

Ditton
Ditton

3 December 2019

TM/19/02841/FL

Proposal: Demolition of existing buildings and erection of Class A1 foodstore with associated parking, landscaping and access works
Location: 675 London Road Ditton Aylesford Kent ME20 6DF
Go to: [Recommendation](#)

1. Description:

- 1.1 This is an application for planning permission for the demolition of existing buildings and the erection of Class A1 retail store with associated parking, landscaping and access works. The floor space of the retail development would be 1,674sqm, with a sales area of 1,069sqm. A further important aspect of the proposal is for a new pedestrian crossing to be provided on London Road, just to the east of the site, to facilitate safe access for pedestrians to and from the northern side of the road. A new improved pedestrian footpath would also be formed on Bradbourne Lane.
- 1.2 The building would be located in the southern half of the site; some excavation and retaining of the rear bank would be required to facilitate this. The building is roughly rectangular in shape and generally single storey, to a maximum of 7.4m in height. Some upstairs office space and staff toilets would be located within the roof. The delivery point is on the opposite side of the building to the pedestrian entrance, in the south eastern corner.
- 1.3 Access into the building would be on the western elevation to the side of the building, facing towards Bradbourne Lane. Access to the site is via the existing access point onto London Road, with some adjustments made to ensure adequate visibility and manoeuvring for HGV deliveries. To the front of the site 77 parking spaces would be provided, including 6 disabled bays, 4 family parking spaces and two electric vehicle charging points.
- 1.4 Whilst this application is made by Lidl, in terms of the use sought, it would be for unrestricted A1 use, in that any other retail operator could take over the premises in future if Lidl chose to vacate the site. The application must be considered on the basis of the use class in planning terms, not the applicant, as this could change in future.
- 1.5 A second round of public consultation was launched on the 22 April in response to new information provided by the applicants to address consultee comments and increase landscaping provision. A third and final consultation was carried out in June 2020 following receipt of Kent County Council Highways & Transportation comments, in which they confirmed that a new pedestrian crossing on Bradbourne Lane would be required. The description of the proposed development was

amended to include this and a consultation was carried out to seek views of third parties.

2. Reason for reporting to Committee:

- 2.1 At the request of Councillor David Cooper in order to consider the need for an additional supermarket in this area and the effect it will have on the traffic congestion on the A20.

3. The Site:

- 3.1 The site is a former car garage, located on the south side of London Road within the settlement confines of Ditton. The premises currently contains a number of large buildings including the showroom and servicing area. Bradbourne Lane runs along the eastern side of the site, with land levels rising to the rear. Banks surround the site, enclosing it from the back and sides.
- 3.2 Surrounding land uses are varied, with mostly residential dwellings located directly behind the site and on the eastern boundary. Bradbourne Lane separates the site from other properties and a restaurant. Further up the road are the shops and commercial properties of Martin Square.
- 3.3 The site lies just outside of the Martin Square Larkfield retail centre, as defined under policy R1 of the Development Land Allocations DPD. The boundary of the retail centre ends with the small parade of shops adjacent to Larkfield Close to the west, the site lies roughly 80m to the east. The frontage of the site and London Road falls within an Air Quality Management Area (AQMA). There are no other relevant designations on the site.

4. Planning History (relevant):

TM/79/11071/FUL grant with conditions 30 January 1979

Erection of car workshop.

TM/82/11099/FUL grant with conditions 30 June 1982

Erection of new building to provide vehicle spares store, sales, staff room, office and toilets in replacement for existing stores/lubrication bay.

TM/83/10316/ADV grant with conditions 15 July 1983

Erection 3 illuminated signs on building within service station curtilage.

TM/90/10419/FUL grant with conditions 5 October 1990

Redevelopment of Service Station; a) demolition of body repair shop; b) conversion of showroom to body repair and PDI bays; c) erect new showrooms with offices over and d) workshop extension.

TM/91/10696/FUL grant with conditions 27 March 1991

Demolition of forecourt canopy and part of existing building, erection of single storey office block extension.

TM/92/00205/FL grant with conditions 9 July 1992

Replacement shopfront

TM/92/10664/ADV grant with conditions 24 March 1992

Internally illuminated signs.

TM/94/00344/FL grant with conditions 21 March 1994

Alterations to existing workshop and showroom areas. Extension to form showroom offices

TM/95/00123/AT grant with conditions 15 June 1995

Advertisement Application: single sided internally illuminated wall mounted sign

TM/96/00124/FL Section 73A Approved 29 March 1996

temporary stationing of a portacabin for a period of five years

TM/04/01537/FL Grant With Conditions 29 June 2004

Conversion of existing stores and retail parts to car showroom, offices and retail parts

TM/06/01244/FL Grant With Conditions 3 July 2006

Conversion of existing stores and retail parts building into car showroom, offices and retail parts (Revisions to approved scheme TM/04/01537/FL)

TM/19/02355/DEN Prior Approval Not Required 7 November 2019

Prior Demolition Notification: Two unoccupied light retail units, previously used as car showrooms, now unoccupied. Constructed with brickwork, steel structures and minor glass panelling; terrace of 3 small workshop buildings, constructed with brickwork; and one workshop building

5. Consultees:

5.1 **Ditton Parish Council:** Objections raised for the following reasons:

5.1.1 Impact of more traffic on the A20 which is already at capacity and gets gridlocked on regular basis – KCC have put a holding objection on another development in the area until the traffic improvements are made to the A20 so to allow this development would go against this. The traffic studies given have not used current data [2017 was used] plus add to this the huge proposed development recently given outline permission at Hermitage Lane, the increase in traffic in the coming years will be immense. It will not just be local people using the store - they will come from surrounding towns if it is their nearest Lidl discount food store.

- the access on the A20 will cause terrible problems as it is dangerously close to the junction with Bradbourne Lane. It would be very dangerous for cars entering/exiting the site crossing the path of the traffic so close to the junction. There is also concern about how large delivery lorries would be able to enter/exit the site safely as they would often be crossing two lanes of very busy traffic.
- Because the site is close to Bradbourne Lane it is likely people using the store will find it too difficult to turn right on to the A20 therefore they will turn left onto the A20 and then left into Bradbourne Lane which leads into St Peters Road. These are small residential streets and cannot cope with even more cars using them as a “rat run” the impact on the residents would be harmful to their residential amenities.
- When the large “Redrow” housing estate known as Bradbourne Fields was built in neighbouring East Malling, the application included a second access route off of Bradbourne Lane – this was refused by TMBC because it was deemed that Bradbourne Lane and St Peter’s Road would be unsuitable to take all the extra traffic that would be using them. That was approximately 30 years ago and traffic has increased substantially in recent years.

5.1.2 Pollution – Ditton Corner has already been designated as an AQMA and to allow more traffic in this area would have a negative impact on the already poor air quality in this part of the village. CPRE [Campaign for the Protection of Rural England] recently won an appeal against a development of new homes at Pond Farm, Newington because increased car use would exacerbate already high levels of pollution on that part of the A2. The same would be the case on this stretch of the A20 if any further development that will mean an increase in traffic is permitted.

5.1.3 The Parish Council has received many objections from local residents who are also very concerned about the impact of traffic and pollution. In particular one resident who lives immediately next to the site and has 18m high trees covered by TPOs on his property – the application shows that Lidl will cut through the roots of these trees where they cross the property boundary. This will weaken them and

could lead to them falling onto the A20. Many others have questioned the need for another supermarket when we have 9 all within a 10 minute drive or less of each other.

5.1.4 In 2017 TMBC refused permission for a car wash to be built at 10 Bradbourne Lane. The reason for refusal was that the “use would, by reason of the proximity to residential properties, result in unacceptable noise and disturbance to these properties. This would consequently result in harm to the residential amenities of the nearby properties which is contrary to policy CP24 of the Tonbridge & Malling Core Strategy 2007”. To allow a supermarket to be built immediately next door to one residential property and in such close proximity to others would result in harm to the residential amenities of these properties.

5.1.5 The Parish Council supports all of the objections and concerns raised by residents.

5.2 **East Malling & Larkfield Parish Council:** The application site is within Ditton parish but on the other side of the A20 the houses in The Ferns at a lower level are in this Parish. While the site was originally a garage and car sales business the change of use of the land to a supermarket is likely to have more cars visiting throughout the day and in the evenings when the garage was closed. The parish council is therefore concerned about the impact on the already congested A20 and notes the KCC have yet to comment.

5.2.1 It is noted that the existing access of the A20 roughly in the middle of the site is to be used and the secondary access on the corner of Bradbourne Lane kerbed off with some landscaping. The documents refer to this access being constructed

5.2.2 According to highway standards and the parish council would like to see what is precisely proposed. It is particularly concerned about traffic turning right into the site and turning right out of the site towards Maidstone. A peak times there is often a queue of traffic back from the Ditton crossroads to and past this site.

5.2.3 There is also concern about delivery lorries accessing the site and a clear pathway needs to be defined. When the garage operated transporters delivered new cars by parking in the A20. If this store were approved delivery vehicles should be able to access and egress from the site without manoeuvring on the A20.

5.2.4 The parish council will make further comments when the KCC position is clear but if permission were to be granted then it considers:

a) There should be double yellow lines on both sides of the A20 outside the site to prevent parking so affecting the flow of traffic along the A20. These should be paid for by the applicant.

b) Electric charging points should be provided within the site. Ten are suggested.

- c) The opening times proposed should be made a condition and also times specified for deliveries to avoid unsocial times that would affect the houses both in the parish and Ditton in the vicinity.
- d) All lighting should be low level and no illuminated signs erected without specific permission.
- e) There should be a landscaping and boundary treatment condition.
- f) Similarly, a condition concerning the positioning and screening of rubbish bins
- g) The A20 strategy proposes a crossing on the A20 at this point and this needs to be taken into account so there is no conflict with the site access..

5.2.5 The Parish Council has not commented on the retail effect of the proposed supermarket and notes from local social media there is support for such a “discount” store coupled with others saying it would affect nearby Morrisons in the Larkfield Local Centre. There are also the shops in Martin Square. The parish asks so far as the planning system allows this be assessed.

5.2.6 Given the controversial nature of the proposal we think it should be reported to the Area 3 Planning Committee.

5.3 **Aylesford Parish Council:** Whilst this application is outside of the Parish Council area the Council believes that this application has a direct impact on the Parish and its residents. Therefore, having given careful consideration to this application the Council would wish to see it refused on the following grounds:-

1. This site whilst remaining retail changes from a site with limited car movements, car showrooms, to a supermarket with significantly more traffic movements onto an already over capacity A20 between two of its most significant congestion points at the Ditton Crossroads and the junction with New Hythe Lane.
2. That the increased traffic movements would only make worse the air quality in this area which is already designated an AQMA suffering from poor air quality.

5.4 **Kent County Council (Highways and Transportation):** Since my response of 14th January, the applicant has submitted a revised Transport Assessment dated March 2020 and an additional Technical Note dated 15th May. This has followed discussions with the applicant and the applicant’s agents. Drawings showing modifications to the surrounds of the site have also been submitted which include a footway to the northern end of Bradbourne Lane next to the site and a formal signalised crossing on the A20 which the applicant has confirmed will be funded by them and incorporated into the scheme.

