 Taking into account the above matters it is considered that the scheme would comply with policy LPD 11 and with Policy 1 of the ACS.

Other Matters

- 6.46 The proposed development would create up to 30 full-time equivalent jobs. As such the Borough Council will seek a Local Labour Agreement. This will ensure that local people benefit from the proposed development either through: Enabling local people to access on-site training, development and employment opportunities in the construction of the development; or enabling local people to access the jobs created by the end use of the development, working with the provider and local partners to try and ensure local recruitment and retention of staff. This can be secured through an appropriately worded condition. As such the proposal is considered to accord with policy LPD48.
- 6.47 The proposals would not prohibit the development of the adjacent nursery site where an extant permission remains in place (Ref: 2019/0613).
- 6.49 The applicant has not provided a waste management plan to explain how waste would be stored or collected. Most of the objections to the application raise concerns about litter as a result of the development in the vicinity of the site, which could affect amenity. Therefore, a planning condition requiring the submission, approval and implementation of a waste management plan is recommended.
- 6.50 A Site Assessment consideration contamination has been submitted. The applicant notes that the site has already been remediated through the approval of a condition associated with the former consent for the approved public house (Ref: 2019/0613). The council's Scientific Officer notes that remediation has been undertaken in accordance with a previous permission and has no objections, subject to conditions requiring a verification statement being provided. Subject to this condition, it is considered that matters relating to contamination have been addressed and accords with LPD 7 – Contaminated Land.
- 6.51 Issues relating to anti-social behaviour and the nature of the food that is served relate to the operation and management of the drive-thru restaurant rather than any specific planning requirement. There are no local planning policies

that would preclude the operation of drive-thru restaurant near a primary school.

7.0 Conclusion

- 7.1 The principle of a drive thru restaurant within a local centre in this location is established by Appendix A Strategic Site Schedules and Plans of the Aligned Core Strategy and by outline planning permission 2017/099 which is in accordance with the ACS.
- 7.2 The proposal has been assessed and considered to be acceptable in planning terms in relation, highway matters, residential amenity, design and appearance, air quality and flooding and is considered to accord with policies A, 1, 6, 10, 12 and Appendix A Strategic Site Schedules and Plans of the Aligned Core Strategy and policies LPD3, LPD4 LPD7, LPD10, LPD11, LPD32, LPD48, LPD52, LPD57 and LPD61 and Appendix D - Requirement for Parking Provision in Residential and Non-Residential Development of the adopted Local Planning Document.
- 7.3 Section 38(6) of the Planning and Compulsory Purchase Act 2004 states that planning applications should be determined in accordance with the development plan unless material considerations indicate otherwise. For these reasons, not only would the scheme accord with the development plan as a whole, but the balance of material considerations also weighs in its favour. Consequently, it is recommended that the application be approved.

Recommendation: Grant Planning permission subject to Conditions:

- 1 The development must be begun not later than three years beginning with the date of this permission.
- 2 The development authorised by this permission shall be carried out in complete accordance with the approved drawings and specification listed below:

Site Layout Scale: 1:250@A1 Ref: 18036-SGP-05-XX-DR-A-131000 Rev E
Received 25th August 2023

Site Location Plan Scale: 1:1000@A1 Ref: 18036-SGP-05-XX-DR-A-131001
Rev B Received 20th July 2023

Ground Floor and Roof Plans Scale: 1:50@A1 Ref: 18036-SGP-05-ZZ-DR-A-131100 Rev - Received 25th May 2023

Proposed Elevations Scale: 1:100@A1 Ref: 18036-SGP-05-XX-DR-A-131300 Rev A Received 25th May 2023

Drainage Layout Scale: 1:200@A1 Ref: TEAL-BSP-ZZ-XX-DR-C-0240 P01
Received 25th May 2023

Proposed Levels Scale: 1:200@A1 Ref: TEAL-BSP-ZZ-XX-DR-C-0212
Received 25th May 2023

Lighting Layout Scale: 1:500@A2 Ref: LL1593-001 Revision A Received 25th
May 2023

Proposed Soft Landscaping Scale: 1:200@A1 Ref: P22-3166_EN_0001_A_0001 Received 25th May 2023

Risk Assessment - ref 18-0062 V1; Dated 27th April 2023; BSP consulting.

