

**Item No:** 5.1  
**Application No:** 15/01708/FUL Author: Haley Marron  
Date valid: 29 October 2015 ☎: 0191 643 6330  
Target: 28 January 2016 Ward: Camperdown  
decision date:

Application type: full planning application

**Location: Land At Former Chan Buildings, Comet Row, Stephenson Industrial Estate, Killingworth, NEWCASTLE UPON TYNE**

**Proposal: Erection of a foodstore (Use Class A1) and associated works including parking and landscaping. Additional Coal Mining information received 18.12.2015**

Applicant: C/o Agent

Agent: Rapleys LLP, Mr Richard Huteson Rapleys LLP Pall Mall Court 61-67 King Street Manchester Greater Manchester M2 4PD

**RECOMMENDATION:** Minded to grant legal agreement req.

## **INFORMATION**

### **1.0 Summary Of Key Issues & Conclusions**

**1.1 This application has been deferred to provide further information on proposed external plant and proposed delivery operations.**

**1.1 The changes to the recommendation report are set out in bold.**

### 2.0 Main Issues

2.1 The main issues in this case are:

- Whether the principle of a new retail store on this site is acceptable
- The impact of the proposal upon the character and appearance of the site and the surrounding area
- The impact upon neighbours living conditions with particular regard to noise and disturbance
- Whether sufficient car parking would be provided

2.2 Planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise.

2.3 Members need to consider whether this application accords with the development plan and also take into account any other material considerations in reaching their decision.

### 3.0 Description of the Site

3.1 The application site relates to a vacant site on Stephenson Industrial Estate on the corner of Great Lime Road and Southgate in Killingworth. The site is broadly rectangular in shape, extends to 0.78ha and is relatively flat. There is a group of conifer trees to the northern boundary of the site. The former Chan Buildings were demolished in 2014.

3.2 The surrounding area is mixed in terms of character. There is a school to the east and to the north and west are employment uses. To the south is a modern housing development. Two storey dwellings face the application site.

### 4.0 Description of the Proposal

4.1 The proposal seeks planning permission for the erection of a food store (2470sqm of gross retail floor space - Use Class A1) with new access, car parking, landscaping and servicing.

4.2 Proposed opening hours are 07:00 – 22:00 Monday to Saturday and 10:00 – 16:00 on Sundays.

4.3 Deliveries are proposed between the hours 06:00 – 23:00 Monday to Saturday and 09:00 hours - 19:00 hours on Sundays and Bank Holidays.

4.4 The development will create 40 full time jobs.

**4.5 Since the last committee meeting the applicant has submitted a Service Yard Management Plan detailing measures to be taken to reduce noise during deliveries.**

**4.6 The applicant has also submitted amended plans showing the location of the proposed external plant. External plant is proposed to the north west corner of the roof and to the west elevation of the building.**

**4.7 A noise assessment for the external plant has also been submitted.**

**4.8 The applicant has also submitted a covering letter for the attention of the Planning Committee. This is appended in full to this report.**

### 5.0 Relevant Planning History

5.1 12/00542/OUT Proposed outline planning consent for the demolition of existing warehouse and office and erection of care home and residential development (All matters reserved) and was approved on 24th September 2014. This permission expires on the 24th September 2017 and includes the land to the north of the application site.

5.2 13/02033/DEMGDO Demolition of existing warehouse and office. Permitted 03.01.2014

## 6.0 Development Plan

### 6.1 North Tyneside Unitary Development Plan (Adopted 2002)

Direction from Secretary of State under Paragraph 1 (3) of Schedule 8 of Town and Country Planning and Compulsory Purchase Act 2004 in respect of policies in the North Tyneside UDP.

## 7.0 Government Policy

### 7.1 National Planning Policy Framework published 27 March 2012

7.2 Planning applications must be determined in accordance with the development plan, unless material considerations indicate otherwise. The National Planning Policy Framework is a material consideration in the determination of this planning application. It required local planning authorities to apply a presumption in favour of sustainable development.

### 7.3 National Planning Practice Guidance

## **PLANNING OFFICERS REPORT**

## 7.0 Main Issues

7.1 The main issues for Members to consider in this case relate to;

- Whether the principle of a new retail store on this site is acceptable;
- The impact of the proposal upon the character and appearance of the site and the surrounding area;
- The impact upon neighbours living conditions with particular regard to noise and disturbance.
- Whether sufficient car parking would be provided.

