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Date: 06/12/2022

Our ref: 22/04424/PADEV

By Email

Dear [REDACTED]

**RE: PROPOSED LIDL FOODSTORE (CLASS E), WITH ACCESS, PARKING AND LANDSCAPING.**

Thank you for your above pre-application query and for meeting with the Council's Development Team on 22 November 2022 to explain your proposal. The Development Team has now considered the proposal and this letter sets out the Council's position.

**PLANNING CONSTRAINTS:**

The site is located in Bath, but outside of the defined City Centre Boundary or any other local centre boundary. The site is within the Bath Conservation Area as well as the World Heritage Site, there are numerous heritage assets in the form of listed building and non-designated heritage assets that surround the site. The site is within flood zone 2 and 3. Additionally the site forms part of the landscape setting of the city and is part of a green infrastructure corridor.

**PLANNING HISTORY:**

The following planning history is relevant to the wider site and current Development Team:

Planning reference: 03/00057/ERE03 1

Construction of a park and ride car park with associated facilities building and landscaping, and provision of traffic signal controlled junction.

Application status – Permitted - June 2005

**POLICIES/ LEGISLATION:**

The Core Strategy for Bath and North East Somerset was formally adopted by the Council on 10th July 2014. The Core Strategy now forms part of the statutory Development Plan and will be given full weight in the determination of planning applications. The Development Plan for Bath and North East Somerset comprises:

- Bath & North East Somerset Core Strategy (July 2014)
- Bath & North East Somerset Placemaking Plan (July 2017)
- West of England Joint Waste Core Strategy (2011)

- Bath & North East Somerset saved Local Plan policies (2007) not replaced by the Core Strategy or the Placemaking Plan:
- Made Neighbourhood Plans

#### *Core Strategy:*

The Core Strategy for Bath and North East Somerset was formally adopted by the Council on 10th July 2014. The following policies of the Core Strategy are relevant to the determination of this application:

B1: Bath Spatial Strategy  
 B4: The World Heritage Site and its Setting  
 CP2: Sustainable Construction  
 CP3: Renewable Energy  
 CP5: Flood Risk Management  
 CP6: Environmental Quality  
 CP12: Centres and Retailing  
 SD1: Presumption in favour of sustainable development

#### *Placemaking Plan:*

The Placemaking Plan for Bath and North East Somerset was formally adopted by the Council on 13th July 2017. The following policies of the Placemaking Plan are relevant to the determination of this application:

D1: General urban design principles  
 D2: Local character and distinctiveness  
 D.3: Urban fabric  
 D.5: Building design  
 D.6: Amenity  
 D9: Advertisement and outdoor street furniture  
 HE1: Historic environment  
 LCR5: Safeguarding existing sport and recreational facilities  
 NE2: Conserving and Enhancing the landscape and landscape character  
 NE2A: Landscape setting of settlements  
 NE3: Sites, species and habitats  
 NE5: Ecological networks  
 NE6: Trees and woodland conservation  
 ST7: Transport requirements for managing development  
 SU1: Sustainable drainage policy  
 PC55: Contamination

#### *National Policy:*

The National Planning Policy Framework (NPPF) was published in February 2019 and is a material consideration. Due consideration has been given to the provisions of the National Planning Practice Guidance (NPPG).

#### *SPD's:*

The City of Bath World Heritage Site Setting Supplementary Planning Document (August 2013) is also relevant in the determination of this planning application.

## **DISCUSSION:**

The main issues considered are as follows:

- Principle of development
- Flooding and Drainage
- Design
- Heritage
- Highways
- Landscape
- Ecology
- Trees
- Residential amenity
- Contaminated Land
- Sustainable construction and renewables
- Any other matters

## **PRINCIPLE:**

### **PRINCIPLE OF PROPOSED USE:**

You are seeking advice on a proposal for a Lidl foodstore (Class E), with access, parking and landscaping.

The site is located within the City of Bath but outside of the city centre and any designated local centre boundary. Policy B1 sets out the spatial strategy for Bath, it states at 6d that the plan will 'focus additional convenience retail floorspace (beyond existing commitments) within and on the edge of existing centres before considering out-of-centre sites that might improve the spatial pattern of provision across the city.'

Policy CP12 of the Core Strategy states that 'Retail development, offices, leisure and entertainment uses, markets, community facilities, arts, culture and tourism uses will be primarily located within, or where appropriate, adjoining the centres in the identified hierarchy of centres as required by Policy CR1'. The site is not located within or adjoining a centre as defined by the hierarchy.

Policy CR1 has regard to the sequential test. It states that 'Retail and other main town centre uses (including commercial leisure) should be located within the centres identified on the Policies Map and in Core Strategy Policy CP12.'

It goes on to say that 'Out of centre development of main town centre uses will only be acceptable where:

- i. No suitable or viable centre or edge of centre sites are available, and the proposal would be in a location readily accessible on foot, by cycle and by public transport, with preference given to sites that are well connected to the town centre; or
- ii. The proposal is of a small scale (less than 280 sqm gross floorspace), located within the existing urban area of Bath or a settlement with a Housing Development Boundary, and aimed at providing for local needs (refer to Policy CR4).'

For retail purposes, edge of centre relates to a location that is well connected and up to 300m of the Primary Shopping Area (where defined). This means that locations within a centre but outside the Primary Shopping Area are considered to be edge of centre. The site is not considered to be edge

of centre. The site is in the least sequentially preferable position in the hierarchy. The submission does not include any sequential testing. Therefore, no assessment as to whether there are suitable or viable centre or edge of centre site available has been undertaken. The proposal is not less than 280sqm and therefore criterion 2 is not applicable.

Within the submission (and at the meeting) it was indicated that it was your intention to undertake the retail sequential test. You have asked for guidance on the scope of the retail assessment. It is the officer's opinion that the proposed Lidl store would serve the needs of Bath residents as well as those in the satellite villages on this side of Bath, and therefore it is considered reasonable that this form the appropriate area for the sequential test to be applied. The NPPG sets out further guidance on the application of the sequential test in decision-making, due consideration should be had to whether there are more suitable central sites, and scale and format of the proposal should be considered flexibly.