Traffic Generation:

- 5.4.1 Most telling or illustrative in traffic generation terms is the graph given on page 4 of the 15th May Technical Note. This shows the flow profile of A20 traffic, notably in the afternoon the peak is between 3pm to 4pm, probably reflecting local school run traffic, whilst more strategic 5pm to 6pm traffic is likely to be more evident on the M20. The scale of the total Lidl demand is given on this graph and shows its proportional effect. The graph shows that if all trips generated by the development were 'new trips' and not pass-by or diverted trips already on the network then there would be an increase in traffic of approximately 8% during the afternoon peak period.
- 5.4.2 However some of this demand will come from passing A20 traffic, therefore the super elevation of total Lidl demand on A20 traffic here is partially double counting. Shopping is a discretionary activity regarding when it is undertaken. For an A1 shop like this, demand is largely fulfilled by a combination of passing or minor detour convenience shops, or on a more regular basis (such as weekly) by habitual convenience, determined from experience that suits individuals or families. Shopping is a consequence of a population base; it is not in itself a primary traffic generator such as housing or employment.
- 5.4.3 The test against which local traffic generation is considered acceptable or not is paragraph 109 of the National Planning Policy Framework (NPPF) February 2019. 109. Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.
- 5.4.4 I do not consider, on behalf of this authority, that an assertion that this store will generate severe levels of traffic impact on the road network could be sustained.

Road Safety:

- 5.4.5 There have been 2 slight injury crashes on the A20 in the vicinity of this site in the last 3 years. One involved a cyclist falling from their bike after the chain slipped on the gears. The other involved a westbound 3 vehicle rear end shunt at the site access after the first vehicle braked sharply before stationary traffic. Records show this area has not been a KCC crash cluster site for at least 5 years. The proposals include provision of a footway on the northern section of Bradbourne Lane to assist sustainable/walking trips to the store from the south. The applicant has also confirmed the funding of a formal pedestrian crossing on the A20, again promoting the safety of sustainable trips from the north-east. A pedestrian crossing island is located adjacent to Larkfield Road for walking trips from the north-west. The proposal will also close and replace the former unorthodox access at the eastern corner of Bradbourne Lane with the A20, with raised kerbs and footway continuity.

5.4.6 In the context of the injury crash history at this location and the associated off-site highway works proposed it is not considered that there are grounds to constitute an unacceptable impact on highway safety.

Parking Management:

5.4.7 I understand that, apart perhaps from a store manager, Lidl's policy is to retain parking spaces for customers and not to provide any dedicated staff car parking. I note from the application form that it is expected that the store will provide 40 full time employees. I also note from the consultants Travel Plan (TP) that, whilst Lidl's also have a policy to recruit locally (page 23 of the TP), 63% of staff might be expected to travel to work by car (page 19 of the TP) i.e. in this case 25 vehicles might be expected to park off site.

5.4.8 I note there are double yellow lines east of the eastbound bus stop near Bell Lane and double yellow also commencing on the site frontage to west of Bradbourne Lane. The Highway Authority wishes to maintain the A20 as a corridor which keeps traffic moving and it has recently undertaken a lot of work (studies and proposals and recent implementation with more to follow) to improve traffic flow. It is considered that continuity of parking restriction proposals on the A20 should be included as part of the implementation of the signalised crossing proposed (which will include associated zig-zag markings). It is further considered that a review of on street parking restrictions for Bradbourne Lane should be undertaken and proposals made by the applicant for approval prior to implementation.

Conclusion:

5.4.9 On behalf of this authority I write to confirm that I have no objection to this application subject to the following conditions: -

- Prior to commencement a Stage 1 Safety Audit and Designers Response of the proposed signalised crossing on the A20 shall be undertaken and submitted to the Planning Authority.
- Parking restriction proposals for the A20 and Bradbourne Lane shall be submitted to the Planning Authority for approval prior to commencement.
- Prior to opening the signalised crossing, use of Keep Clear markings, new footway on Bradbourne Lane and at the corner of Bradbourne Lane with London Road A20 shall be implemented via a S278 agreement with this authority.
- Prior to opening new parking restrictions shall be implemented on the A20 and Bradbourne Lane. The necessary traffic orders shall be carried out via this authority's 3rd party traffic regulation order process.
- Submission of a Construction Management Plan before the commencement of any development on site to include, but not necessarily limited to, the following:

- (a) Routing of construction and delivery vehicles to / from site
 - (b) Parking and turning areas for construction and delivery vehicles and site personnel
 - (c) Timing of deliveries
 - (d) Provision of wheel washing facilities
 - (e) Temporary traffic management / signage
- Provision of measures to prevent the discharge of surface water onto the highway.
 - Provision and permanent retention of the vehicle parking spaces and/or garages shown on the submitted plans prior to the use of the site commencing, including the Electric Vehicle charging spaces (nos. 32 and 33).
 - Spaces 25 to 31 inclusive (to the west of the proposed Electric Vehicle spaces) shall include underground ducting to enable easy potential future provision of further electrical charging stations.
 - Provision and permanent retention of the vehicle loading/unloading and turning facilities shown on the submitted plans prior to the use of the site commencing.
 - Provision and permanent retention of the cycle parking facilities shown on the submitted plans prior to the use of the site commencing.
 - Completion and maintenance of the access shown on the submitted plans prior to the use of the site commencing.

5.4.10 Kent County Council (Highways and Transportation) further comments 6th

July 2020: Following my response of 10th June regarding this application I note the exchange of emails of 24th June, within which the applicant's agent has submitted further information regarding staffing levels at any one time at Lidl's stores. I note that typically the store may be expected to be operated by 6 to 8 staff, and on peak times of the year this may increase to ~ 10 staff.

5.4.11 Using the factor given previously of '63% of staff might be expected to travel to work by car (page 19 of the submitted Travel Plan)', this means that 6-7 staff cars might be expected, during peak conditions, to need to find off site car parking in the area.

5.4.12 I understand that the applicant is happy to accept the suggestion/condition made in my response of 10th June that parking restrictions are implemented on the A20

and that a review of on street parking on Bradbourne Lane should be undertaken and proposals made by the applicant for approval prior to implementation.

5.4.13 To clarify therefore the conclusions and conditions to my response of 10th June effectively remain unchanged; the expected impacts of off-site staff car parking will be lower however than suggested; the response on 10th June being based on the information submitted by the applicant at that time.

5.5 **Kent County Council (Heritage Conservation):** Thank you for your letter consulting us on the above planning application for demolition of existing buildings and erection of foodstore with associated works.

5.5.1 The site of proposed development lies adjacent to a possible Roman road and an extensive Romano-British settlement and cemetery, Bradbourne Fields, lie a few metres to the SE. Although part of the site has been quarried and disturbed from existing buildings, there is still potential for Prehistoric and later, especially Roman, remains to survive on site. In view of this potential, I recommend the following condition is placed on any forthcoming consent:

AR1a Prior to the commencement of development the applicant, or their agents or successors in title, will secure and implement:

i archaeological field evaluation works in accordance with a specification and written timetable which has been submitted to and approved by the Local Planning Authority; and

ii further archaeological investigation, recording and reporting, determined by the results of the evaluation, in accordance with a specification and timetable which has been submitted to and approved by the Local Planning Authority

Reason: To ensure that features of archaeological interest are properly examined and recorded.

5.6 **Kent County Council (Flood and Water Management):** Kent County Council as Lead Local Flood Authority have reviewed the Technical Note for drainage proposals and have the following comments:

5.6.1 We understand that the strategy has been updated to allow for infiltration on site following our consultation. It is noted that infiltration testing has since been undertaken on site by Remada and the rate of 4.3×10^{-6} m/s (0.015m/hr) was calculated. This rate is not ideal and it is accepted that the half drain time of the infiltration tank would exceed 24 hours. Therefore, we would agree that an overflow (2 l/s) from the infiltration tank to the sewer along London Road is a sensible and pragmatic approach that would allow for attenuation space between storm events.

- 5.6.2 We would advise that a non return valve is installed prior to the connection to the sewer on London Road. This valve is to prevent any back flow to the soakaway in the unlikely event of surcharging sewers.
- 5.6.3 Paragraph 1.17 from the Technical Note is understood for additional infiltration testing to be undertaken and we would strongly urge that further ground investigations are also carried to confirm there is no existing contamination from the sites past use. Should it be found that contamination is present at the location of the soakaway, a strategy of attenuation and controlled discharge would need to be adopted. This would likely be similar to that proposed previously within the Flood Risk Assessment and Drainage Strategy by SCP (November 2019).
- 5.6.4 On this basis from the current information supplied, we have no objections to the drainage strategy presented. Therefore should the Local Planning Authority be minded to grant planning permission, we would recommend the following conditions are appended. (*Officer note – for condition wording see back of report*)
- 5.7 **Environment Agency:** The previous commercial use of this land as a filling station and garage with associated workshops has left contamination which could impact on the proposed development or cause it to impact on the environment, as identified in the Geo-Environmental Assessment Report (Brownfield Solutions LTD, ref LG/M3998/8471 Rev A, May 2019). This report concludes that further investigation is required to identify any underground storage tanks and potential impacts to groundwater. The recommendations and analysis of risks and liabilities detailed in the submitted site investigation report are agreed in principle, as are the proposals for a remediation strategy and verification report. However, any relevant planning condition should not be discharged until all the works are complete and a verification report submitted confirming no additional measures were required during groundworks.
- 5.8 **Kent Police:** We have reviewed this application in regard to Crime Prevention through Environmental Design (CPTED) and in accordance with the National Planning Policy Framework (NPPF).
- 5.8.1 Applicants/agents should consult us as local Designing out Crime Officers to address CPTED. We use details of the site, relevant crime levels/type and intelligence information to help design out the opportunity for Crime, Fear of Crime, Anti-Social Behaviour (ASB), Nuisance and Conflict.
- 5.8.2 Secured by Design (SBD): www.securedbydesign.com is the UK Police flagship initiative for security.
- 5.8.3 To meet SBD physical security requirements, SBD require doorsets and windows to be certified by an approved independent third-party certification body e.g. (UKAS) in the name of the final manufacturer/fabricator. This requirement exceeds the requirements of Building Reg ADQ. Products that are independently certificated to recognised security standards have been responsible for

consistently high reductions in crime as verified by numerous independent academic research studies. Details of how to ensure products are certified are on the SBD website.

5.8.4 If this application is to be approved we strongly request a Condition/Informative be included to address the points below and show a clear audit trail for Design for Crime Prevention and Community Safety to meet our and Local Authority statutory duties under Section 17 of the Crime and Disorder Act 1998.