Consultations responses and representations received as a result of the publicity given to this application are set out in the appendix to this report.

## 8.0 Principle of Development

### 8.1 Loss of Employment Land

8.2 The National Planning Policy Framework states that planning policies should avoid the long term protection of sites allocated for employment use where there is not reasonable prospect of a site being used for that purpose. Applications for alternative uses of land should be treated on their merits having regard to market signals and the relative need for different land uses to support sustainable communities.

8.3 The site is situated on the south eastern edge of the much larger Stephenson Industrial Estate and is designated as a current employment area according to policy LE1/4 of the North Tyneside Unitary Development Plan 2002.

8.4 UDP Policy LE1/4 seeks to ensure that the physical base of the economy is maintained and protected. Areas shown on the proposals map for employment uses B1 (Business), B2 (General Industrial) and B8 (Storage or Distribution) will

be protected from change of use to other purposes except where amongst other matters there is no reasonable expectation of the site being used for the purpose allocated and the benefits of its alternative uses in relation to other objectives of the plan have been demonstrated.

8.5 This proposal would be contrary to policy LE1/4, unless Members are satisfied that there is no reasonable expectation of the site being used for employment purposes and the benefits of its alternative use have been demonstrated.

8.6 Policy LE1 seeks to ensure a provision of a range of sites from employment across the districts to meet the needs throughout the plan period.

8.7 Policy LE3 seeks to encourage the improvement of older industrial and commercial areas within the borough and covering amongst other matters development of mixed use projects where it can be clearly demonstrated that the juxtaposition of uses will not give rise to unacceptable conflict.

8.8 In the Council's Local Plan Pre-Submission Draft 2015, the site is not designated for future employment use as it has received planning consent for housing.

8.9 The Council published an Employment Land Review in February 2015. This concludes that the Borough has enough employment land to meet its demands until 2032. Therefore even if this site is brought forward for alternative uses there would be sufficient remaining employment land within the borough.

8.10 More specifically this site is not considered to be retained as a future employment site in the Employment Land Review (ELR) as it has received a planning consent for housing. The loss employment land is therefore well established.

8.11 It is also noted that this is a cleared site and the former factory building has been demolished. The site could therefore not be brought back into employment use without significant investment.

8.12 It is considered the proposal would regenerate an older industrial area and the development would create 40 full time jobs. The applicant has also agreed to a financial contribution towards retail employment and training initiatives so that residents of the Borough will benefit from the development.

8.13 Having regard to the above, Members need to consider whether the loss of employment land is acceptable and whether it would accord with the NPPF, policies LE1/4, LE1 and LE3 and weight this is their decision.

#### 9.0 Sequential Assessment

9.1 The National Planning Policy Framework seeks to ensure the vitality of town centres and recognise town centres as the heart of their communities.

9.2 Local planning authorities should apply a sequential test to planning applications for main town centre uses that are not in an existing centre and not in accordance with an up to date local plan. Applicants and local planning authorities should demonstrate flexibility on issues such as format and scale.

9.3 The site is not within a defined town centre boundary and is out-of-centre. Therefore a sequential assessment is necessary to see whether there are any sites which are available, suitable and viable, in existing centres. If there are none, then there is a need to look at edge of centre sites before finally considering out of centre sites.

9.4 The applicant has carried out a sequential assessment, which concludes that there are no sequentially preferable sites.

9.5 The first thing to do when carrying out the sequential assessment is to look at the catchment area of how far people are likely to travel. This provides the area of search for sequentially preferable sites. Having regard to the size and nature of the proposed retail store, the applicant has put forward a five minute drive as the catchment area. At the request of Officers this was extended, as it was considered there would be a degree of overlap in the catchment areas of the site and Longbenton District Centre. It is important to understand whether the development will comprise the regeneration of Longbenton District Centre.

9.6 The applicant has therefore looked at the town centre of Killingworth and the district centres of Forest Hall and Longbenton also West Moor Neighbourhood centre, however concludes that there are no sequentially preferable sites which are available, viable and suitable. This is also the view of officers.

9.7 Members need to consider whether there are any sequentially preferable sites within the catchment area which are available, suitable and viable and weight this in their decision.