Additionally, policy CR2 sets out that 'Outside the scope of Policy CR4, retail, office and commercial leisure development outside of centres will not be permitted if:

- i It would be liable to have a significant adverse impact on the vitality, viability and diversity of existing centres; or
- ii It would have a significant adverse impact on existing, committed or planned investment in a centre or centres in the catchment area of the proposal.'

Within Bath, an impact assessment will be required for retail proposals over 500sqm (gross) that are located outside of the designated town centres and not in accordance with the Local Plan.

The application of the impact test should be proportionate and appropriate for the given proposal. In general impact assessments should include information on:

- The cumulative impact of the proposal on existing, committed and planned investment in a centre or centres in the catchment area of the proposal;
- The impact of the proposal on town centre vitality and viability, including local consumer choice and the range and quality of the comparison and convenience retail offer;
- The impact of the proposal on allocated sites outside town centres being developed in accordance with the development plan; and
- The impact of the proposal on in-centre trade/turnover and on trade in the wider area, taking account of current and future consumer expenditure capacity in the catchment area up to five years from the time the application is made.

It is noted at the meeting that you would welcome discussion with the Council's retail consultant on the scope of a submitted Retail Statement. The Council does not have an in-house retail consultant and as such for additional advice at this stage of the scheme a Planning Performance Agreement would need to set up to cover this element.

#### PRINCIPLE OF DEVELOPMENT IN FLOOD ZONE:

According to EA flood mapping the built area of the site is located partly within Flood Zone 2 and partially within Flood Zone 3 (see picture below).

Policy B3 of the Placemaking Plan identifies this area at risk of flooding. It states that 'The sequential approach to site layout is required to be informed by a site-specific FRA. As minimum, the floor levels of new developments have to be raised at the appropriate level taking into account the vulnerability classification informed by the FRA'.



Policy CP5 of the Core Strategy outlines flood risk management; 'Development in the District will follow a sequential approach to flood risk management, avoiding inappropriate development in areas at risk of flooding and directing development away from areas at highest risk in line with Government policy'.

Paragraph 158 of the NPPF states that inappropriate development in areas of risk of flooding should be avoided by directing development away from areas at highest risk, but where development is necessary, making it safe without increasing flood risk elsewhere. It goes on to state that this will be achieved, inter alia, through the application of the Sequential Test and, if necessary, the Exception Test.

The Flood Risk Vulnerability Classification Table within the NPPG classifies shops as 'less vulnerable'. The Flood Risk Vulnerability and Flood Zone 'Compatibility' Table within the NPPG indicates that 'less vulnerable' development can be appropriate in Flood Zone 2, provided that the Sequential Test is passed. The Exceptions Test is not required in flood zone 2.

It is not clear from the submission whether the access to the site falls within flood zone 3b. According to the NPPG 'less vulnerable' development should not be permitted within flood zone 3b and as such would not be supported by the Council. Therefore, any built form should be removed from flood zone 3b. It would be helpful if a map of the proposed scheme including the flood zones could be submitted if you choose to submit an application.

Paragraph 162 of the NPPF states that the aim of the Sequential Test is to steer new development to areas with the lowest probability of flooding. Development should not be allocated or permitted if there are reasonably available sites appropriate for the proposed development in areas with a lower probability of flooding.

The NPPG states that 'For individual planning applications... the area to apply the Sequential Test across will be defined by local circumstances relating to the catchment area for the type of development proposed.' The proposed Lidl store would serve the needs of Bath residents as well as those in the satellite villages on this side of Bath, and therefore it is considered reasonable that this form the appropriate area for the sequential test to be applied.

Development does not have to be limited to sites directly comparable with the application site in terms of capacity, sites should not be discounted on account of them not fitting the 'preferred' development model.

Regardless of this requirement it is also noted that the access and egress from the site remains via the north west corner which is within flood zone 2 (and possibly zone 3b as above). As such a flood warning and evacuation plan will be required.

If the proposal goes ahead a full application would need to be supported by a Flood Risk Assessment. The Environment Agency will be consulted on any full application. We would recommend early engagement with the Environment Agency.

#### CONCLUSION ON THE PRINCIPLE:

At this stage neither a retail sequential test, retail impact assessment, or a flooding sequential test has been undertaken as would be required for the proposed scheme in the proposed location.

At present the proposal is considered contrary to policy CP12, CR1, CR2, CP5 and B1, there is insufficient information to conclude otherwise. The principle of development cannot be supported by officers at this stage.

#### HERITAGE:

Policy HE1 requires that development that has an impact upon a heritage asset, whether designated or non-designated, will be expected to enhance or better reveal its significance and setting. Part 16 of the NPPF has regard to conserving and enhancing the historic environment.

#### CONTEXT

This site is within the Bath Conservation Area and World Heritage Site. It is also in close proximity to a number of listed buildings.

The site is located toward the north eastern edge of the city, accessed on the southern side of the London Road - a main throughfare into the city of Bath and what forms the eastern gateway to the World Heritage Site.

The site itself is undeveloped open space covered with grass and shrubs, which is tree lined on all sides given it a verdant nature. The river Avon runs along the south east of the site. The Lam Brook runs along the south west of the site with Bath rugby training ground immediately following, a large open green pitch sports ground. East is a collection of residential units which are relatively sparse in density. Directly opposite the site is Gloucester Road and Alice Park, a public park.

#### WORLD HERITAGE SITE AND CONSERVATION AREA

Bath was inscribed as a World Heritage Site in 1987, the only entire City in Britain to be so designated. The designation describes the City as “a masterpiece of human creative genius whose protection must be the concern of all”. As an over-arching matter, there are a number of core values and significances, known as the Universal Value, that need to be taken into consideration with any development of this size and scale. These can be summarised as 1. Roman Archaeology, 2. The Hot Springs, 3. Georgian Town Planning 4. Georgian architecture, 5. Green Setting of the City in a hollow in the hills, 6. Georgian architecture reflecting social ambitions (e.g. spa culture). A second inscription for WHS designation has also been recently approved through UNESCO, making Bath a double World Heritage Site.

The site is also within the designated Bath Conservation Area, within the conservation character area known as Grosvenor and Lambridge.