5.8.5 Having reviewed the application on-line the following issues need to be addressed from a CPTED aspect, including:

- 1. Development layout and permeability.*
- 2. Delivery times should be appropriate and not cause noise or congestion nuisance to local residents. Delivery vehicles should not wait on the main London Road whilst waiting to deliver/collect.*
- 3. The site appears to have a shared public and delivery vehicle access. It is essential that deliveries are managed to ensure no conflict between public and delivery movements, in the interests of site safety.*
- 4. Perimeter, boundary and divisional treatments including gates. It should not be possible for unauthorised persons to access the sides and rear of the building.*
- 5. Parking inc. visitor. The use of the Park Mark Safer Parking Scheme is recommended.*
- 6. CCTV. CCTV should be installed to cover the main entrances/exits, all elevations and carpark area, in the interests of security.*
- 7. Access Control. Access control measures will be required to protect the first floor office level.*
- 8. Doorsets and windows. We refer the applicant to the SBD Commercial guide for specifications.*
- 9. Security. We appreciate that Lidl will have their own security specifications for the final fit out of the building, should it receive planning consent. We recommend the use of the SBD Commercial initiative for this proposal.*
- 10. Alarms. A full security alarm system should be installed.*
- 11. Landscaping.*
- 12. Lighting. Lighting should conform to BS 5489-1:2013 as per SBD Commercial.*
- 13. ATM. If an ATM is to be installed, we request that we be formally consulted.*

- 5.8.6 We welcome a discussion with the applicant/agent about site specific designing out crime. If the points above are not addressed, they can affect the development and local policing. Current levels of reported crime have been taken into account. This information is provided by Kent Police DOCO's and refers to situational crime prevention. This advice focuses on CPTED and Community Safety with regard to this specific planning application.
- 5.9 **Natural England:** Natural England has not assessed this application for impacts on protected species. Natural England has published Standing Advice which you can use to assess impacts on protected species or you may wish to consult your own ecology services for advice.
- 5.10 **Southern Water (9th January 2020):** Please find attached a plan of the sewer records showing the approximate position of a public foul sewer within the site. The exact position of the public foul sewer must be determined on site by the applicant before the layout of the proposed development is finalised.
- 5.10.1 No development or tree planting should be carried out within 3 metres of the external edge of the public gravity sewer without consent from Southern Water. No soakaway, swales, ponds, watercourses or any other surface water retaining or conveying features should be located within 5 metres of a public sewer.
- 5.10.2 All existing infrastructure should be protected during the course of construction works. We have restrictions on the proposed tree planting adjacent to Southern Water sewers, rising mains or water mains and any such proposed assets in the vicinity of existing planting. Reference should be made to Southern Water's publication "A Guide to Tree Planting near water Mains and Sewers" and Sewers for Adoption with regards to any landscaping proposals and our restrictions and maintenance of tree planting adjacent to sewers and rising mains and water mains.
- 5.10.3 Furthermore, it is possible that a sewer now deemed to be public could be crossing the development site. Therefore, should any sewer be found during construction works, an investigation of the sewer will be required to ascertain its ownership before any further works commence on site.
- 5.10.4 Southern Water has undertaken a desk study of the impact that the additional foul sewerage flows from the proposed development will have on the existing public sewer network. This initial study indicates that there is an increased risk of flooding unless any required network reinforcement is provided by Southern Water.
- 5.10.5 Any such network reinforcement will be part funded through the New Infrastructure Charge with the remainder funded through Southern Water's Capital Works programme. Southern Water and the Developer will need to work together in order to review if the delivery of our network reinforcement aligns with the

proposed occupation of the development, as it will take time to design and deliver any such reinforcement.

5.10.6 Southern Water hence requests the following condition to be applied “Occupation of the development is to be phased and implemented to align with the delivery by Southern Water of any sewerage network reinforcement required to ensure that adequate waste water network capacity is available to adequately drain the development”.

5.10.7 It may be possible for some initial dwellings to connect pending network reinforcement. Southern Water will review and advise on this following consideration of the development program and the extent of network reinforcement required. Southern Water will carry out detailed network modelling as part of this review which may require existing flows to be monitored. This will enable us to establish the extent of works required (If any) and to design such works in the most economic manner to satisfy the needs of existing and future customers.

5.10.8 Our assessment of the timescales needed to deliver network reinforcement will consider an allowance for the following:

- Initial feasibility, detail modelling and preliminary estimates
- Flow monitoring (If required)
- Detail design, including land negotiations
- Construction

5.10.9 The overall time required depends on the complexity of any scheme needed to provide network reinforcement. Southern Water will seek however to limit the timescales to a maximum of 24 months from a firm commitment by the developer to commence construction on site and provided that Planning approval has been granted.

5.10.10

The planning application form makes reference to drainage using Sustainable Urban Drainage Systems (SUDS). Under current legislation and guidance SUDS rely upon facilities which are not adoptable by sewerage undertakers. Therefore, the applicant will need to ensure that arrangements exist for the long-term maintenance of the SUDS facilities. It is critical that the effectiveness of these systems is maintained in perpetuity. Good management will avoid flooding from the proposed surface water system, which may result in the inundation of the foul sewerage system. Thus, where a SUDS scheme is to be implemented, the drainage details submitted to the Local Planning Authority should:

- Specify the responsibilities of each party for the implementation of the SUDS scheme.
- Specify a timetable for implementation.
- Provide a management and maintenance plan for the lifetime of the development.

5.10.11

This should include the arrangements for adoption by any public authority or statutory undertaker and any other arrangements to secure the operation of the scheme throughout its lifetime. Our initial investigations indicate that there are no public surface water sewers in the area to serve this development. Alternative means of draining surface water from this development are required.

5.10.12

This should not involve disposal to a public foul sewer. The disposal of surface water from this development should be in compliance with the following hierarchy of Part H3 of Building Regulations:

- a) An adequate soakaway or some other adequate infiltration system.
- b) A water course.
- c) Where neither of the above is practicable: a sewer.

5.10.13

Land uses such as general hardstanding that may be subject to oil/petrol spillages should be drained by means of oil trap gullies or petrol/oil interceptors. The design of drainage should ensure that no land drainage or ground water is to enter public sewers network. We request that should this application receive planning approval, the following condition is attached to the consent: "Construction of the development shall not commence until details of the proposed means of foul and surface water sewerage disposal have been submitted to, and approved in writing by, the Local Planning Authority in consultation with Southern Water."

5.10.14

Southern Water (6th May 2020): Further to your letter of 09/01/2020 and amended information provided by the applicant regarding surface water disposal. The use of soakaways for surface water disposal would be satisfactory to Southern Water. The Council's Building Control officers or technical staff and Environment Agency should be asked to comment on the adequacy of soakaways to dispose of surface water from the proposed development.

5.10.15

However, the proposed overflow from the infiltration tank is not acceptable to Southern Water. No overflows from infiltration facilities will be allowed to

communicate with public sewers. It is important that no surface water or ground water is permitted to enter the foul sewerage network.

5.10.16

Southern Water (22nd May 2020): The Submitted drainage drawing SF/LIDLITTON.10 P5 is satisfactory to Southern Water. The Council's Building Control officers/technical staff and the Environment Agency should be consulted regarding surface water disposal.

5.10.17

Due to the vibration, noise and potential odour generated by sewage pumping stations, no habitable rooms should be located closer than 15 metres to the boundary of a proposed pumping station site. All other comments in our response dated 09/01/2020 remain unchanged and valid.

5.11 **TMBC Environmental Protection (Contaminated Land):** Based on the review of:

- Geo-Environmental Desk Study Report (WSP, October 2018)
- Geo-Environmental Assessment Report (Brownfield Solutions Limited, May 2019)

5.11.1 The desk study report presents the findings of a desk study only; no walkover was undertaken. It identified potential sources of contamination, particularly in relation to the site's former use as a petrol filling station. An intrusive investigation was recommended. The assessment report presents the findings of the intrusive investigation. Significant widespread contamination was not identified, however further investigation is required to determine the presence of any below ground fuel tanks. I agree with the requirement for further works and as such recommend the following conditions. (*Officer note – for condition wording see back of report*)

5.12 **TMBC Environmental Protection (Noise & Lightning):** The Applicant has submitted a revised Noise Impact Assessment from their Consultant Acoustic Consultants Ltd (their ref 7900/FD, dated 26 March 2020), taking on board my earlier comments. The revised Assessment satisfactorily addresses each of the concerns raised and I am generally content with the outcome. I remain a little concerned over the proposed delivery/collection times and feel that up to 23:00 is a little late for this locality. The Nearest Noise Sensitive Receptors are immediately adjacent to the site and also to the delivery bay. I do acknowledge that the modelled data indicates that this activity should not cause issue though. I would suggest that were deliveries/collections to be completed by 21:30, this would be acceptable.

5.12.1 To confirm that the submitted information for the lighting at the site indicates that it should not cause undue problems and I am content.

5.13 **TMBC Environmental Protection (Air Quality):** The Air Quality report is fine with the amendment added.

5.14 In total across all three consultations, Private Reps amount to: 315 + site notice/8X/152R/153S. One petition containing 609 signatures in objection. Objections received from Tesco Stores Ltd, Asda Stores Ltd and Wm Morrison Supermarkets plc.

Objections summarised as follows:

- Query Asbestos on site
- Query fuel tanks on site
- Concerns on traffic generation
- Request streetscene plans
- Concern on highways safety
- No need for another supermarket
- Concern on right hand manoeuvres from site by vehicular traffic
- No provision for staff parking
- Local roads filled
- A20 is congested
- Concern on impact on trees
- Concern Lidl has sidestepped policy
- Query neutrality of Environmental Reports
- Night time deliveries will be intrusive
- Concern on emissions impacts
- Need more doctors and an NHS dentist
- Concern on noise impact
- Concern over light pollution
- Entrance should be from Bradbourne Lane
- Building is too close to neighbours
- Too many developments in the area
- Should be put to use for apartments
- Look forward to 40ft lorries blocking the A20
- Exacerbate effects on local environment
- Should be used for local housing need
- Unsuitable for busy shopping traffic
- Object on highways grounds
- Insufficient parking
- Need separate delivery entrance
- Concern over proposed crossing being in the way of HGV swept paths
- Road infrastructure can't cope
- Alarmed Lidl have already acquired the site
- Devastating impact on our village
- No benefit
- Will cause ill health to young and old
- 8 supermarkets in a 3 mile radius
- Question retail store in residential area

- Ditton losing character
- Please stop spread of urban sprawl and ugly commercial signage
- Not Los Angeles
- Should build affordable houses
- Staff will not walk
- Existing use car movements different
- Concerns on disposal of food, impact of rodents
- Query usage of TRICS data
- Part rent part buy affordable housing would be better
- Should be no more traffic lights
- Question job losses from competing supermarkets
- Impact on Air Quality Management Area (AQMA)
- Existing long delays on road, A20 is a car park when M20 shut
- Concern over retail impact on established and hard pressed shops in area
- Concern over possibly biased consultation exercise
- Overdevelopment of area
- Risk to pedestrians and cycles
- Store hours will be extended
- No benefit to neighbours
- Question biased consultation exercise
- Local stores will close
- Emergency route to the hospital
- Conflicts with proposed pedestrian crossing – HGV exit not possible
- Pollution increase
- Should be in Tonbridge
- Problems with turning from Aldi in Sevenoaks
- Insufficient information to consider retail impact, assessment should be provided
- Turnover more similar to traditional food store operators not “deep discounters”
- Does not meet parking standards
- TRICS data used is not from South East, different traffic pressures

Comments in support summarised as follows:

- No objection if adequate parking
- Welcome variety in shops
- Increased convenience
- Welcome employment provision but query zero hour contracts
- Beneficial to local community
- Welcome use of solar panels and EV charging points
- Request footpath from Bradbourne Road (*Officer Note: This has now been provided*)
- Already a structure in place, no harm in building another
- Create local jobs
- London Road review will help mitigate traffic
- Look forward to the grand opening