#### 10.0 Impact Assessment

10.1 When assessing the application for retail development outside of town centres, which are not in accordance with an up-to-date Local Plan, local planning authorities should require an impact assessment if the development is over a proportionate locally set threshold.

10.2 The Council has published Retail and Leisure Study which has been carried out by Roger Tym and Partners and updated 2014. This sets the local threshold of where an impact assessment is required at 1,000 sq m of gross floorspace.

10.3 This proposal seeks a retail store of 2,470 sq m and therefore requires an Impact Assessment.

10.4 The National Planning Policy Framework states that an impact assessment should include an assessment of;

- 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
- The impact of the proposal on town centre vitality and viability, including local consumer choice and trade in town centres and wider area, up to five years from the time the application is made. For major scheme where the full impact will not be realised in five years, the impact should also be assessed up to 10 years from the time the application is made.

10.5 The applicant has carried out an Impact Assessment which states that the proposed Lidl foodstore will complement the existing convenience offer in the area, which currently does not have the benefit of a deep discount food store.

10.6 Importantly, the proposed scheme will see a vacant site in Killingworth redeveloped to a high standard, whilst also improving consumer choice and competition.

10.7 Within Killingworth town centre, Forest Hall District Centre and West Moor Neighbourhood Centre there are no existing, committed and planned public and private investment in any of the centres upon which the proposed development will have a significant adverse impact.

10.8 However regard must be given to the proposed Aldi store in Longbenton, located within the catchment area of the application site. The planning application for the Aldi store is currently pending consideration (15/01793/FUL).

10.9 The applicant states that the development will not have a significant adverse impact on the Aldi store, given both Aldi and Lidl provide for a similar retail offer and that consumers, living in close proximity to these stores are highly unlikely to travel away from their provision to visit a new store, which is located further away.

10.10 The applicant also states that the catchment of the proposed Aldi is likely to be concentrated in Longbenton as “a good proportion of its customers live within walking distance”. The applicant therefore suggests that the catchment of the proposed Aldi store is less than the 5 minute drive time stipulated in the application, thereby reducing the overlap in catchments and the potential impact of their development on Aldi.

10.11 Furthermore, the applicant states that their development will predominantly be serving Killingworth and the neighbouring residential areas. Hence there will be very limited overlap in the catchments and subsequently, no significant trade draw from the Aldi and Longbenton district centre.

10.12 Officers accept the applicant’s approach and are satisfied that the development will not have a significant adverse impact on the planned development for Longbenton district centre.

10.13 In order to be able to assess the impact of the proposed development upon the vitality and viability of existing retail centres within the catchment area, it is important to establish the current health of the those centres. The applicant has carried out an assessment of the health of Killingworth, Forest Hall, Longbenton and West Moor centres.

10.14 Killingworth centre has strong signs of vitality and viability, with below average vacancy rates and good environmental quality. Vacancy levels within the centre are very low in comparison to the national average, equating to just 3% of the total available units, compared to the national average of 9.8%. The shopping centre features two anchor retailers, a Morrisons supermarket and Matalan. These are supported by a series of small units that are primarily comparison in nature. The centre is served by excellent public transport with its own bus station.

10.15 Forest Hall is considered to be in good health. The good health of this centre is demonstrated by the fact that current vacancy rate is 9% comparable to the national average of 9.8%. The centre displays a healthy range of uses. The centres primary function is comparison and servicing retail (at 37%) each. The convenience stores within the centre are Sainsbury's Local, Nisa Local and a bakery. Comparison retailers include a barbers, computer shop, florist, optician and pharmacy.

10.16 The health check for Longbenton District Centre indicates that there is a 0% vacancy rate which is considerably below the national average of 9.8%. The centre displays a healthy range of uses where the primary function is comparison and servicing retail (at 31%). The convenience stores within the centre are Heron Foods, newsagents with post office, Farmfoods and an off licence. Comparison retailers include hairdressers, electrical store, opticians and pharmacy.

10.17 With regards to West Moor Neighbourhood Centre the applicant states that due to the limited overlap between provision within the centre and the proposed provision (which will be provided by the proposed Lidl store), it is not considered that there would be a significant adverse impact on the centre.