The site is currently used as a sports field, although undoubtedly was originally used for agricultural purposes such as river meadow pasture, and this is likely to have been the case since at least the mediaeval period. This agricultural landscape would have once surrounded the city, then rural town, of Bath but has been systematically developed since the expansion of the suburbs since the early C19. Therefore, remnants of this surviving historic agricultural landscape, especially within the immediate proximity of the Georgian city are rendered more significant because of this rarity.

The Conservation Officer considers that the proposal site forms an important element of the immediate green setting of the Georgian City as well as a green space that contributes positively to the Conservation Area for the above reasons. The Georgian town planning and architecture in this location is also of high importance.

The Supplementary Planning Document 'Bath city-wide character appraisal' identifies the entrance to the city, stating at p.44: 'The C18 ribbon development along London Road is a grand gesture entering the city' and p45 '7.6.28 This area is an historic route into the city. For many visitors it was and still is the first impression of C18 Bath.'

This highlights that the London Road is an important and historic entrance to the city, characterised by a sequence of different conditions. Travelling from the east, this ranges from an area that is dominated by open spaces, trees and glimpsed views into and across the city, with occasional, dispersed and generally hidden built development, then a small number of villas are set back from the road behind front gardens. Beyond this, comes the dramatic contrast of the larger Georgian terraces of Grosvenor and Beaufort East and West respectively set back behind mature trees and open strips of lawned areas, ending with a strongly defined urban environment with terraces positioned on the back of the pavement edge.

This transition of conditions is an important characteristic that reveals the city. It is also one of the few remaining routes in the city where Georgian development is very close to the city edge, providing a fairly clear contrast between built and unbuilt. This condition is unique and is a critical in providing the context that the development will need to respond to. As such it is considered that development in this location should be set back from the road, be appropriately screened, and generally recessive. The submitted scheme seems to want to articulate its presence and become a focal or landmark building. This is not considered appropriate and would at present compete with, and harm, the outstanding values of the World Heritage Site as well as the setting of the conservation area.

## LISTED BUILDINGS

A number of listed buildings are in close proximity to the site; in particular is Lambridge House; grade II\*, that is a significant feature within this part of the conservation area. An assessment of non-designated heritage assets in the vicinity has not been made by officers at this stage.

Paragraph 194 of the NPPF states that 'in determining applications, local planning authorities should require an applicant to describe the significance of any heritage assets affected, including any contribution made by their setting'.

It is clear from the submission, and the Development Team presentation, that the scheme has been designed without the benefit of a full heritage assessment of the significance of the site and in particular the listed buildings (mainly Lambridge House) that may be affected including their settings. As such the scheme has not yet taken full account of paragraph 194 of the NPPF.

The Conservation Officer has raised concerns that the setting, and therefore significance, of Lambridge House will be harmed by the proposed development, particularly due to the large expanse of car park to the rear of the site.

## ARCHAEOLOGY

There is no submission of an archaeological desk-based assessment, this should form part of a future submission. South West Heritage Trust would be consulted at application stage. It is not possible to provide further comment on archaeological matters at this stage.

## HERITAGE CONCLUSION

At present the proposal is considered to lead to harm to the outstanding values of the World Heritage Site, the setting of the conservation area and the setting of Lambridge House.

It is clear that the proposed development is a result of a more thoughtful design process than a standard Lidl development. However, it is far from certain that a supermarket, however sensitively designed, is an appropriate form of development for this key site at the eastern gateway to the World Heritage City of Bath. It is considered that a development here should be respecting the historic, heritage setting and should be seeking to embed within it rather than create a landmark feature which would compete with it. A more recessive approach should be taken.

Additionally, a more thoughtful and sensitive approach to the large expanse of car parking to the rear of the site is required. This will require a specialist landscape architectural approach that has been informed by an understanding of the context, and the need and requirement to mitigate and reduce the harm to the historic environment that would result from the development.

Any future application should be informed by a heritage assessment assessing the significance and any potential impacts to the significance. An appropriate assessment of harm and public benefits can then be undertaken by officers. Any relevant public benefits can also be set out by the applicant within a submission.

## CHARACTER AND APPEARANCE:

Policy D1, D2, D3 and D5 of the Placemaking Plan have regard to the character and appearance of a development and its impact on the character and appearance of the site and wider area. Development proposals will be supported, if amongst other things they contribute positively to and do not harm local character and distinctiveness.

A Pre-application Design Statement has been submitted with this Development Team Enquiry where an assessment of local context has been undertaken.

## LAYOUT

The proposed layout arrangement sees the main retail store located in the northern part of the site flanking the London Road. The front elevation of the building appears to be set back slightly from the street scene to allow for some minor tree planting. The access road is set adjacent to the Lam Brook along the south, south-western edge of the site and leads down to an 80-space car park at the rear.

It is understood that normally a development such as a supermarket would be orientated with the car park to front of the building entrance and therefore the car park is often roadside. Here the



orientation of the development is such the building is set adjacent to the street scene essentially 'hiding' the car park. Car parks are often utilitarian and incongruous in appearance which would not be considered preferable to front this sensitive part of the London Road. As such the proposal to set the building at the front of the site is welcomed, however this is providing the proposed building is itself sensitively designed, if this cannot be achieved then a revised orientation may need to be considered.

There is significant concern with the proposed buildings proximity to the street scene. As proposed the development provides a blank frontage to the road which is exacerbated by the blank western flank. Whilst some planting is provided it is unlikely this will provide a significant level of screening of the site. It is considered that the proposal should be stepped back further to follow the main recessive character of built form in this location, setting the building back within the site will also stop it competing with the historic built form and this will also allow for additional planting.

The entrance is to the rear of the building, relating to the car park behind. The rationale for locating the car park to rear to enable the development to present a more attractive frontage to the road is valid, but whilst locating the main entrance to the rear offers maximum convenience for those arriving by car, it does the opposite for those arriving by public transport, on foot or bicycle. Options including a side entrance should be considered. Nevertheless, a dominant retail frontage would not be acceptable on the building in its current forward location.