Air Quality Assessment by Redmore Environmental ref. 6678r1 dated April 2023

Lighting Design Report Ref: LL1593/001 (dated 23.05.223)
Environmental Noise Report by Sharps Redmore Consultants Ref: 2321855
dated 03.05.2023
Site Investigation Report -by BSP Consulting Ref: 18-0062 V1.4

- 3 The use hereby approved shall not commence until the parking, turning and servicing areas are provided in accordance with the approved plans. The parking, turning and servicing areas shall not be used for any purpose other than parking, turning, loading and unloading of vehicles, and shall thereafter be retained for the life of the development.
- 4 The use hereby approved shall not commence until such time as details of the the cycle shelter as shown on the Site Layout Plan (Dwg No 18036 SGP05XXDRA-13100 Rev E) have been submitted to and approved in writing by the local Planning Authority. It shall be erected and be available for use prior to occupation and shall thereafter be retained for the life of the development.
- 5 Prior to occupation of any building(s) a Verification Report that demonstrates the effectiveness of the remediation carried out (under the submitted BSP Remediation Proposals dated 27 April 2023) must be submitted and approved in writing by the Local Planning Authority.
- 6 In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the Local Planning Authority and once the Local Planning Authority has identified the part of the site affected by the unexpected contamination development must be halted on that part of the site. An assessment must be undertaken in accordance with the requirements above, and where remediation is necessary a remediation scheme, together with a timetable for its implementation and verification reporting, must be submitted to and approved in writing by the Local Planning Authority.
- 7 The development shall be carried out in accordance with the submitted flood risk assessment (ref 18-0062 V1; Dated 27th April 2023; BSP consulting) and proposed levels layout drawing (ref TEAL-BSP-ZZ-XX-DR-C-0212 P01; dated 23/03/2023; bsp consulting) and the following mitigation measures they detail: Finished floor levels shall be set no lower than 20.96 metres above Ordnance Datum (AOD) . These mitigation measures shall be fully implemented prior to occupation and subsequently in accordance with the scheme's timing/ phasing arrangements. The measures detailed above shall be retained and maintained thereafter throughout the lifetime of the development.
- 8 Prior to commencement of the development a Construction Emission Management Plan (CEMP) based on the findings of the Air Quality Assessment (Redmore Environmental ref. 6678r1 dated April 2023) shall be submitted to and approved in writing by the Local Planning Authority. All works on site shall be undertaken in accordance with the approved CEMP unless otherwise agreed in writing by the Local Planning Authority.
- 9 Prior to the date of first occupation the development shall be provided with access to electric vehicle (EV) charge point(s) in line with Part S of the Building Regulations. A minimum of two active charge points and, cable routes installed

to at least one-fifth of the total number of parking spaces. All EV charging points shall meet relevant safety and accessibility requirements and be clearly marked with their purpose; which should be drawn to the attention of site users. They shall be thereafter maintained in the location as approved for the lifetime of the development.

- 10 The development hereby approved shall be undertaken in accordance with the submitted surface water drainage scheme based on the principles set forward by the approved Flood Risk Assessment (FRA) and specifically the Drainage Strategy as detailed on the Proposed Drainage Layout plan (Dwg Ref: TEAL-BSP-ZZ-XX-DR-C-0240-P01).
- 11 Prior to the commencement of development hereby approved details of a Local Labour Agreement in relation to the construction phase of the development, and job creation once operational, shall be submitted to and approved in writing by the Local Planning Authority. The local labour agreement shall be implemented in accordance with the approved details thereafter.
- 12 The use hereby approved shall not commence until such time as the specification and mitigation measures of all external lighting installations set out in the submitted Lighting Design Report Ref: LL1593/001 (dated 23.05.223) are in place and are operational.
- 13 The use hereby approved shall not commence until a Waste Management Plan has been submitted and approved in writing by the Local Planning Authority, which shall also include measures to limit litter entering beyond the application site. Thereafter, development shall proceed in accordance with the approved Waste Management Plan.
- 14 The approved landscaping as detailed on the Soft Landscape Proposals drawing (Ref: P22-3166-EN_0001_A_0001) shall be carried out in the first planting season following the first occupation of the development. If within a period of five years beginning with the date of the planting of any tree, hedge, shrub or seeded area, that tree, shrub, hedge or seeded area, or any tree, hedge, shrub or seeded area that is planted in replacement of it, is removed, uprooted or destroyed or dies, or becomes in the opinion of the Local Planning Authority seriously damaged or defective, another tree, shrub or seeded area of the same species and size as that originally planted shall be planted at the same place, unless otherwise prior agreed in writing by the Local Planning Authority.
- 15 Notwithstanding the landscape management details outlined on the Soft Landscape Proposals drawing (Ref: P22-3166-EN_0001_A_0001) future maintenance of the landscaped areas defined on this plan shall be for a period of 36 months following practical completion and not 12 months as stated.
- 16 No building shall be erected until samples of the materials to be used in the construction of the external surfaces of the development hereby permitted have been submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details.