- Disappointed not 24 hours opening
- Traffic will be minimal
- Perfect spot
- Area needs a good quality up market supermarket
- Benefit residents who would have to get the bus for food shopping
- Building will enhance the site
- Previous car workshop spray painting caused pollution
- Competitively priced food store in walking distance
- Hope is approved
- Walking will reduce traffic
- NIMBYS should be ignored
- Positive, green development
- Store within walking distance
- Competition is a good thing
- Reduce travel distance to current nearest store in Maidstone
- Highways issues will be ironed out
- Fully support, request disabled toilet
- Welcome location
- Much needed and wanted
- Will take customers from existing stores, could reduce traffic
- No different to previous car showroom use
- Asset to local community
- Excellent value for money
- Better than houses
- Reduce congestion around Sainsbury's and Aldi
- Good employer reputation
- Give us access to ostrich burgers and the like
- End Tesco's monopoly
- Existing site an eyesore
- Should be developed before it becomes vandalised
- Suggest double yellow lines along Bradbourne Road
- Local people employed will have reduced carbon footprint
- Flats would lower property values
- GP not realistically going to happen
- Desperate need for affordable supermarket
- Would like more parent/child & disabled parking bays
- Lidl use British products and support local suppliers
- Parking can also be used for local bank where parking is short

5.15 Comments in response to second consultation launched 22.04.2020:

Objections summarised as follows:

- Crossing and lights would not be welcome in already congested area
- Historic accidents do not comment on potential new and additional accidents
- Parking insufficient, will result in overspill and accidents
- Footfall along roads will increase

- Delivery bay will not resolve noise
- Parking spaces (71) will be significantly less than those required by Kent parking standards (126)
- Aldi in Aylesford results in parking overspill into adjoining roads and car parks of adjacent stores
- Crossing would add to traffic
- Sensible solution is a new footbridge
- Risk of accidents will increase significantly
- Travel plan does not take account of lockdown – shops will have to enter alone
- Travel plan should re-analyse data to assume single occupancy cars will be the rule rather than exception
- Transport survey in fantasy land, no one will walk home with shopping
- How will car park and shop deal with social distancing
- Council should ensure no evening deliveries by condition, and monitoring noise levels
- Object to delivery bay, light pollution
- Parking will occur behind store on grass verges
- No room for lorries to enter and exit safely
- Amendments make no difference
- Artists impression is misleading, shows an empty London Road which does not exist
- Slow turning vehicles will slow traffic on London Road and cause more pollution
- Where will 40 Members of staff park their car please
- Counterproductive to KCC Highways spending money here to alleviate congestion

Comments in support summarised as follows:

- Amended documents have only made me firmer in my support
- Extra crossing and footpath is to be welcomed
- Excellent bus service for car free shopping
- Fully support, will make life easier and healthier
- Good to have Lidl in the area

5.16 Private reps following final consultation 24.06.2020:

Objections summarised as follows:

- Query staff parking is 25 staff are expected to drive to work
- Nowhere to park in the vicinity
- Previous use has problem with staff parking
- If planning is passed there needs to be a condition of no parking on the pavement outside entrance
- Parking restrictions on Bradbourne Lane will make things awkward for residents
- New cycle lanes will be at risk

- Historic accident data not reflective
- Cars going into Kia garage was minimal
- Not all trips will be passing trade
- Query if KCC response is same person responsible for Hermitage Lane McDonald's traffic fiasco
- No consideration of abandoned cars due to inadequate parking provision
- Was traffic survey completed in half term?
- Madness
- A20 is a joke and so is Tonbridge and Malling
- Right turn exit from the site will be very frustrating
- Traffic lights for exit are needed but will cause more delays
- Applicants failure to provide Retail Impact Assessment has not been satisfied
- Failure to provide detailed acoustic assessment conflicts with policy CP24
- Will not generate linked trips to district centre
- Will reduce shoppers in district centre
- Query alternative site next to Wealden Hall
- Residential amenity impact not addressed
- Previous evidence contradicts Lidl and Aldi evidence on "on network" trips
- Has cumulative impact of consented EMR scheme been considered?
- Introduction of another controlled junction will impact traffic flow on London Road
- KCC response based on theoretical data, busiest time is not just school run peak
- Previous theoretical assessments by KCC proved total inadequate
- Signal crossing will cause problems and right turn
- Parking overspill not properly considered
- Diminish community and amenity of centre of Larkfield
- Martin Square could accommodate new store
- South Aylesford has new development opportunities
- Undoubtedly harm infrastructure
- Direct conflict with policy CP22
- No evidence on position of pedestrian crossing
- No dialogue referring to other locations for crossing
- No evidence on dimensions of road and whether wide enough for crossing
- Not accessible by bicycle
- Insufficient on site manoeuvring for HGVs, will result in traffic stopping on the road
- Examples of existing retail sites not comparable
- Does not address capacity, failure to comply with policy CP2
- Retail statement and Transport assessment inconsistent
- Traffic impacts are severe
- No road safety assessment provided
- Delivery vans along London Road obstruct traffic
- Pedestrian crossing would prohibit on road servicing
- Vehicle tracked is too narrow
- No consultation with neighbours regarding crossing
- Transport assessment raises more concerns than answers

- Proposal is out of centre
- Cannot be concluded no significant adverse retail impact
- Assessment should quantify impact from other nearby retail centres
- Sequential assessment flawed and insufficient
- Site better suited for housing
- Better suited for dentist or doctor surgery
- Query impact on A20 improvement works
- Should be on site of Aylesford Newsprint site
- Additional crossing not required
- Bradbourne Lane footpath insufficient
- Site meeting should be held with all interested parties
- Figures in KCC report too old and useless
- Do not account for consented housing development

Comments in support / neutral summarised as follows:

- Appropriate development for the location and fresh retail opportunity for local shoppers
- Medium sized discount supermarket will flourish
- Housing development would cause its own problems
- Family support application
- Neighbour who brought petition is opposed to all development, would have opposed development which result in his own home
- Do not agree that store will draw trade away from Martin Square
- Martin Square has health centre, post office and pharmacy that would be used regardless
- Also cycle shop, charities, takeaways, bookmaker
- Morrison's should look at their own retail model instead of blaming Lidl
- But then suggest alternative site even closer which undermines their whole argument
- Plus alternative site is ridiculous and does not exist being covered in trees
- Morrison's arguments are contradictory
- Hope new store will open soon and look forward to shopping there
- No congestion at New Hythe Lane junction to the west
- Previous objections on this point null and void
- KCC agree only nominal traffic build up
- Local store will save long and generous car journeys to next nearest store
- Facing difficult economic times this should be approved and jobs created sooner
- Being in walking distance will make my life easier and greener
- Query if development would negate positive efforts to address traffic flow on A20

6. Determining Issues:

- 6.1 The site lies within the settlement confines of Ditton in which there is no objection in principle to new built development. The key issues are whether this is an appropriate location for an A1 retail store and if so the effect on the vitality of

nearby retail centres, the impact on traffic, highways and parking, neighbouring amenity and the character and appearance of the area, flooding and drainage, air quality and protected species.

- 6.2 It is important to again clarify that this is an application for a new retail food store, use class “A1”. Although the application is made by Lidl, if permission is granted it could in theory be occupied by any company for general A1 use. It cannot be guaranteed that Lidl will occupy the store in perpetuity and so however unlikely this may be, the application must be considered on the basis of it being a new A1 retail store, and any perceived benefits or adverse impacts specifically of a new “Lidl” supermarket should not be taken into account.

Retail Impact – Policy Context:

- 6.3 The site lies outside of the defined local retail centre, Martin Square, Larkfield as defined under policy R1 (“Retail Centres”) in the DLADPD. The Martin Square retail boundary is located approximately 80m to the west of the site and contains the main concentration of retail shops in the area.
- 6.4 The Council’s development plan policy on new retail development is set out in policy CP22 of the TMBCS. It explains that new retail development will be permitted if it maintains or enhances the vitality and viability of the existing retail centres, and properly respects their role in the retail hierarchy in accordance with a sequentially preferable locational assessment. The policy sets out a sequential test for the preferred location for retail development. Firstly, it should be accommodated on sites located within the defined limits of the town, district or local centres. If this is not possible, then on edge-of-centre sites, but only if there is sufficient capacity and a retail need is demonstrated that cannot be accommodated within a town, district or local centre.
- 6.5 Thirdly, if an edge of centre site cannot be found, then on out-of-centre sites, but only if there is sufficient capacity and a retail need is demonstrated that cannot be accommodated within or on the edge of a town, district or local centre. Sites that are well related to an existing retail area will be preferred to ones that have no such relationship. Finally, policy CP22 is clear that proposals which might harm the vitality or viability of an existing centre either in terms of retail impact or, in the case of smaller centres, undermining the balance of uses or harming their amenity, will not be permitted.
- 6.6 Policy R1 of the DLADPD expands on policy CP22 by setting a defined retail hierarchy. District centres sit at the top of the hierarchy and include Martin Square, West Malling, and Borough Green as the important town centres (Tonbridge town centre has its own policy designation separate to this). Under District Centres there are two further categories which cover small retail centres providing more limited local services, and finally at the bottom of the policy ranking are the out of centre retail facilities, which includes Quarry Wood in Aylesford and Lunsford Park.

- 6.7 However, the TMBCS and the DLADPD were adopted in 2007 and 2008 respectively, and it is therefore necessary to consider the degree of consistency in these policies with retail policy set out in the NPPF.
- 6.8 Retail policy in the NPPF is set out under chapter 7, “*Ensuring the vitality of town centres*”. Under paragraphs 85 – 87, the NPPF explains that planning policies and decisions should support the role that town centres play at the heart of local communities, by taking a positive approach to their growth, management and adaptation. Among other things, paragraph 85 states that planning policies should:
- a) define a network and hierarchy of town centres and promote their long-term vitality and viability – by allowing them to grow and diversify in a way that can respond to rapid changes in the retail and leisure industries, allows a suitable mix of uses (including housing) and reflects their distinctive characters;
 - b) define the extent of town centres and primary shopping areas, and make clear the range of uses permitted in such locations, as part of a positive strategy for the future of each centre;
 - e) where suitable and viable town centre sites are not available for main town centre uses, allocate appropriate edge of centre sites that are well connected to the town centre. If sufficient edge of centre sites cannot be identified, policies should explain how identified needs can be met in other accessible locations that are well connected to the town centre
- 6.9 Paragraph 86 explains that local planning authorities should apply a sequential test to planning applications for main town centre uses which are neither in an existing centre nor in accordance with an up-to-date plan. Main town centre uses should be located in town centres, then in edge of centre locations; and only if suitable sites are not available (or expected to become available within a reasonable period) should out of centre sites be considered.
- 6.10 Finally, paragraph 87 explains that when considering edge of centre and out of centre proposals, preference should be given to accessible sites which are well connected to the town centre. Applicants and local planning authorities should demonstrate flexibility on issues such as format and scale, so that opportunities to utilise suitable town centre or edge of centre sites are fully explored.
- 6.11 An edge of centre location is defined in the glossary to the NPPF as “*For retail purposes, a location that is well connected to, and up to 300 metres from, the primary shopping area. For all other main town centre uses, a location within 300 metres of a town centre boundary. For office development, this includes locations outside the town centre but within 500 metres of a public transport interchange. In determining whether a site falls within the definition of edge of centre, account should be taken of local circumstances*”.