## SCALE, MASSING AND FORM

The scale of the development is such that it appears to fit comfortably within the site. Some green space is retained; however, it is noted above that the significant loss of green space in this location may impact on the World Heritage Site and Conservation Area. The use of a green roof is welcomed, and this is discussed further in the landscape section below.

The proposed height of the building is not considered acceptable. A single storey development would be much more appropriate and recessive. It is understood that this may lead to an increase in the built footprint. At present the height contributes to a dominate building rather than a recessive one. The scale, massing and form of the building should be seeking to assimilate with the surroundings rather than stand out.

## APPEARANCE AND DETAIL

It is clear from the material presented that the applicants are well aware that a standard Lidl design will not be acceptable on this site, and that a bespoke 'special' one-off design of exceptional quality and contextual sensitivity is required.

What is not clear at this stage is whether Lidl will be willing to omit or radically change their standard logo and on-site branding in order to achieve the necessary degree of contextual sensitivity. It is noted that the elevations and perspectives submitted show a 'clean' design that does not include any advertising. In reality this is unlikely to be the case. Any signage, logo, advertisements etc should be included with a future submission so a full appropriate assessment on the impact of the proposal on local character and appearance (as well as heritage and landscape) can be made.

It is understood that the intention is for the inflow/outflow units for air source heat pumps to be integrated into the architecture to avoid the need for external boxes that would detract from the clean lines of the building, which is an acceptable approach. A similar approach will be needed for any other operational paraphernalia, such as vents, fan outlets, lighting units, etc. Supporting

illustrative material will need to be realistic and show in detail what the development would actually look like including all necessary operational equipment.

Both lighting and signage have the potential to significantly increase the visibility of the development and result in major effects on character. It is not known what the proposed opening hours would be, but it may reasonably be assumed that they would include a substantial element of operation during the hours of darkness, especially in the winter months. Lighting columns can be visually intrusive during daylight hours and have an urbanising effect on character.

In terms of materials, the submission sets out the use of Bath stone ashlar, Bath rubble stone and timber cladding. The use of natural materials is welcomed and is considered the only appropriate approach for a building in this location. However further design development work is required in respect of both building and external space proposals, to address the issues identified above.

## DESIGN REVIEW PANEL

The LPA strongly encourages the use of the design review process in the assessment of development proposals and would advocate this at an early stage in the process. Where a project has a design review, the panel's recommendations will be considered in the planning process and decision. For further information, and an informal discussion on how panel sessions are organised, please do not hesitate to contact me.

## CONCLUSION ON CHARACTER AND APPEARANCE:

At present the proposal is considered to harm the local character and appearance of the area. The design is not considered suitable. A landmark building is not the appropriate design approach to be taken.

## LANDSCAPE:

Proposals for new development should demonstrate an understanding of the wider landscape context including identifying important landscape, heritage and ecological assets on and surrounding the site.

There are a number of relevant policies. Policy NE2 has regard to conserving and enhancing landscape and landscape character, development will only be permitted where the proposal will conserve or enhance local landscape character and features. Proposals with potential to impact on the landscape/townscape character of an area or on views should be accompanied by a Landscape and Visual Impact Assessment undertaken by a qualified practitioner to inform the design and location of any new development.

The site is designated as strategic green infrastructure under Policy NE1, and any proposals would therefore need to demonstrate that opportunities have been maximised to design green infrastructure (GI) into the proposed development and that it does not adversely affect the integrity and value of the existing GI corridor.

This is a highly sensitive site, within the WHS and Bath Conservation Area, adjoining the Green Belt which lies to the south of the river. The development would be visible from a range of viewpoints including from London Road, London Road West and Gloucester Road, and from land to the south within the Green Belt and from other parts of the city.

A landscape and visual impact assessment (LVIA) will be required in accordance with Policy NE2. Given the sensitivity of the site and the proposals it will need to be comprehensive and detailed, and include AVRs from selected viewpoints to accurately illustrate how the proposals would appear. Photographs in panorama format as provided are a useful aid in understanding context, but the landscape and visual assessments must be made using standard frame images in accordance with best practice guidance and these must be the primary method of photographic presentation when the LVIA is submitted.

The application will need to demonstrate how the requirements of Policy NE2, including the requirement to conserve or enhance local landscape character, landscape features and local distinctiveness are met, and also how the requirement of Policy NE2A to conserve and enhance the landscape setting of Bath is satisfied.

The 'green roof' design needs further consideration. Whilst the principle of a 'green roof' is supported, many different options for 'green' and 'brown' roofs exist, and at this stage it seems unlikely that a 100% sedum roof is the optimal solution. The balance between maximising ecological benefit whilst minimising visual impact needs to be considered in detail. It is also unclear at this stage whether the full implications of the new more exacting policies for sustainability under the Local Plan Partial Update have been factored in, and whether it might be necessary to utilise part of the roof for PV electricity generation, and if so, how this can be successfully integrated into the roofscape design without detrimental visual impact.

The scheme as proposed involves the loss of a considerable number of existing trees, due partly to issues of tree health (e.g. ash dieback and Dutch elm disease). The assumptions made as to the extent to which new and replacement planting can adequately compensate for this and thereby maintain and enhance landscape character are currently over-optimistic. Given the loss of existing tree cover it will take a considerable length of time for new planting, even with the use of advanced nursery stock as suggested, to have a comparable impact. The LVIA and the presentation of the proposals will need to be realistic as to the initial effects and changes in character and appearance that would result from the development, and the length of time that will be required for new planting to mature.

The 'constraints and opportunities' plan on p34 of the DAS suggests that the rear half of the site would be predominantly a green space focussed on landscape and ecology. What is actually proposed is a car park, currently with no indication that the surfacing will be anything other than conventional bitmac, with only 15 trees planted in it, due to the constraints of a pipeline easement. As currently proposed, it would not be perceived either by customers or by those viewing the site from beyond the boundaries primarily as a 'green space'.

Great reliance appears to be being placed on the landscape design to achieve a proposal that embeds within the area. The LVIA will need to objectively assess the effects, short term and long term, to test this.

The landscape proposals presented included additional tree planting beyond the site boundary on land owned by the Rugby Club, but it is understood that this would be subject to agreements that are not yet in place. Clarity is required as to whether the merits of the scheme proposals are to be assessed on what can be delivered within the red line boundary, or whether additional measures beyond the boundary are a necessary component of the scheme, and if so how it is proposed that their delivery will be secured.