10.18 The National Planning Policy Framework also expects the proposal to be assessed in terms of consumer choice. The applicant states that there are no deep discount retailers in the centres of Killingworth, Forest Hall, or West Moor.

10.19 With regards to the proposed Aldi at Longbenton the applicant states that this proposal will provide a wider choice for consumers. The applicant submits that there is evidence to suggest Lidl and Aldi can operate successfully side by side by offering a slightly different product range. The proposed Lidl store will increase competition and choice within this area of North Tyneside and will have no significant adverse impact on the proposed Aldi or the centre of Longbenton for the reasons previously outlined.

10.20 In order to assess the potential impact of the proposal on in centre turnover/trade, consideration should be given to the growth in consumer expenditure taking into account current retail provision within the catchment area.

10.21 The population within the catchment area in 2016 is 22,624 and this is scheduled to increase to 23,287 by 2021. This increase in population will increase the amount of expenditure within the catchment by £1.91m.

10.22 The expenditure available in the catchment area in 2016 is £43,075,375m rising to £44,981,400m in 2021. The proposed store turnover is approximately £5m (in 2016 and 2021) using only 12% of the available expenditure. There is therefore sufficient growth in expenditure to support the additional food store.

10.23 The North Tyneside Retail Study 2014 has been produced and informed by the economic crisis. It therefore provides a robust and up-to-date assessment of retail and leisure needs. The Retail Study also highlights a need for further convenience floor space and considers it a sound policy aspiration for the Council to seek to increase the overall level of convenience expenditure retained in the catchment, because food shopping should be undertaken on a localised basis as possible. This proposal will contribute towards this aim.

10.24 In terms of the National Planning Policy Framework it expects an analysis of impact on town centres vitality and viability up to five years from the time the application is made (2021). For major schemes where the full impact would not be realised in five years, the impact should also be assessed up to ten years from the time the application is made (2026). It is officer advice that the full impact of this proposal due to its size and its localised catchment would be felt by 2021.

10.25 It is considered the development would not have a significant adverse impact on the existing centres, and this is set against a backdrop of rising expenditure due to an increase in population. Therefore it is officer advice that the proposal would not have a significant adverse impact upon Killingworth Town Centre, Forest Hall and Longbenton District Centres or West Moor Neighbourhood Centre.

10.26 In conclusion, there are no sequentially preferable sites. The proposal would not have a significant adverse impact upon centres and therefore this proposal in this respect accords with the National Planning Policy Framework.

10.27 Members need to consider whether the principle of retail development on this site is acceptable and whether it would accord with the National Planning Policy Framework and weight this in their decision.

### 11.0 Character and Appearance

11.1 The National Planning Policy Framework states that the Government attaches great importance to the design of the built environment. Good design is a key aspect of sustainable development, is indivisible for good planning and should contribute to making places better for people.

11.2 Policy S11 states that having regard to the size, function and location of shops, new retail development will be expected to provide a range of facilities for



the shopping public. This policy is in accordance with the design guidance in the National Planning Policy Framework and therefore has full weight.

11.3 Policy E14 seeks to protect and conserve existing trees and landscape features within the urban environment and will encourage new planting in association with development.

11.4 LDD 11 'Design Quality SPD' states that the principles of good design apply equally to retail uses. Commercial developments, regardless of location, should be a focus to promote high quality design in order to enhance the overall quality of the built environment, both aesthetically and functionally.

11.5 The site is a prominent site on the corner of Great Lime Road and Southgate. It is currently vacant and enclosed by timber hoarding on all sides. The site makes little contribution to enhance the streetscene or the appearance of the surrounding area.

11.6 This proposal seeks to erect a contemporary building on the site which will help enhance the site and the general area, contributing positively of people's views of this part of the borough.

11.7 The proposed building would measure approximately 7.6m at its highest point and 5.3m at its lowest. It would have a width of approximately 76m and depth of 32.6m. The main elevation towards the Great Lime Road would have a glass frontage. The elevation facing Southgate would consist of glazing to the entrance and a narrow band of high level windows running along its entire width and white rendering below. This would create a modern appearance.

11.8 The applicant has submitted proposed landscaping details. This concludes that it will be necessary to remove the group of conifer trees to the northern boundary to facilitate the development.