- 6.12 The requirements of paragraph 85 and 86 for retail centres to be defined, to be established in a retail hierarchy, and the need to consider sequentially preferable locations starting with main town centre areas, then edge of centre, then out of town locations, are generally consistent with the aims of policy CP22 and the DLADPD. Paragraph 87 builds on this and gives preference to well-connected edge of centre locations that are readily accessible.
- 6.13 Additionally, paragraphs 89 and 90 of the NPPF explain further requirements for retail development outside of town centres (this includes edge of centre locations). The requirements of paragraph 89 set out that when assessing applications for retail and leisure development outside town centres, which are not in accordance with an up-to-date plan, local planning authorities should require an impact assessment if the development is over a proportionate, locally set floor space threshold. If there is no locally set threshold, the default threshold is 2,500m² of gross floor space. This should include assessment of:
- a) the impact of the proposal on existing, committed and planned public and private investment in a centre or centres in the catchment area of the proposal; and
 - b) the impact of the proposal on town centre vitality and viability, including local consumer choice and trade in the town centre and the wider retail catchment (as applicable to the scale and nature of the scheme).
- 6.14 Paragraph 90 makes it clear that where an application fails to satisfy the sequential test or is likely to have significant adverse impact on one or more of the considerations in paragraph 89, it should be refused.
- 6.15 Before considering sites not within the defined limits of the retail centre, policy CP22 also requires an assessment as to whether *“there is sufficient capacity and a retail need is demonstrated that cannot be accommodated within a town, district or local centre”*
- 6.16 However, national policy in the NPPF does not require a specific retail need to be identified as part of the sequential test when considering edge of centre or out of centre sites when determining planning applications. The fact that the development is being proposed is sufficient grounds to then consider the sequential tests and if the development is satisfactory in this regard and all other matters, then it can be approved irrespective of whether a defined or specific “need” for the development is identified. This is also consistent with the National Planning Policy Guidance (NPPG) on Town Centres and Retail. The NPPG is a material consideration and aides in the interpretation of NPPF policy.
- 6.17 Within the NPPG there is a clear distinction between the requirements for a sequential test in plan making (i.e. production of a local plan) and when making decisions on planning applications. In relation to plan making, paragraph 010 of the NPPG section “Town centres and retail” says a need for main town centre

uses must be assessed as part of the sequential test before allocating sites for retail development in a new local plan, but at paragraph 011 in relation to sequential tests for determining planning applications, there is no such requirement to assess a defined need for the development.

- 6.18 Therefore policy CP22 is considered to be unduly restrictive in this regard. Because this test is not fully consistent with the NPPF, only limited weight can be afforded to this aspect of the policy. Therefore, whilst acknowledging the primacy of the adopted development plan as set out in legislation, it is considered that material considerations in the form of the more up to date NPPF justify not rigidly applying the terms of policy CP22 (b), insofar as a specific retail need has to first be identified. This interpretation has been confirmed by case law in *Warners Retail (Moreton) Ltd v Cotswold District Council & Ors [2016]* in which Lindblom LJ stated:

“The NPPF was published as planning policy for England in March 2012. It superseded much of the then extant national planning policy, including Planning Policy Statement 4 – “Planning for sustainable economic growth”, published in December 2009 (“PPS4”), which had replaced Planning Policy Statement 6 – “Planning for Town Centres”, published in March 2005 (“PPS6”). PPS6 had contained a policy requiring additional retail development outside a town centre to be justified by a demonstration of the need for the development, the two main elements of need being “quantitative need” and “qualitative need” (paragraphs 2.32 to 2.40). This component of national policy was not carried forward into PPS4, or subsequently into the NPPF. But the “sequential approach” was.” [Para 8 of his judgment]

- 6.19 The requirements for an identification of need in limb (b) to policy CP22 likely reflected the PPS guidance in place at the time the core strategy was adopted in 2007, long before the NPPF came into effect. This further demonstrates that an assessment of specific need should not be insisted upon.
- 6.20 Furthermore, the threshold for a refusal in terms of retail impact under policy CP22 is also significantly lower than the equivalent test set out under the more up to date NPPF. Paragraph 2 of policy CP22 sets out that “Proposals which might harm the vitality or viability of an existing centre either in terms of retail impact or, in the case of smaller centres, undermining the balance of uses or harming their amenity, will not be permitted”. However, the test under the NPPF for a refusal on retail impact on the vitality and viability of town centres is only where there is a “significant adverse impact”, as set out previously in this report under paragraph 90. “Significant adverse impact” is a much higher threshold than policy CP22’s “Proposals which might harm the vitality or viability of an existing centre”. “Might harm” is a particularly low threshold in comparison and suggests even when there is a vague prospect of a minor reduction in sales or footfall then planning permission should be automatically refused.

- 6.21 It is apparent from the framing of the wording in policy CP22 that its tests are not consistent with the requirements of the more up to date NPPF. As a result of this policy CP22 is again considered to be unduly restrictive in this regard. Because this test is not fully consistent with the NPPF, only limited weight can be afforded to this aspect of the policy. Therefore, whilst once more acknowledging the primacy of the adopted development plan as set out in legislation, it is considered that material considerations in the form of the more up to date NPPF justify not rigidly applying the terms of paragraph 2 of policy CP22, insofar as any retail development must be refused where it might harm the vitality and viability of retail centres.
- 6.22 Nonetheless, the overarching aim of CP22 and the relevant sections of the NPPF and NPPG is to prioritise the placement of retail development within town centre locations, in order to encourage investment, footfall and purchasing in these places, and increase the likelihood of “linked trips” whereby consumers visit multiple town centre businesses and help to support their vitality. Where retail development is located on edge of centre locations, the chances for this type of linked activity may decrease (although well connected sites may still enable this, hence their preference under paragraph 87 and CP22). With completely out of town locations the risk is that retail development will draw trade away from the town centre to the detriment of its vitality. For example, a very large out of town supermarket that can meet all the day to day needs of local people in a single trip, with no need to visit the town centre.
- 6.23 The application will therefore need to satisfy the locational requirements of policy CP22 and paragraphs 85 – 87, have due regard to the established retail hierarchy set out in policy R1, and consider the policy requirements for retail impact highlighted under paragraphs 89 and 90, in order for this location for A1 retail development to be considered acceptable. Given that a number of third party comments refer to there being no “need” for an additional supermarket in this location, it is also considered necessary to clarify this point.

Retail Impact – Whether there is a “need” for the proposed development:

- 6.24 As noted above, there is no policy requirement in the NPPF to consider if there is a particular identified need for an additional retail development. The fact that it is being proposed is sufficient grounds to apply the relevant policy tests. Whilst third party comments referring to the proximity of other supermarkets are noted, this does not preclude the applicants seeking permission for the proposed A1 development. It is a matter for the applicants to satisfy themselves as to whether a further A1 business is viable in this location but this is not a material planning consideration. The planning merits of the proposed use must be considered rather than theoretical alternative uses that are not before the Council.

Retail Impact – Location:

6.25 In terms of the location of this site for new A1 development, the applicants have assessed all available sites within the Martin Square retail centre. There is only one unit available at the time of the assessment, 29 Martin Square, but it is considered to be far too small for the type of development the applicant is seeking permission for, at just 65sqm. Whilst the NPPF encourages developers to be flexible on matters of format and scale, the size of this unit falls so far short of the size and potential format being broadly proposed by the applicants that it is not considered reasonable for the development to be delivered here instead. There is no evidence before the Council that other suitable sites are available or might become available for the foreseeable future with Martin Square.

6.26 Nonetheless, as third party comments have also considered that such an assessment should include other local retail centres, the applicants sought to look for sites further afield. The letter from the applicant dated 29th April ref JPW1530 considered this matter:

“It has been suggested by Peacock and Smith [on behalf of Wm Morrison Supermarkets plc] that some centres further afield should have been considered and a search conducted for sites within the centres listed below:

- *Borough Green District Centre*
- *Kings Hill District Centre*
- *Martin Square/Larkfield District Centre*
- *Snodland District Centre*
- *West Malling District Centre*
- *Twisden Road, East Malling Local Centre*
- *Premier Parade, Aylesford Local Centre*
- *Woodlands Parade, Ditton Local Centre*
- *Little Market Row, Leybourne Local Centre*

Peacock and Smith, however, have had no regard to the operational characteristics of LADs [Limited Assortment Discount] which serve as local neighbourhood stores for much smaller catchments than mainstream retailers such as Tesco. Notwithstanding and on a without prejudice basis I have looked at some of these additional centres. In respect of Ditton the extent of the catchment that Lidl expect their proposed store at Ditton will serve is shown on the enclosed Drawing No. JPW1530-002. This shows that the following centres fall outside the 5-minute drive time catchment and have therefore been discounted from our further assessment:

- *Borough Green District Centre*
- *Kings Hill District Centre*
- *Snodland District Centre*
- *West Malling District Centre*

In respect of the remaining local centres, all of which consist of just a local parade of shops, a search has confirmed that there are no suitable and available sites within any of these centres that could accommodate the proposed store."

- 6.27 Therefore, although many of these other centres are in a wider catchment area than the intended broad location of the proposed development, there is still no suitable and available site within the main retail centres of these towns.
- 6.28 However, following further consultation carried out in June, Morrison's agents have subsequently pointed to two sites which they say should be considered as sequential preferable to the proposed site. It is therefore considered necessary to consider whether these sites are sequentially preferable for this broad type of A1 development.
- 6.29 The first site is located at the nearby South Aylesford Retail Park, defined as Quarry Wood under policy R1 of the DLA DPD. Within policy R1, this area is an "Out-of-Centre Retail Facilities", as opposed to a "District Centre" like Martin Square. The site in question sits outside of the "out of centre" designation but is adjacent to it. It was granted planning permission by the Council in 2019 under reference 19/00979/FL for "*Erection of new retail units, a "pod" building for retail and cafe restaurant purposes, a new area of public realm along with access, car parking, servicing facilities, landscaping and associated works*". This included the erection of new Class A1 retail units up to 4,877sqm, across three individual units. A1 food retail is restricted by condition 7 of that planning permission to a total of 1,626sqm of sales area. Purely in terms of the quantity of A1 retail floor space, the consented scheme is broadly comparable to the type of development being sought at the London Road site.
- 6.30 However, the question is whether the site is sequentially preferable for A1 development, such that permission should be refused for this scheme and the development directed to the Quarry Wood site instead, in order to support the vitality of that shopping area through linked trips.
- 6.31 But the suggestion by Morrison's that this site is sequentially preferable is flawed, and this is because of the position of Quarry Wood in the defined retail hierarchy. Policy R1 is very clear that Quarry Wood is an out of centre retail location. Conversely, Martin Square sits at the top of the hierarchy as a district centre. National policy and CP22 are clear that edge of centre sites are preferable to out of centre sites. Given that the London Road site is also well connected to Martin Square, it is considered that it is sequentially preferable to the Quarry Wood site, which sits lower down in the retail hierarchy. Accordingly the site suggested by Morrison's is considered to be less sequentially preferable and is therefore discounted.
- 6.32 The second site is an area of land adjacent to the Grade II* Listed Wealden Hall pub. Although mostly within the defined retail area of Martin Square, the site is occupied by a carwash and car parking for the pub. There is no consent for A1

development on the site, and there is no indication that it is available for such development. Any proposal would inevitably be considerably constrained by the proximity of the Listed building and it is unlikely that an A1 store of such scale, even with reasonable flexibility, could be granted permission here without significant harm to the setting of the Listed building. Accordingly this site is considered to be neither suitable nor available for the proposed development. This concludes the sequential assessment of any alternative sites within a reasonable area of search, which has considered nearby retail centres across the hierarchy in and around the Ditton/Larkfield area.