Should a scheme come forward to application stage a landscape and ecological management plan (LEMP) will be required to ensure that any landscape measures put in place successfully become

established and in due course reach maturity, which would be essential to meeting policy objectives for conservation and enhancement of landscape character.

At present given the lack of LVIA it is not possible to conclude fully on the landscape impacts of the scheme. However, it is considered that the current scheme has the potential to be harmful in this sensitive landscape due to the conspicuous nature of the site and the sensitive nature of the location along the eastern gateway to the World Heritage City of Bath. Officers remain unconvinced that the proposal will not result in landscape harm.

#### RESIDENTIAL AMENITY:

Policy D.6 sets out to ensure developments provide an appropriate level of amenity space for new and future occupiers, relative to their use and avoiding harm to private amenity in terms of privacy, light and outlook/overlooking.

The site is bound to the south east by the river, the south west by the Rugby training ground and the north by the London Road. To the north east immediately is green space followed by residential development. Residential development is also in close proximity on the north side of the London Road. There is roughly just over 40m between the proposed development and the nearest residential units.

Given the above and the design and siting of the scheme it is not considered that there will be significant harm to the amenities of nearby residents. It would be necessary however to consider appropriate opening times and delivery times, to ensure no impacts to residential amenity arise from the operation of the site. Appropriate lighting times is also a consideration as well as impact of any illuminated signage.

Please also note that if an application is submitted neighbours will be consulted on the scheme, any comments received at this stage will be taken into consideration.

#### HIGHWAYS MATTERS:

Policy ST7 of the Placemaking Plan has regard to Transport Requirements for Managing Development, it states that, amongst other things, development will be permitted where highways safety is not prejudiced, safe and convenient access is provided or enhanced. It also has regard to cycle parking and facilities for charging plug-in. Additionally, policy ST1 promotes sustainable travel, and it recognises the importance that the need for new development is balanced with minimising traffic congestion and making places more accessible by sustainable modes of transport.

The following points consider the details and commentary made within the Transport Statement document.

The Transport Statement will need to address the policy requirements that are presented within the emerging Local Plan Partial Update (LPPU) and the Transport & Developments SPD. The policy documents should be adopted by the time any application would be submitted, and the requirements of Policies ST1 and ST7 are a significant change from the current policy wording and tests. A transport submission that considers the development impact solely in a traditional “predict and provide” manner is unlikely to be able to consider the requirements of the updated policies.

The LPPU transport policy principles need to be considered within the transport work, and a stronger emphasis is now placed on the active travel connection requirements, and the need to reduce the reliance on private car use. The scheme will need to be considered within the context of

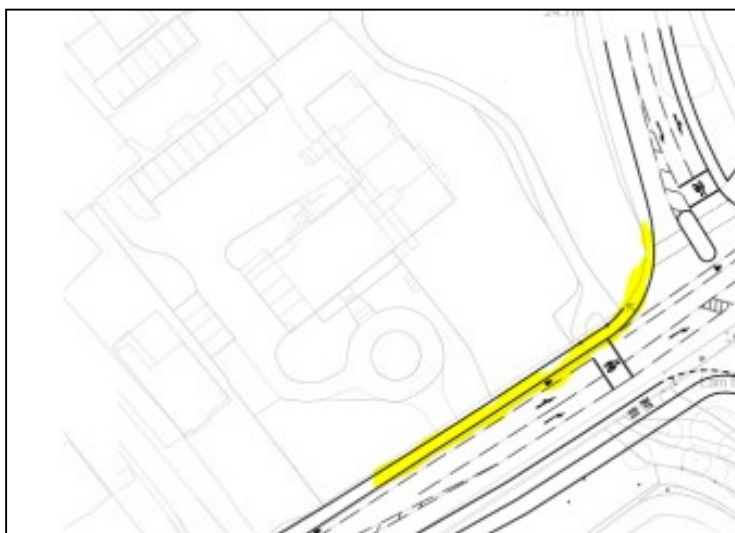
those emerging transport policies. This should include a comprehensive review of local pedestrian and access routes, and opportunities to enhance connections.

The proposed parking arrangements should be considered against the standards presented within the Transport & Developments SPD, and the parking accumulation calculations will also be reviewed to determine the appropriate car parking levels. In accordance with the requirements of the emerging SPD, any submission will need to undertake the required Accessibility Assessment, see the requirements stated in Section 4.11 of the SPD. This information can be used to consider the adequacy of the proposed car parking levels. Any submission would need to be supported by the required Active Travel checklist, and this is provided within the latest version of the draft SPD. This should help to identify any necessary offsite highway / transport infrastructure improvements. The potential delivery of connections with planned improvements (such as those presented within the adopted Local Cycling and Walking Infrastructure Plan) should be reviewed.

Public transport routes have been reviewed and there appears to be a significant opportunity to enhance local bus stops to a suitable standard. The impact of the proposals on the bus lane function and operation of services will need to be fully reviewed within any formal submission.

The proposed access junction is presented as a revised signalised layout. This layout and the supporting modelling information has been reviewed by the Traffic Signals team, with initial comments as follows:

1. Signalised crossing phases within the new junction are proposed; These stated signalised pedestrian crossings have not been included in the modelling submission. As designed these would require an all ped stage, stopping all vehicular movements and increased intergreens due to the long distances from some vehicle stop lines to ped crossings on exit both of which would impact negatively the modelling results.
2. There is a Zebra type crossing proposed on the development arm, this is not permitted within a signal junction so should be either uncontrolled, or signalised
3. The A4 London Road right turn movements are not signalised and have not been modelled as such and flows entering Lidl have been calculated as very low. Further interrogation of the modelling and flow data will need to be carried out to determine if this arrangement is sufficient and acceptable for the right turn movements into the development to be unsignalised and enabled via gaps in the high levels of traffic travelling on the two lanes WB on London Road.
4. The right turn waiting areas to both side road entries do not appear to align with natural driver positioning to turn right and may cause conflict.
5. Footway widths appear narrow (1.4 – 1.7m) in some locations, see below. This needs to be reviewed against LPPU policy requirements.