11.9 The Council's Landscape Architect has been consulted and does not raise any objections. He does however recommend large specimen trees as replacements along the road frontages. This combined with additional shrub planting can be controlled by a suitable landscape condition.

11.10 Members need to consider whether the proposed design is acceptable and whether it would accord with the NPPF, policy S11 and LDD 11 and weight this is their decision.

## 12.0 Impact on Neighbours

12.1 Policy H13 states that applications for non-residential development within or adjacent to residential areas will only be approved where the local planning authority consider that they would not adversely affect residential amenity.

12.2 The National Planning Policy Framework supports sustainable development. Development that would have an adverse impact upon neighbours would not be sustainable. Policy H13 is consideration with the guidance in the National

Planning Policy Framework and therefore Members should give this policy full weight in their consideration.

12. 3 The neighbours most likely to be directly affected by the proposals are those residents living opposite the site on Great Lime Road. The development also has the potential to affect future occupiers of the housing development to the north of the site.

**12. 4 A Noise Assessment has been submitted with the original application. This considers the noise impact of deliveries and noise from the car park taking into account their noise output and existing background noise levels.**

**12.5 Regarding deliveries, it is proposed that there will be up to two dedicated deliveries per day. Delivery vehicles will enter the site forward facing and manoeuvre so as to reverse directly to the loading bay. The total unloading time is approximately 45 minutes. The store will also benefit from a graded ramp in the delivery bay and manual dock levellers, negating the need for noisy scissor or tail lifts. Frozen and chilled food is carried in individual temperature controlled units, thereby removing the need for air conditioning units on the delivery vehicles.**

**12.6 The Service Yard Management Plan states that during deliveries vehicle engines will be switched off to reduce noise and disturbance; radios will not be left and doors will not be closed with excessive force. Furthermore audio reversing alarms will be manually turned off.**

**12.7 The noise survey recommends that there are no significant issues in respect of noise. It is considered that deliveries would have limited impact on the residents of Great Lime Road because the building would be set well back within the site and the loading bay is located to the north, away from these properties so as to minimise its impact.**

**12.8 With regards to the land immediately to the north of the site, this has had permission for a care home (12/00542/OUT). On this basis the land is identified for housing in the emerging Local Plan. However, the planning permission for the care home can no longer be implemented as it includes the application site.**

**12.9 Bellway Homes are currently in pre application discussion regarding development of the land to the north. It is Officer advice that any subsequent housing developer, looking to develop the land to the north, will have to accommodate the applicants proposals in the layout of their scheme should this application be granted.**

**12.10 Nevertheless, the applicant (Lidl) have proposed a 2m high acoustic fence to the north of the loading bay area in order to address concerns regarding impact on residential amenity. They have also submitted a Service Yard Management Plan with the noise reduction measures set**

above. They have also considered the impact of external plant on the land to the north.

**12.11 Additional plans have been received showing external plant on the north west corner of the roof and to the rear of the building. A noise survey has also been submitted to assess the impact of the plant against background noise levels to the north of the site.**

**12.12 The Manager of Environmental Health has been consulted and she is satisfied with the proposals. The noise generated from the plant will not exceed background noise levels and conditions to control their noise output and specification are recommended. She also recommends that the measures set out in the Service Yard Management Plan be included in the condition and delivery times be restricted.**

**12.13 The Manager of Environmental Health has no objection to application in respect of noise generated from the car park, but recommends the opening hours of the store be restricted in the interests of residential amenity.**

**12.14 Lighting of the store has the potential to impact on residents, however the Manager of Environmental Health has no objections to the proposed lighting scheme.**

**12.15 To further protect the amenity of residents, the Manager of Environmental Health recommends conditions controlling the hours of construction.**

**12.16 Having regard to the above, it is the advice of Officers that the proposals will not have significant adverse impact on the amenity of residents and as such the development complies with the NPPF and UDP policies E3 and H13.**

### 13.0 Car Parking and Access

13.0 The National Planning Policy Framework states that transport policies have an important role to play in facilitating sustainable development, but also contributing to wider sustainability and health objectives. All developments that generate significant amounts of movement should be supported by a Transport Assessment. The guidance states that development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe.

13.1 Policy T8 seeks to encourage cycling by amongst other matters ensuring that cyclists' needs are considered as part of new development and where appropriate requiring that facilities including parking are provided.