- 6.33 The extent of the area of search is considered to be a matter of judgement for the decision maker and, whilst national policy advocates a degree of flexibility in terms of broad scale and format with the sequential assessment, it is not considered reasonable to continue to expand the area of search as suggested by objectors to the point where it would more or less become a Borough wide assessment of any other land that could accommodate this A1 development. Although not specifically defined in national policy, as a matter of judgement there has to be a reasonable limit to the area of search otherwise prospective retail developers would be forced to consider all sites across an infinitely wide area, which would frustrate the fair application of the sequential test.
- 6.34 There is no evidence before the Council that the sequential assessment is flawed. Objectors were only able to point to two other potential sites, neither of which are considered sequentially preferable. As there are no sequentially preferable or suitable or available sites within the centre or even other nearby centres, in accordance with policy CP22 and paragraphs 85 – 87 of the NPPF, the next area of search is edge of centre locations, preferably those that are well connected.
- 6.35 The proposed site is roughly 80m from the edge of the defined boundary of Martin Square, well within the definition set out in the NPPF glossary for edge of centre retail sites (which sets an upper limit of 300m from the boundary). It is also well connected to the primary shopping area which can be reached in just a few minutes' walk from the site. The proposed pedestrian crossing would also help improve connections between the retail centre and the new store. It is considered that there remains good potential for linked shopping trips, especially with the expanded parking facilities proposed, and this has already been alluded to by some third-party comments.
- 6.36 It is therefore considered that the location of the proposed new retail store has passed the sequential tests set out under policy CP22 and paragraphs 85, 86 and 87 of the NPPF. As such there are no policy objections on the principle of a new A1 store at this location.

Retail Impact – whether an assessment is required:

- 6.37 Paragraphs 89 and 90 of the NPPF set out the circumstances in which a retail impact assessment (RIA) is required on retail development outside of a town

centre location. A number of competing retailers have objected to the scheme and consider that the applicant should be required to carry out a RIA in order to determine what the effects might be on Martin Square and surrounding retail centres.

- 6.38 However, it is not considered that there is any justifiable policy basis for requiring an RIA. The NPPF is clear that where no local floor space threshold is set (CP22 is silent in this regard) then the default threshold is 2,500sqm. The proposed store is just 1,674sqm, with a sales area of 1,069sqm, falling very far below the default threshold set out in the NPPF. In choosing this threshold, it is apparent that in most circumstances the Government does not consider retail stores with a floor space below this level to warrant a RIA, or the wording of this paragraph would plainly have reflected this. It is clear that developments below this threshold, particularly in the absence of a locally defined threshold, are highly unlikely to have an impact on the main town centre that would be significant enough to warrant consideration through a full RIA. There is no evidence that a significant adverse impact would arise with a development so far below the default floor space threshold, in an edge of centre location just 80m from the town centre boundary and with good connectivity.
- 6.39 Although the agents for Morrison's have suggested their store is operating below normal trading levels, no evidence to this effect has been supplied. Their concern that the proposed new A1 store would draw trade away from the retail centre is not evidenced and it would have been open to them to submit their own RIA to demonstrate this. In any event, given the good connections of the edge of centre site, it is considered that the development remains capable of being a complimentary retail use. Regardless of final operator, the overall size of the site restricts floor space, and it would not be possible to provide such a wide range of goods and services that all local needs could be met from this store. Therefore, once the development is complete it is considered that there remains good potential for linked trips with Martin Square as not all local retail need could be met solely by the proposed development.
- 6.40 Policy CP22 is clear that proposals which might harm the vitality or viability of an existing centre in terms of retail impact will not be permitted, although as noted previously this test is inconsistent with the requirements of the NPPF and should not be used as a basis to justify refusal. However, given the comparatively low floor space against the threshold for assessment under an RIA set out in national policy, and the good connectivity from the site to the retail centre, it is not considered that there is sufficient evidence that the proposal would result in significant adverse impacts to the vitality or viability of the existing centre in terms of retail impact.
- 6.41 Accordingly, it is not considered that there is any conflict with the requirements of paragraph 89 and 90 of the NPPF, and even where there is some limited conflict with policy CP22's stricter requirements, the weight that can be attributed to this

conflict is greatly and decisively reduced as a result of inconsistencies with the NPPF.

6.42 There is no policy basis for requiring a RIA and, in any event, there is insufficient evidence to suggest any significant adverse impact would occur on the vitality of Martin Square. “Significant adverse impact” is the test for refusal under paragraph 90 of the NPPF and represents a high threshold. The case that the development would have this effect on either existing, committed and planned public or private investment in the centre, or centres in the catchment area of the proposal is not made out. Neither has it been demonstrated that the town centre vitality and viability, including local consumer choice and trade in the town centre and the wider retail catchment, would be significantly adversely impacted.

Highways and Parking:

6.43 When considering matters of parking and highways safety, it is first important to note that the site has an existing lawful use, i.e. as a car sales showroom with associated workshop. Such a use inevitably attracts significant levels of car movements (trips) from customers, staff, and deliveries (including HGVs associated with car stock deliveries for sale). These would all cease upon commencement of the development. It should also be noted that the site already has a lawful access point onto London Road. With this in mind, the policy context is set out as follows.

6.44 Paragraph 108 of the NPPF states that in assessing sites that may be allocated for development in plans, or specific applications for development, it should be ensured that:

- a) appropriate opportunities to promote sustainable transport modes can be – or have been – taken up, given the type of development and its location;
- b) safe and suitable access to the site can be achieved for all users; and
- c) any significant impacts from the development on the transport network (in terms of capacity and congestion), or on highway safety, can be cost effectively mitigated to an acceptable degree.

6.45 Paragraph 109 of the NPPF states that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe. Paragraph 110 goes on to state that within this context, applications for development should:

- a) give priority first to pedestrian and cycle movements, both within the scheme and with neighbouring areas; and second – so far as possible – to facilitating access to high quality public transport, with layouts that maximise the catchment

area for bus or other public transport services, and appropriate facilities that encourage public transport use;

b) address the needs of people with disabilities and reduced mobility in relation to all modes of transport;

c) create places that are safe, secure and attractive – which minimise the scope for conflicts between pedestrians, cyclists and vehicles, avoid unnecessary street clutter, and respond to local character and design standards;

d) allow for the efficient delivery of goods, and access by service and emergency vehicles; and

e) be designed to enable charging of plug-in and other ultra-low emission vehicles in safe, accessible and convenient locations.

6.46 Policy CP2 of the TMBCS advises that new development that is likely to generate a significant number of trips should:

(a) be well located relative to public transport, cycle and pedestrian routes and with good access to local service centres;

(b) minimise the need to travel through the implementation of Travel Plans and the provision or retention of local services and facilities;

(c) either provide or make use of, and if necessary enhance, a choice of transport modes, including public transport, cycling and walking;

(d) be compatible with the character and capacity of the highway network in terms of the volume and nature of traffic generated;

(e) provide for any necessary enhancements to the safety of the highway network and capacity of transport infrastructure whilst avoiding road improvements that significantly harm the natural or historic environment or the character of the area; and,

(f) ensure accessibility for all, including elderly people, people with disabilities and others with restricted mobility.

6.47 Policy SQ8 of the MDE DPD sets out that before proposals for development are permitted, they will need to demonstrate that any necessary transport infrastructure, the need for which arises wholly or substantially from the development, is in place or is certain to be provided. It goes on to state that development proposals will only be permitted where they would not significantly harm highway safety and where traffic generated by the development can adequately be served by the highway network.

- 6.48 The policy also sets out that development will not be permitted which involves either the construction of a new access or the increased use of an existing access onto the primary or secondary road network (as defined by the Highway Authority) where a significantly increased risk of crashes or traffic delays would result. No new accesses onto the motorway or trunk road network will be permitted. Development proposals should comply with parking standards which will be set out in a Supplementary Planning Document.
- 6.49 Where significant traffic effects on the highway network and/or the environment are identified, the development shall only be allowed with appropriate mitigation measures and these must be provided before the development is used or occupied. The aims of Policy SQ8 and CP2 in requiring safe and suitable access to and from the highway are consistent with the aims of the Framework in respect of these matters.
- 6.50 As set out at paragraph 5.18 of this report, Kent County Council Highways & Transportation, as the Council's statutory consultees on matters of Highways safety, have extensively reviewed the applicant's transport statement and supporting information. They explain that retail shopping is a discretionary activity regarding when it is undertaken. For an A1 shop, demand is largely fulfilled by a combination of passing or minor detour convenience shops, or on a more regular basis (such as weekly) by habitual convenience, determined from experience that suits individuals or families. Shopping is a consequence of a population base rather than being in itself a primary traffic generator such as housing or employment. When considered against the relevant test for traffic generation under paragraph 110 of the NPPF, that development should only be refused if residual cumulative impacts on the road network would be severe, KCC's view is that this high bar is not met. The development would not result in severe levels of traffic impact on the road network.
- 6.51 Furthermore in terms of road safety, they consider that providing the proposed pedestrian crossing is installed prior to occupation, plus the enhanced footway along Bradbourne Lane, there are no grounds to consider that an unacceptable highways safety impact would arise. This is in consideration of the extant use of the site and its associated vehicle and HGV movements, the improvements to pedestrian safety, and the crash injury records at this location. The pedestrian crossing would be secured by a s278 agreement with the highways authority and be installed and operational before the store opens.
- 6.52 In terms of parking, 75 spaces would be provided, including 6 dedicated disabled spaces and 4 for parent child parking. Six cycle hoops will be located close to the store. Two space (32 and 33) will be provided with electric vehicle charging points, with provision for this to be expanded in future to serve all spaces from 25 to 31.
- 6.53 KCC (H+T) have raised no objections to the level of parking provision. Initial comments from KCC (H+T) did suggested potentially higher levels of staff parking

might occur, but they have subsequently clarified their comments in light of further evidence from the applicant.

- 6.54 This is because a store of this size would typically be staffed only by 6 – 8 employees at any one time, so whilst a total of 40 staff may be employed at the store, this would be on a shift basis and not something that would ever occur at any one time. Even at busy times of the year staff levels of a store this size at any one time would be unlikely to exceed 10. The submitted travel plan would further encourage car sharing between employees (where safe to do so) and the use of bicycles and public transport when travelling to work. This would decrease the possibility of staff parking overspill on the adjacent road network, which would be expected to result in no more than 6 – 7 cars parking on nearby local roads during peak times.
- 6.55 Nonetheless the narrow width of Bradbourne Lane is fully noted and accordingly KCC (H+T) have requested that the applicant introduce measures for parking restrictions on the lane to ensure overspill parking does not impede traffic flow. This would be implemented by a Traffic Regulation Order (TRO). Furthermore the travel plan's implementation will be secured by condition and monitored, with the outcome reported back to the Council for consideration of its effectiveness at key intervals.
- 6.56 Accordingly, whilst third party comments are fully noted, there is no technical evidence before the Council that the tests for a refusal on highways grounds are met. In their response KCC naturally consider any existing traffic problems on the network and committed improvements to traffic flow. Providing that the proposed pedestrian crossing, footpath and on street parking restrictions are delivered before the store opens, it is considered that a reason for refusal on highways grounds could not be substantiated. As such, no objections are raised under paragraph 109 and 110 of the NPPF, or policy SQ8 of the MDEDPD and policy CP2 of the TMBCS.