6. No cycle facilities appear to be proposed and this needs to be reviewed against LPPU policy requirements.

Given the scale of the access highway works proposed as part of the development, it is recommended that a Stage 1 Road Safety Audit supports any formal planning submission.

The trip rates and traffic generation associated with this type of food store have significantly changed over the last few years, and shopping trends are recognised as being different to those from several years ago. There is a general concern that reliance on older survey data may now be outdated, and this could result in an underestimate of the number of peak period trips (and the parking accumulation calculations). This will need to be reviewed and appropriate evidence presented to consider the potential change in trip rates.

The Transport Statement makes a number of assumptions relating to linked and pass by trips, and it is suggested that 10% of all trips would be considered to be “new” to the network. Having reviewed similar assessments undertaken for food store proposals in different locations, you would need to provide evidence to justify the proposed trip rate assumptions. This should also be reviewed against the evidence presented within the Retail Impact Assessment work.

The detail of the proposed Travel Plan will need to be considered against the requirements presented within the new Transport & Developments SPD, see Section 6 of that document. The necessary monitoring and review requirements should be considered within any Travel Plan submission.

At present the highways matters within the proposed scheme need to be reviewed, the information is either insufficient or unlikely to accord with those policies coming forward within the Local Plan Partial update. Officers therefore cannot support the scheme based on the current highways works.

#### GENERAL DRAINAGE MATTERS:

Policy CP5 has regard to flood risk management. It states that All development will be expected to incorporate sustainable drainage systems to reduce surface water run-off and minimise its contribution to flood risks elsewhere.

The proposed surface water drainage strategy is acceptable in its current form. Should this come forward as a full application, then calculations regarding the sizing of the attenuation and sizing of the flow control will be required. This attenuation will need to be sized to accommodate the 1:100 +45% critical storm event, all discharge from the attenuation will need to be restricted to greenfield runoff rate.

Given the location of the development to the River Avon and the Flood Zones, an alternative solution could be utilised for managing surface water. A strategy based on fulfilling the SuDS requirement of biodiversity, amenity, and water quality by using above ground features and incorporating it into the ecology area at the lower end of the site could be acceptable – focusing on the above and using above ground attenuation and conveyancing features. This approach could see the attenuation volume and discharge rate eased.

#### CONTAMINATED LAND:

Policy PCS5 has regard to contamination and requires proposal to not cause significant harm or risk to health or the environment from contaminants.

Taking account of the sensitive nature of the development and the size of the development, conditions would be attached to any future permission for the investigation and risk assessment of the nature and extent of any contamination on site and its remediation. This would be required prior to the commencement of works; therefore, you may wish to consider submitting this information at the application stage should you choose to submit.

#### ARBORICULTURAL MATTERS:

Policy NE6 has regard to Tree and woodland conservation. Development will only be permitted where it seeks to avoid any adverse impact to trees of wildlife, landscape, historic, amenity, productive or cultural value.

Policy CP7 has regard to Green Infrastructure, it states that 'The integrity, multi-functionality, quality and connectivity of the strategic Green Infrastructure (GI) network will be protected, enhanced and managed. Opportunities will be taken to connect with, improve and extend the network'.

Additionally of note is Policy NE1 of the Placemaking Plan: Development and Green Infrastructure, which states:

1 Within the context of Policy CP7 development will be permitted provided:

- a. it can be demonstrated that opportunities have been maximised to design Green Infrastructure (GI) into the proposed development;
- b. it does not adversely affect the integrity and value of strategic GI corridors;
- c. the scheme makes a positive contribution to the GI network through the creation, enhancement and management of new, and existing GI assets; and

2 Proposals for major developments should also be accompanied by:

- a. a plan of the existing green infrastructure assets within and around the development site; and
- b. a GI "proposal" demonstrating how GI has been incorporated into the scheme in order to increase function and improve connectivity of GI assets including links to existing the local and strategic networks

Trees surrounding this prominent site are important features within Bath Conservation Area and World Heritage Site. It is noted that none are covered by a TPO designation.

The tree survey and subsequent tree works schedule identifies between 34 and 40 trees to be felled to facilitate the construction:

- 28 of these are of poor quality (U), are diseased or of very poor form. – This includes T406 (says Alder on the schedule and Ash on the plan) cat U, is off-site & may be removed for ground re-grading purposes.
- 5 trees are category C, they have short usable life expectancy as are suppressed by better trees and/or of poor form - these are identified as being felled to facilitate the construction of store.
- 1 tree (T398) is a category B tree (20yrs+) and of sound condition, identified as being felled to facilitate construction/improvements to bridge. This tree is within 3rd party ownership.

There are 6 additional trees to be retained if possible:

- T324 & T325 (Sycamore) cat B are on the roadside boundary of the site and appear to be adjacent the wall. Their loss will possibly be triggered by highway works.
- T404 (Sycamore) & T405 (Ash) cat B are off site and may be removed for bridge improvement/ground re-grading works.

- T383 & T385 (Willows) – cat C and near to access road/footpath. Trees may be pollarded (or felled) and have a Sycamore between them retaining cover.

The Arboricultural officer has reviewed the above and considers that whilst the loss of the trees is regrettable the proposal is acceptable.

It is noted that the remaining trees to be retained on site are short-lived specimen. The current rationale for building what would otherwise be a large and highly conspicuous building with lights and cars lights relies heavily on these trees presence for screening (as the location is highly overlooked) – but in 20 years or less they may potentially not be present.

It is noted that compensatory tree planting is proposed. Replacement planting needs to contain large, long-lived and quick to establish species (such as Lime) in order to screen the supermarket etc for the longer term and which suggests the location of the supermarket is particularly sensitive in character / visually.

The planting of trees within the car park is considered appropriate given it would result in shading to the expanse of hard surface, screen vision of cars and glare from windscreens from elevated views, and reduce storm water run-off.

In addition offsite tree works include T399 (Wester Red Cedar) – cat B & 18m ht : root pruning to facilitate mechanical plant use during construction. This tree is in third party ownership and the Arboricultural officer has concerns with the proposed loss of 10% of its windward side anchoring roots (roots acting in tension to the prevailing S/W winds). This may add risks and liabilities to the owner of the tree from the increased potential for the tree to fail or suffer ill health as a consequence.