13.2 Policy T9 states that the needs of pedestrians, including people with disabilities and special needs will be given a high priority when considering transport and development issues.

13.3 Policy T11 states that parking requirements will in general be kept to the operational maximum and should include adequate provision for people with disabilities and special needs

13.4 LDD 12 Transport and Highways SPD sets out the Council's adopted parking standards.

13.5 Policies T8, T9, T11 and LDD12 all accord with the guidance in the National Planning Policy Framework and therefore Members should give them full weight in terms of their consideration.

13.6 The Highways Network Manager has been consulted and states the submitted Transport Assessment analysed the junction in the vicinity of the site as well as the proposed site access. He acknowledges that there are some capacity issues on the surrounding network, however the impact of the development is not considered to be severe.

13.7 The site is accessed from Southgate with two separate pedestrian access points to along the frontage. The applicant has agreed to works to the adopted highway to improve the existing crossing on Northumbrian Way for pedestrian and cycle and the footpaths abutting the site, amongst other matters.

13.8 The maximum amount of parking required by LDD 12 is 176 spaces and 12 disabled spaces giving a total of 188 spaces, whereas they have provided a total of 128 spaces, including 9 disabled spaces and 3 family and child spaces. This is within the maximum standards and the applicant has submitted evidence based on comparable existing Lidl stores at other locations, which demonstrates that the parking as a whole should be adequate for the needs of the development.

13.9 Servicing will be carried out via the main site access and the service area is located to the north of the site. It has been demonstrated that appropriate service vehicles can turn safely within the site and enter and exit in a forward direction. The proposed servicing arrangements are therefore considered satisfactory in this instance subject to a condition to provide an appropriate service management plan. The Manager of New Developments therefore concludes on balance to recommend approval of the application subject to conditions.

**13.10 The Manager of New Developments has considered the proposed Servicing Yard Management Plan and raises no objections.**

13.11 Members need to consider whether the proposed development would have a severe residual cumulative impact and whether the proposal would accord with policies T8, T9, T11 and LDD12 and weight this in their decision.

## 14.0 Other matters

### 14.1 Ground Conditions

14.2 The NPPF states that the planning system should contribute to and enhance the natural and local environment by remediating and mitigating despoiled, degraded, derelict, contaminated and unstable land, where appropriate.

14.2 UDP policy E3 seeks to minimise the impact of pollution on the environment. The NPPF is consistent with the aims of this policy and the conclusions in the committee report remain the same.

14.3 Policy E13 states that in pursuing environmental improvement within the urban environment the local planning authority will give priority to the improvement of those parts which are in most in need of regeneration and to those with a high level of public accessibility and or visibility such as physical transport corridors and town centres.

14.4 The site is within a Coal Mining Referral Area. Within the site there are four recorded mine shaft entries, a thick coal outcrop and shallow depth coal workings. The applicant has submitted a Coal Mining Remediation Strategy.

14.5 The Coal Authority has been consulted and recommends conditional approval subject to compliance with the Remediation Strategy, in respect of treatment of the mine shafts and the proposed building foundations.

14.6 Furthermore, the Council's Contamination Officer recommends standard conditions relating to gas monitoring and contamination to ensure the possibility and remediation of contamination is fully investigated.

14.7 It is the advice of Officers that the applicant has demonstrated that the application site is, or can be made safe and stable for the proposed development.

14.8 If Members are minded to approve the application, they must decide whether the proposal acceptable in terms of the above the NPPF and UDP policy.

### 15.0 Archaeology

15.1 The NPPF states that Local Planning Authorities should identify and assess the particular significance of any heritage asset that may be affected by the proposal taking account of the available evidence and expertise.

15.2 UDP policy E19 seeks to protect the sites and settings of sites of archaeological importance. The NPPF is consistent with this policy.

15.3 An Archaeology Assessment has been submitted. The site is of industrial archaeological interest. It includes the site of West Moor Colliery and Burradon and Killingworth Waggonways.

15.4 The County Archaeologist has been consulted and given the importance of the site, she recommends trial trenching and recording. The applicant has been

provided with a specification for the trenching and implementation of the e works can be conditioned.