- 17 Notwithstanding submitted details, prior to the use commencing, an updated Travel Plan shall be submitted to and approved in writing by the Local Planning Authority. Development shall thereafter comply with the updated Travel Plan as approved.

Reasons

- 1 To comply with the requirements of Section 91(1) of the Town and Country Planning Act 1990 (as amended).
- 2 To define the permission and for the avoidance of doubt.
- 3 In the interest of highway safety and to comply with policy LPD61.
- 4 To encourage sustainable travel and comply with guidance within the NPPF.
- 5 To ensure the development is safe and suitable for use, thereby taking into consideration paragraph 178 of the National Planning Policy Framework and policy LPD7 of the Local Plan.
- 6 To ensure the development is safe and suitable for use, thereby taking into consideration paragraph 178 of the National Planning Policy Framework and policy LPD7 of the Local Plan.
- 7 To reduce the risk of flooding to the proposed development and future occupants.
- 8 To ensure the development is constructed in an appropriate sustainable manner which takes into consideration air quality within the Borough and takes into consideration the National Planning Policy Framework and policy LPD11 of the Councils Local Plan.
- 9 To ensure the development is constructed in an appropriate sustainable manner which takes into consideration air quality within the Borough and takes into consideration the National Planning Policy Framework and policy LPD11 of the Councils Local Plan.
- 10 To reduce the risk of flooding to the proposed development and future occupants.
- 11 To seek to ensure that the construction of the site employs wherever possible local people and assists economic growth in the area and to accord with Policy LPD 48.
- 12 To prevent light spill and to protect the amenity of neighbouring occupiers.
- 13 To ensure that refuse will be appropriately stored and collected from the site in the interest of protecting the amenity of the site area and to protect amenity through general litter, odour and potential vermin/pest nuisance.

- 14 To ensure the development creates a visually attractive environment and to safeguard against significant adverse effects on the landscape character of the area having regard to Policy LDP19 - Landscape Character and Visual Impact.
- 15 To ensure a satisfactory form of development and appropriate landscaping of the site.
- 16 To ensure that the character of the area is respected and to comply with policies ASC10 and LPD26.
- 17 To ensure that the site is accessible by means other than the private motor vehicle and to comply with guidance within the NPPF.

Reasons for Decision

The Borough Council has worked positively and proactively with the applicant in accordance with paragraph 38 of the National Planning Policy Framework (2023). Negotiations have taken place during the determination of the application to address adverse impacts identified by officers. Amendments have subsequently been made to the proposal, addressing the identified adverse impacts, thereby resulting in a more acceptable scheme and a favourable recommendation.

Notes to Applicant

The applicant is advised that all planning permissions granted on or after 16th October 2015 may be subject to the Community Infrastructure Levy (CIL). Full details of CIL are available on the Council's website. The proposed development has been assessed and it is the Council's view that CIL IS PAYABLE on the development hereby approved as is detailed below. Full details about the CIL Charge including, amount and process for payment will be set out in the Regulation 65 Liability Notice which will be sent to you as soon as possible after this decision notice has been issued. If the development hereby approved is for a self-build dwelling, residential extension or residential annex you may be able to apply for relief from CIL. Further details about CIL are available on the Council's website or from the Planning Portal: www.planningportal.gov.uk/planning/applications/howtoapply/whattosubmit/cil

All electrical circuits/installations shall comply with the electrical requirements of BS7671:2008 as well as conform to the IET code of practice on Electrical Vehicle Charging Equipment installation (2015) and The Electric Vehicles (Smart Charge Points) Regulations 2021.