The default position as per BS5837 (5.3.7) is that structures are located outside of the RPA's of trees to be retained in the first instance or for technical solutions to be sought to prevent damage (root loss) to the tree. If it will not be possible to retain and protect this tree in perpetuity then it would need to be subject to a preliminary roost assessment in the first instance.

Any future proposal should be informed in the first instance and supported by Arboricultural surveys to demonstrate due consideration with policy NE6 of the Placemaking Plan.

### ECOLOGY:

Policy NE3 has regard to Sites, Species and Habitats. It seeks to conserve and increase the abundance and diversity of Bath and North East Somerset's wildlife habitats species and to minimise adverse effects where conflicts of interest are unavoidable. It covers internationally, nationally, and locally important sites, species and habitats.

### GENERAL ECOLOGY MATTERS:

It is welcomed that ecology is recognised as a prominent headline issue, this is necessary due to its sensitive location (directly adjacent to the River Avon) but there are also additional legislative requirements (Habitats Regulations). The Ecological Appraisal (EA) submitted with the scheme details the habitats present on site and summarises the results of further Phase 2 surveys. The full data should be submitted with a application, along with the Preliminary Ecological Appraisal Technical Note produced by Halpin Robbins.

The previous application for the site (03/00057/ERE03) was supported by a reptile survey and the



site was found to support a population of slow worm (in addition, a grass snake skin was found). Therefore, any application would need to be supported by an updated reptile presence/likely absence survey along with an appropriate mitigation strategy.

The previous application was also supported by a PASE fish survey which identified a community of six species including Bullhead utilising the Lam Brook. Although it is considered that impacts could reasonably be avoided through production of and adherence to a CEMP.

The potential for the site to support kingfisher would also need to be considered. The river Avon is designated as a Site of Nature Conservation Interest (SNCI) that provides essential ecological functions, and the river is used by a range of protected species. This designated site not only includes the river but associated bankside habitat, therefore a section of the SNCI falls within the redline boundary and this would need to be acknowledged as such in the report.

The principles of first avoiding impacts on existing habitat and features of ecological value, then minimising, before providing mitigation and compensation for unavoidable impacts, must be adhered to.

The scheme would result in the loss of 40 trees, whilst these trees may not be of arboricultural value (the majority are classes as Category U trees) they are nonetheless of ecological value. It is questionable whether all of these tree losses are necessary. Any scheme would need to demonstrate “no net” loss of biodiversity and any unavoidable tree loss would require replacement planting of equivalent ecological value (as discussed above).

Section 17 of the Pre-App Design Statement includes a photograph of the Lam Brook that shows hart’s tongue fern and (potentially) liverworts are present on the bank. This habitat has been classified as a line of trees on the Phase 1 plan, however, the presence of these species suggests it should be classified as woodland and may qualify as a Habitat of Principal Importance (HPI) as listed under Section 41 of the NERC Act 2006. The habitat survey was undertaken in January 2022; therefore, this falls outside the optimal survey season for Phase I Habitat Surveys, therefore botanical species diversity will have been under-recorded. A botanical survey should be undertaken in the spring to assess the quality of the ground flora present. All HPIs should be retained and protected in the first instance, with compensatory habitat creation only considered as a last resort. Therefore, re-seeding of this bank would not be supported nor would the proposed tree felling in this area.

The intention to remove the major dead wood and broken branches from the SNCI woodland as per the AMS, would not be supported. It provides an important habitat for saproxylic, invertebrates so should be retained in-situ.

Given the proximity of development, the intention to close the badger sett under licence and create an artificial sett would be supported. Although, locating the artificial sett within Flood Zone 3 is questionable, justification will need to be provided. In addition, loss of badger foraging habitat would also need to be considered and appropriate mitigation provided.

The intention to continue the Japanese knotweed eradication programme would be supported.

## SPECIAL AREA OF CONSERVATION AND HABITATS REGULATION ASSESSMENT

The River Avon is used by bats associated with the Special Area of Conservation (SAC). The activity data also demonstrates that the boundary vegetation is being used by both horseshoe species.

Avoidance of light spill onto the River Avon and minimisation of light spill onto surrounding treelines is a key issue that is not addressed within the submission. The intention to create 'dark corridors' as per the EA would be supported, however, details would need to be provided.

This proposal is to be considered in light of the requirements of regulation 63 of the Conservation of Habitats and Species Regulations 2017, with respect to the potential for the proposed development to impact on a European Designated Site. The proposal is considered capable of having a "likely significant effect" on the SAC. As such a Habitats Regulation Assessment (HRA) must be undertaken. The current submission does not address the need for a HRA. It is advised that you submit a 'ghost' HRA with any future submission. An Appropriate Assessment can then be undertaken considering the impact of the development and any measures proposed to mitigate harm. Natural England would be consulted on a submitted HRA.

## LIGHTING STRATEGY

The intention to use low level lighting in the car park, as discussed during the meeting would be supported. Relevant guidance and standards to avoid light spill onto the River Avon, and other GI, would need to be adhered to and met. Lighting should be designed in accordance with the B&NES 2018 Waterspace Design Guidance and best practice guidance including the ILP 2018 guidance note.

A significant amount of glazing is proposed on the south-east elevation and a moderate amount on the north-west face. So, as well as external lighting, light spill from internal sources would also need to be considered.

Signage was also discussed at the meeting, and you were advised to consider including this within the main scheme should you choose to submit an application. If a separate application is made for signage that includes illumination, then the Ecology Officers would need to be consulted.

## BIODIVERSITY NET GAIN

All development should achieve a +10% net gain as per emerging Policy NE3, a biodiversity net gain calculator would need to be submitted to demonstrate this.

The aerial photographs would suggest that more extensive vegetation cover was present than identified by the Phase 1 Habitat survey. The date that the vegetation clearance was undertaken will need to be established. If it was undertaken after 30th January 2020 then the pre-development value of the BNG assessment would need to be retrospective. The inclusion of native hedgerows, planting beds, advanced/large trees, proposed native blocks (including semi-mature shrubs), a diverse green/brown roof, log piles and bird & bat boxes and oversowing the SNCI woodland with wildflowers & tree planting as per the Landscape Strategy would be supported. So would the addition of a green wall on the acoustic fencing of the loading bay, as discussed at the meeting.