Neighbouring amenity:

- 6.57 As a result of the sunken land levels of the site, the proposed building sits below the height of neighbouring residential properties. There is also some degree of separation from most neighbouring residents as a result of London Road and Bradbourne Lane. The properties that back onto the site do so at a much higher elevation. Accordingly, it is not considered that the development would have any unacceptable impact in terms of an overbearing or overshadowing effect, or loss of privacy.
- 6.58 In terms of noise impact on residents, the applicants have provided an updated noise impact assessment (NIA) to address initial concerns from the Council's environmental health team. The environmental health officer considers that the noise impact on residents will be acceptable, subject to deliveries and collections being completed by 21:30. This can be secured by condition.

- 6.59 In terms of light impact, the Council's environmental health officer has reviewed the proposed lightning scheme and is satisfied that no undue harm would arise to neighbouring amenity through light pollution arising from the site. The agreed scheme of lightning can be secured by condition to ensure this.
- 6.60 Subject to this, it is considered that the development would not have a harmful impact on neighbouring amenity by reason of an overbearing or overshadowing effect, loss of privacy, or as a result of noise or light pollution.

Character and appearance/landscaping:

- 6.61 Policy CP24 of the TMBCS requires development to be of a high quality and be well designed to respect the site and its surroundings in terms of its scale, layout, siting, character and appearance. Policy SQ1 of the MDE DPD advises that new development should protect, conserve and, where possible, enhance the character and local distinctiveness of the area including its setting in relation to the pattern of the settlement, roads and surrounding landscape.
- 6.62 These policies are broadly in conformity with those contained within the Framework which relate to quality of new developments, in particular paragraph 127 of the NPPF that requires proposals to be visually attractive as a result of good architecture, layout and appropriate and effective landscaping. Schemes should also be sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change.
- 6.63 The existing site is of no particular architectural merit; the buildings are utilitarian in design and reflect the former commercial use. Almost all of the site is given over to hard surfacing where vehicles would have been parked. Some planting exists around the banks but it is organic rather than deliberate, and does not help to soften the appearance of the existing buildings.
- 6.64 The new building would occupy a large part of the back of the site, with parking and delivery/turning areas taking up most of the remaining space. Following discussions with officers, landscaping has been increased where possible with flower bed planters on the frontage and three trees within the car park to provide some softening. Given the limited size of the site and steep banks, this is considered to be all that can reasonably be accommodated.
- 6.65 In terms of the design of the building, the most active part of the frontage would be on the western elevation with the glass entrance, but the activity of customers moving back and forth between the car park would help expand this during most parts of the day. The design overall would largely reflect its operational requirements, but given the existing appearance of the site this is considered to still have a beneficial impact on the character and appearance of the area. The increased provision of landscaping would also improve the appearance of the site further.

6.66 Whilst some of the plans show proposed advertisement boards on the north elevation of the building, these are indicative and would require separate advertisement consent. At that time, the Council could consider whether the signage was appropriate and could ensure such adverts did not result in an over proliferation of signage on the site, to the detriment of character.

6.67 Overall, the removal of existing structures and provision of a bespoke designed building with increased landscaping provision is considered to improve the character and appearance of the site. This would comply with policy CP24 of the TMBCS, SQ1 of the MDEDPD and paragraph 127 of the NPPF.

Flooding and drainage:

6.68 Policy CP10 of the TMBCS seeks to ensure developments are safe from flooding as well as directing proposals to areas with a low risk of flooding in the first instance. This is consistent with the aims of the framework at paragraphs 155 – 165.

6.69 The site lies within a Flood Zone 1, indicating the lowest probability of flood risk. Details of drainage have been provided and reviewed by KCC (as Lead Local Flood Authority) and they are satisfied that the proposed method of surface water drainage disposal is acceptable. Conditions are recommended to ensure final details of the drainage scheme are provided before development commences. Furthermore no objections have been raised by the Environment Agency. Finally, Southern Water have confirmed that there is capacity to provide foul sewage disposal to service the proposed development and requested conditions.

6.70 Subject to conditions, there would be no increased risk of flooding as a result of the development and drainage measures are considered acceptable. Accordingly, the development would comply with policy CP10 of the TMBCs and paragraphs 155 – 165 of the NPPF.

Air quality:

6.71 Policy SQ4 of the MDEDPD sets out that development will only be permitted where all of the following criteria are met:

(a) the proposed use does not result in a significant deterioration of the air quality of the area, either individually or cumulatively with other proposals or existing uses in the vicinity;

(b) proposals would not result in the circumstances that would lead to the creation of a new Air Quality Management Area;

(c) proximity to existing potentially air polluting uses will not have a harmful effect on the proposed use; and

(d) there is no impact on the air quality of internationally, nationally and locally designated sites of nature conservation interest or appropriate mitigation is proposed to alleviate any such impact.

6.72 London Road and part of the frontage of the site falls within a designated Air Quality Management Area (AQMA). The applicants have submitted an Air Quality Assessment which concludes that any additional impact as a result of the proposed store is likely to be negligible. The report has been reviewed by the Council's Environmental Protection Officer for Air Quality who has raised no objections. Notwithstanding third party comments, there is no technical evidence before the Council to suggest otherwise or that the development would worsen air pollution within the AQMA. Accordingly no objections are raised under policy SQ4.

Protected species:

6.73 Paragraph 175 of the NPPF requires developments to not harm biodiversity or protected species. This is consistent with the aims of policy NE3 of the MDEDPD that seeks to avoid harm to biodiversity.

6.74 The site's former use as a car showroom and minimal areas of planting or landscape mean it is unlikely to be considered suitable for protected species habitats. A submitted Preliminary Ecology Assessment (PEA) confirms the site has very little ecological value. Whilst one building was noted as having moderate roosting suitability for bats, the site already has prior approval for the demolition of all buildings. If the demolition was undertaken under this process any bats on site would still be protected as part of wildlife legislation. In light of this fall-back position it is not considered necessary to conduct further surveys in the specific circumstances of this case, and the applicants are reminded of their obligations under this legislation. Overall no objections are raised under policy NE3 of the MDEDPD.

Other considerations:

6.75 The development would retain the site as a source of local employment and provide up to 40 jobs. This would accord with the general thrust of employment retention under policy CP21 and the NPPF's requirements to build a strong and competitive economy.

6.76 The site's former uses as a car workshop could give rise to potentially contaminated land. Both the Environment Agency and the Council's contaminated land officer has requested conditions to address this. Subject to conditions ensuring remediation the development would not be at risk from contamination.

Conclusions:

6.77 It is recognised that a development of this nature is contentious and the concerns of local residents regarding traffic and highways problems are fully noted.

However, there is no evidence that the policy tests set out in the development plan and national policy for a refusal on highways grounds would be met. There would also be a positive improvement in pedestrian safety with the provision of a new crossing and a footpath along Bradbourne Lane.

6.78 Additionally, notwithstanding the objections from local competing retailers, the site is sequentially favourable for new A1 retail development, being well connected to the defined retail centre of Martin Square and well within the threshold for an edge of centre site. There is good potential for linked trips from customers using both the new A1 store and other shops and services in the retail centre that cannot all be met on the site. No alternative sequentially preferable sites have been identified. Given the good connectivity of the site, and the amount of retail floor space falling very short of the national policy threshold for a retail impact assessment, it is considered that development would not have a significant adverse impact on the vitality and viability of nearby town centres.

6.79 In all other respects the development is policy compliant in terms of character and appearance, neighbouring amenity, flooding and protected species, and remediation of possible contaminated land. The development would restore an existing employment site into long term use and result in the creation of jobs. Overall, the scheme is considered to comply with the adopted development plan as a whole and with national policy, and is therefore recommended for approval.

7. Recommendation:

7.1 **Grant planning permission** in accordance with the following submitted details: Topographical Survey AD 117 G received 21.04.2020, Landscaping AD 118 D received 21.04.2020, Proposed Plans SD_700 D levels received 21.04.2020, Sections ST_701 B received 21.04.2020, Artist's Impression image of store received 21.04.2020, Travel Plan received 21.04.2020, Transport Assessment received 21.04.2020, Statement community involvement received 21.04.2020, Noise Assessment received 21.04.2020, Letter received 21.04.2020, Travel Plan appendices 1-11 received 21.04.2020, Location Plan AD 101 B received 21.04.2020, Site Layout AD 110 G received 21.04.2020, Proposed Elevations AD 114 C received 21.04.2020, Proposed Plans AD 115 F received 21.04.2020, Boundary Treatment AD 116 F received 21.04.2020, Topographical Survey 18082 U 01 01 REV A received 03.12.2019, Existing Site Plan AD 100 received 03.12.2019, Proposed Floor Plans AD 111 ground floor received 03.12.2019, Proposed Floor Plans AD 112 first floor received 03.12.2019, Other surface water technical note received 11.05.2020, Drainage Layout SF/LIDLIDITTON.10 P5 received 11.05.2020, Drawing SQ4S PV LIDL MAID P01 pv layout received 03.12.2019, Flood Risk Assessment and drainage strategy received 03.12.2019, Ecological Assessment received 03.12.2019, Details pv system received 03.12.2019, Air Quality Assessment received 03.12.2019, Environmental Assessment received 03.12.2019, Arboricultural Survey and tree survey received 03.12.2019, Desk Study Assessment parts 1 to 7I received 03.12.2019,

Other Additional technical note received 15.05.2020, Transport Assessment received 06.01.2020, Air Quality Assessment received 24.06.2020, subject to the following conditions:

Conditions:

Standard Conditions / neighbouring amenity

- 1 The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

Reason: In pursuance of Section 91 of the Town and Country Planning Act 1990.

- 2 This decision refers to the red-edged site location plan, drawings numbered Topographical Survey AD 117 G received 21.04.2020, Landscaping AD 118 D received 21.04.2020, Proposed Plans SD_700 D levels received 21.04.2020, Sections ST_701 B received 21.04.2020, Artist's Impression image of store received 21.04.2020, Travel Plan received 21.04.2020, Transport Assessment received 21.04.2020, Statement community involvement received 21.04.2020, Noise Assessment received 21.04.2020, Letter received 21.04.2020, Travel Plan appendices 1-11 received 21.04.2020, Location Plan AD 101 B received 21.04.2020, Site Layout AD 110 G received 21.04.2020, Proposed Elevations AD 114 C received 21.04.2020, Proposed Plans AD 115 F received 21.04.2020, Boundary Treatment AD 116 F received 21.04.2020, Topographical Survey 18082 U 01 01 REV A received 03.12.2019, Existing Site Plan AD 100 received 03.12.2019, Proposed Floor Plans AD 111 ground floor received 03.12.2019, Proposed Floor Plans AD 112 first floor received 03.12.2019, Other surface water technical note received 11.05.2020, Drainage Layout SF/LIDL DITTON.10 P5 received 11.05.2020, Drawing SQ4S PV LIDL MAID P01 pv layout received 03.12.2019, Flood Risk Assessment and drainage strategy received 03.12.2019, Ecological Assessment received 03.12.2019, Details pv system received 03.12.2019, Air Quality Assessment received 03.12.2019, Environmental Assessment received 03.12.2019, Arboricultural Survey and tree survey received 03.12.2019, Desk Study Assessment parts 1 to 7I received 03.12.2019, Other Additional technical note received 15.05.2020, Transport Assessment received 06.01.2020, Air Quality Assessment received 24.06.2020. The development shall be carried out in accordance with these approved drawings. There shall be no variations from these approved drawings.