Whilst the commitment to infill boundary planting would be welcomed this should not preclude retention of existing habitats at ground level. The proposal to use *Ulmus New Horizon* to replace some of the removed elms as per the AMS would not be supported, long-lived native tree varieties of local provenance should be utilised. The recommendation to undertake silvicultural thinning in the SNCI woodland as per the AMS would also be welcomed, to encourage the crown development of the best retained specimens. Integrated features for bat and birds should be utilised to comply with Policy D5e.

The recommendation to consider the use of Sustainable Urban Drainage Systems are per advice from BANES Drainage Officer would be supported, as they could provide ecological opportunities if designed appropriately.

#### TECHNICAL REQUIREMENTS:

There are a number of other Placemaking Plan policies which have implications for your scheme and introduce technical requirements which your development will be expected to comply with.

The proposal would need to consider sustainable construction in accordance with local policy. Currently policies SCR1 and CR2 set the scene for sustainable construction and renewable energy requirements. These are set to be superseded by the policies in the forthcoming Local Plan Partial update.

Policy SCR7 applies to new build non-residential buildings. It states that 'New build non-residential major development will maximise carbon reduction through sustainable construction measures. Through the submission of a sustainable construction checklist all planning applications will provide evidence that the standards below are met. Major development is to achieve a 100% regulated operational carbon emissions reduction from Building Regulations Part L 2013'.

An additional emerging policy SCR8 has regard to Embodied Carbon. Large scale new-build developments are required to submit an Embodied Carbon Assessment that demonstrates a score of less than 900kg/sqm of carbon can be achieved within the development for the substructure, superstructure and finishes.

#### PLANNING OBLIGATIONS:

The Planning Obligations SPD sets out clear guidance in respect of Bath & North East Somerset Council's approach to Section 106 Planning Obligations.

A Section 106 agreement would be required to secure any potential offsite requirements such as offsite Biodiversity Net Gain, replacement tree planting, monitoring fees etc.

#### ENVIRONMENTAL IMPACT ASSESSMENT:

It is recommended that a screening opinion is undertaken prior to the submission of any full application to assess and whether the proposal would constitute EIA development which would require an Environmental Statement.

#### OTHER MATTERS:

As referred to intermittently within the above sections, the Council is currently undertaking a Local Plan Partial Update which is expected to be formally adopted in the new year. You are also strongly advised to review the relevant updated policies contained within the Local Plan Partial Update which include, but are not limited to, the following:

SCR6 Sustainable Construction Policy for New Build Residential Development

SCR8 Embodied Carbon

SCR9 Electric Vehicle charging infrastructure

NE3 Sites, Habitats and Species

NE3a Biodiversity Net Gain

ST1 Promoting Sustainable Travel and Health Streets

The Council are likely to be implementing these policies at the time an application is submitted or decided (should you choose to submit) and as such, the scheme should be in compliance with these policies.

### **SUMMARY AND CONCLUSION:**

At this stage neither a retail sequential test, retail impact assessment, or a flooding sequential test has been undertaken as would be required for the proposed scheme in the proposed location. Therefore, at present the proposal is considered contrary to policy CP12, CR1, CR2, CP5 and B1, there is insufficient information to conclude otherwise. The principle of development cannot be supported by officers at this stage.

There is a fundamental tension between, on the one hand, the needs of a commercial foodstore to be readily visible and maintain clear brand identity and, on the other hand, the need for any development on this site to respond with dignity and sensitivity to the highest standards of design and environmental quality that befit a site within the City of Bath Conservation Area and World Heritage Site, adjoining the Green Belt, identified as strategic green infrastructure forming an important part of the landscape setting of the city.

At present the proposal, due to its design, layout, scale, height and form is considered to result in harm to the World Heritage Site, Conservation Area, and Grade II Listed Lambridge House. Additionally, the proposal fails to successfully integrate with the existing character and appearance of the locality. You are strongly advised to reconsider the design approach as a landmark style building. Any proposal should be respectful and uncompetitive with heritage assets, recessive, un-dominating, well screened, and assimilate with the locality.

At present this scheme cannot also be supported on highways, landscape and ecology grounds, as outlined above. Further information is required on other matters such as arboriculture and sustainable construction.

To conclude, as submitted the scheme would not be supported by officers.

### **SUPPORTING INFORMATION:**

In addition to the standard documentation and fee, the application should be accompanied by the following supporting information:

- Planning Statement
- Heritage Statement
- Retail Assessment (including sequential test and impact test)
- Flooding Sequential Test
- Flood Risk Assessment
- Landscape & Visual Impact Assessment
- Land Contamination Assessment
- Lighting Assessment
- Ecological Survey including BNG Assessment
- Tree Survey
- Arboricultural Impact Assessment

- Arboricultural Method Statement
- Transport Statement
- Noise Assessment
- Construction Management Plan
- Sustainable Construction Checklist
- Statement of Community Involvement

#### **MEMBERS COMMENTS:**

A small number of members sitting on the Planning Committee as well as the relevant ward members will be briefed on your proposals.

The Member's Briefing Meeting for this Development Team will take place on 13<sup>th</sup> December and comments will follow.

It is recommended that, in accordance with the Council's adopted Statement of Community Involvement, you engage directly with local residents through a public exhibition.

#### **PLANNING PERFORMANCE AGREEMENT:**

You may be interested in entering into a Planning Performance Agreement with the Council. This would deliver, for an additional hourly charge, an enhanced service for you/your client in respect of the Council's processing of the planning application (in addition to the planning application fee). The outcome of the application would of course be unaffected. Please contact me if this something which you would wish to pursue.

This letter constitutes an officer's informal opinion and does not bind the local planning authority to any future decision should a subsequent application be submitted.

If I can be of further assistance, please do not hesitate to contact me.

Yours sincerely,

*Sam Mason*

Samantha Mason  
Senior Planning Officer