Reason: To ensure that the scheme proceeds as set out in the planning application and therefore remains in accordance with the Development Plan.

- 3 No above ground works shall take place until details of all materials to be used externally have been submitted to and approved by the Local Planning Authority, and the development shall be carried out in accordance with the approved details.

Reason: To ensure that the development does not harm the character and appearance of the existing building or the visual amenity of the locality.

- 4 The development hereby approved shall not be occupied until the areas shown on the submitted layout for a vehicle parking spaces, turning and access onto the highway has been provided, surfaced and drained. Thereafter it shall be kept available for such use and no permanent development, whether or not permitted by the Town and Country Planning (General Permitted Development) Order 2015 (or any order amending, revoking and re-enacting that Order) shall be carried out on the land so shown or in such a position as to preclude vehicular access to the reserved parking spaces.

Reason: To ensure that parking and access is provided safely and maintained in accordance with the Council's adopted standards.

- 5 All planting, seeding and turfing comprised in the approved scheme of landscaping shall be implemented during the first planting season following occupation of the buildings or the completion of the development, whichever is the earlier. Any trees or shrubs removed, dying, being seriously damaged or diseased within 10 years of planting shall be replaced in the next planting season with trees or shrubs of similar size and species. Any boundary fences or walls or similar structures as may be approved shall be erected before first occupation of the building to which they relate.

Reason: In the interests of visual amenity.

- 6 The development shall be constructed at the level indicated on the drawing referenced AD 114 REV C dated 21.04.20.

Reason: To accord with the terms of the application and to protect the visual amenity of the area

- 7 No deliveries shall be made to the site outside of the hours of 07:00 – 21:30.

Reason: In the interests of local amenity.

- 8 Before the development hereby approved is occupied, all noise and lighting mitigation measures shall be installed in accordance with the recommendations of the submitted noise report dated 19 March 2020 and the proposed lighting layout reference DWG 01 dated 21 April 2020.

Reason: To safeguard future occupants from unacceptable noise and light pollution impacts.

- 9 The hours of opening shall be restricted to 08:00 – 22:00 Monday to Saturday and 10:00 – 17:00 on Sundays and Bank Holidays.

Reason: In the interests of local amenity.

Highways related conditions:

- 10 Prior to first occupation of the development hereby approved, improvements to the local highway network as indicated by drawing SCP/18437/SK06 shall have

been implemented via a s.278 Agreement with Kent County Council and retained in perpetuity.

Reason: In the interests of local amenity and highway safety.

11 Prior to the commencement of the development hereby approved, arrangements for the management of all demolition and construction works shall be submitted to and approved by the Local Planning Authority. The management arrangements to be submitted shall include (but not necessarily be limited to) the following:

- The days of the week and hours of the day when the demolition and construction works will be limited to and measures to ensure these are adhered to;
- Procedures for managing all traffic movements associated with the demolition and construction works including (but not limited to) the delivery of building materials to the site (including the times of the day when those deliveries will be permitted to take place and how/where materials will be offloaded into the site) and for the management of all other construction related traffic and measures to ensure these are adhered to; and
- The specific arrangements for the parking of contractor's vehicles within or around the site during construction and any external storage of materials or plant throughout the construction phase.

The development shall be undertaken in full compliance with the approved details.

Reason: In the interests of residential amenity and highway safety in accordance with policy CP24 of the Tonbridge and Malling Borough Core Strategy 2007.

12 Prior to first occupation of the development hereby approved, the Electric Vehicle charging points shall be installed in accordance with the approved plans and retained thereafter. Spaces 25 to 31 inclusive (to the west of the proposed Electric Vehicle spaces) shall include underground ducting to enable easy potential future provision of further electrical charging stations.

Reason: To encourage the use of electric vehicles in the interests of mitigating climate change in accordance with paragraph 110(e) of the NPPF.

13 Prior to the opening of the use hereby approved, the submitted Travel Plan shall be implemented, regularly monitored and amended, if necessary, if targets identified in the Plan are not being met over a period of 5 years from the date the development is occupied. At the end of the first and third years of the life of the Travel Plan, the applicant must apply to the Local Planning Authority for approval of reports monitoring the effectiveness of the Travel Plan and setting out any changes you propose to make to the Plan to overcome any identified problems.

Reason: In the interests of local amenity and highway safety.

- 14 Prior to the commencement of development, save for any demolition activities, a Stage 1 Safety Audit and Designers Response of the proposed signalised crossing on the A20 shall be undertaken and submitted to the Local Planning Authority for approval.

Reason: In the interests of local amenity and highway safety

- 15 Prior to the commencement of development, save for any demolition activities, proposals for the extension of current on-street waiting and parking restrictions on the A20 and Bradbourne Lane within 200m of the application site shall be submitted to the Local Planning Authority for consultation. Any new traffic orders resulting from the consultation shall be carried out via this authority's 3rd party traffic regulation order process.

Reason: In the interests of local amenity and highway safety

- 16 The use of the development hereby permitted shall not commence until a Service Delivery Plan Delivery, Servicing and Waste Management Plan has been submitted to and approved in writing by the Local Planning Authority. The Service Delivery Plan shall include details of the number, frequency and times of deliveries and collections from the premises and the noise impact. The use shall operate in accordance with the approved Service Delivery Plan.

Reason: In the interests of local amenity and highway safety.

Drainage conditions

- 17 Construction of the development shall not commence until details of the proposed means of surface water run off disposal in accordance with Part H3 of Building Regulations hierarchy as well as acceptable discharge points, rates and volumes have been agreed by the Lead Flood Authority, in consultation with Southern Water.

Reason: To ensure safe and suitable disposal of surface water.

- 18 Construction of the development shall not commence until details of the proposed means of foul and surface water sewerage disposal have been submitted to, and approved in writing by, the Local Planning Authority in consultation with Southern Water.

Reason: To ensure safe and suitable disposal of surface water.

- 19 No development (except for demolition/site clearance) shall begin in any phase until a detailed sustainable surface water drainage scheme for the site has been submitted to (and approved in writing by) the local planning authority. The detailed drainage scheme shall be based upon the Technical Note produced by M3 Mayer Brown and drawing reference SF/LIDLITTON.10 (unless demonstrated not possible for reasons surrounding ground contamination). The detailed drainage submission shall also demonstrate that the surface water

generated by this development (for all rainfall durations and intensities up to and including the climate change adjusted critical 100 year storm) can be accommodated and disposed of without increase to flood risk on or off-site.

The drainage scheme shall also demonstrate (with reference to published guidance):

- that silt and pollutants resulting from the site use can be adequately managed to ensure there is no pollution risk to receiving waters.
- appropriate operational, maintenance and access requirements for each drainage feature or SuDS component are adequately considered, including any proposed arrangements for future adoption by any public body or statutory undertaker.

The drainage scheme shall be implemented in accordance with the approved details.

Reason: To ensure the development is served by satisfactory arrangements for the disposal of surface water and to ensure that the development does not exacerbate the risk of on/off site flooding. These details and accompanying calculations are required prior to the commencement of the development as they form an intrinsic part of the proposal, the approval of which cannot be disaggregated from the carrying out of the rest of the development.

- 20 No building on any phase (or within an agreed implementation schedule) of the development hereby permitted shall be occupied until a Verification Report, pertaining to the surface water drainage system and prepared by a suitably competent person, has been submitted to and approved by the Local Planning Authority. The Report shall demonstrate the suitable modelled operation of the drainage system where the system constructed is different to that approved. The Report shall contain information and evidence (including photographs) of details and locations of inlets, outlets and control structures; landscape plans; full as built drawings; information pertinent to the installation of those items identified on the critical drainage assets drawing; and, the submission of an operation and maintenance manual for the sustainable drainage scheme as constructed.

Reason: To ensure that flood risks from development to the future users of the land and neighbouring land are minimised, together with those risks to controlled waters, property and ecological systems, and to ensure that the development as constructed is compliant with and subsequently maintained pursuant to the requirements of paragraph 165 of the National Planning Policy Framework.

Contaminated Land

- 21 No development shall take place other than as required as part of any relevant approved site investigation, remediation or demolition works until the following have been submitted to and approved by the Local Planning Authority:

a) results of the site investigations (including any necessary intrusive investigations) and a risk assessment of the degree and nature of any

contamination on site and the impact on human health, controlled waters and the wider environment. These results shall include a detailed remediation method statement informed by the site investigation results and associated risk assessment, which details how the site will be made suitable for its approved end use through removal or mitigation measures. The method statement must include details of all works to be undertaken, proposed remediation objectives, remediation criteria, timetable of works and site management procedures. The scheme must ensure that the site cannot be determined as Contaminated Land as defined under Part 2A of the Environmental Protection Act 1990 (or as otherwise amended).

The submitted scheme shall include details of arrangements for responding to any discovery of unforeseen contamination during the undertaking hereby permitted. Such arrangements shall include a requirement to notify the Local Planning Authority in writing of the presence of any such unforeseen contamination along with a timetable of works to be undertaken to make the site suitable for its approved end use.

b) prior to the commencement of the development the historic underground fuel storage infrastructure shall be removed together with any associated hydrocarbon contamination. The Local Planning Authority should be given a minimum of two weeks written notification of the commencement of these works.

c) prior to the first occupation of the development the relevant approved remediation scheme shall be completed as approved. The Local Planning Authority should be given a minimum of two weeks written notification of the commencement of the remediation scheme works.

Reason: In the interests of amenity, public safety and human health and in accordance with the National Planning Policy Framework.

22 The effectiveness of the remediation scheme shall be verified in two phases.

a) The first phase will cover the removal of the fuel storage infrastructure and associated contamination and will be submitted prior to commencement of the development.

b) Following completion of the remainder of the approved remediation strategy, and prior to the first occupation of the development, a final verification report shall be submitted.

In each case, the verification report shall scientifically and technically demonstrate the effectiveness and completion of that phase of the remediation scheme at above and below ground level and shall be submitted for the information of the Local Planning Authority.

The reports shall be undertaken in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11'. Where it is identified that further remediation works are necessary, details

and a timetable of those works shall be submitted to the Local Planning Authority for written approval and shall be fully implemented as approved.

Thereafter, no works shall take place such as to prejudice the effectiveness of the approved scheme of remediation.

Reason: In the interests of amenity, public safety and human health and in accordance with the National Planning Policy Framework.

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

Reason To ensure that the development does not contribute to, or is not put at unacceptable risk from, or adversely affected by, unacceptable levels of water pollution from previously unidentified contamination sources at the development site in line with paragraph 170 of the National Planning Policy Framework.

Archaeology

- 24 Prior to the commencement of development the applicant, or their agents or successors in title, will secure and implement:

1. archaeological field evaluation works in accordance with a specification and written timetable which has been submitted to and approved by the Local Planning Authority; and
2. further archaeological investigation, recording and reporting, determined by the results of the evaluation, in accordance with a specification and timetable which has been submitted to and approved by the Local Planning Authority.

Reason: To ensure that features of archaeological interest are properly examined and recorded.

Informatives

- 1 The proposed development is within a road which has a formal street numbering scheme and it will be necessary for the Council to allocate postal address(es) to the new property/ies. To discuss the arrangements, you are invited to e-mail to addresses@tmbc.gov.uk.

Contact: Adem Mehmet