15.5 Members need to decide whether the development complies with the NPPF and UDP policy E19.

#### 16.0 Biodiversity

16.1 The applicant has submitted a Phase 1 Habitat Survey and Protected Species Assessment. The site is largely bare ground but the conifer trees and shrubs on the site have habitat potential. The report concludes that the site is of low ecological value.

16.2 The Council's Biodiversity Officer does not object to the application. The recommendations set out in the Phase 1 report are recommended as a condition along with the installation of bat boxes and the submission of a landscaping scheme.

#### 17.0 Flood risk and Drainage

17.1 The site is within flood zone 1 and less than 1 hectare. The applicant has provided a drainage scheme for the disposal of foul and surface water.

17.2 Northumbrian Water has been consulted and they do not object to the development subject to the drainage proposals being implemented in accordance with the details submitted.

17.3 The Council as Local Lead Authority raises no objections to the application subject to the imposition of a condition controlling surface water drainage.

#### 18.0 S106 Contributions

18.1 NPPF states that pursuing development requires careful attention to viability. To ensure viability, the costs of any requirements likely to be applied to development such as requirements for affordable housing standards, infrastructure contributions or other requirements should, when taking account of the normal costs of development and mitigation, provide competitive returns to a willing land owner and willing developer to enable the development to be deliverable.

18.2 Regulation 122 of the Community Infrastructure Levy (CIL) Regulations, makes it unlawful for a planning obligation to be taken into account in determining a planning application, if it does not meet three tests set out in Regulation 122. This states that a planning obligation may only constitute a reason for granting planning permission for the development if the obligation is:

Necessary to make the development acceptable in planning terms;  
Directly related to the development; and  
Fairly and reasonably related in scale and kind to the development.

18.3 The Council's adopted SPD on Planning Obligations LDD 8 states that the planning obligations are considered an appropriate tool to ensure that the

environment is safeguarded and that the necessary infrastructure and facilities are provided to mitigate impacts, ensure enhancements and achieve a high quality environment where people choose to live, work, learn and play.

18.4 The SPD also states that the Council is concerned that planning obligations should not place unreasonable demand upon developers, particularly in relation to the impact upon economic viability of development and sets out the appropriate procedure to address this. However, the SPD state that the Council will take a robust stance in relation to the requirement for new development to mitigate its impact on the physical, social, economic and green infrastructure of North Tyneside.

18.5 The contributions that can be secured are:

- a) a contribution of £14,800 towards retail employment and training
- b) a contribution of £15,000 towards a public art commission

18.6 These contributions are considered necessary, directly related to the development and fairly and reasonably related in scale and kind to the development and therefore comply with the CIL Regulations.

18.7 The applicant has agreed to the contributions, both of which would be secured by way of a S106 Legal Agreement.

#### 19.0 Conclusions

19.1 This proposal seeks to redevelop a vacant site at the corner of Great Lime Road and Southgate in Killingworth for a food store. The site is on the edge of an industrial estate and surrounded by modern housing and a local primary school.

19.2 The principle regarding the loss of designated employment land is established. The site is out of centre and the applicant has demonstrated there are no sequentially preferable sites.

19.3 The proposal will not have an adverse impact on the existing nearby centres and will provide a local facility for surrounding residents. The proposal will also create 40 jobs in addition to the construction jobs.

19.4 This proposal will construct a new modern and contemporary building, which will enhance the character and appearance of the site and the surrounding area, on an important transport route.

19.5 The proposal subject to conditions will not have an adverse impact upon neighbours and a landscape condition will ensure additional planting is secured. Finally, the proposal will provide sufficient parking and not have a severe adverse impact upon the existing highway.





shall not be carried out other than in accordance with the approved details.

Reason: To ensure a satisfactory appearance having regard to LDD11.

5. Restrict Hours No Construction Sun BH HOU04 \*

6. Notwithstanding Condition 1, no development shall commence until a Construction Method Statement for the duration of the construction period has been submitted to and approved in writing by the Local Planning Authority. The approved statement shall: identify the access to the site for all site operatives (including those delivering materials) and visitors, provide for the parking of vehicles of site operatives and visitors; storage of plant and materials used in constructing the development; provide a scheme indicating the route for heavy construction vehicles to and from the site; a turning area within the site for delivery vehicles; a detailed scheme to prevent the deposit of mud and debris onto the highway and a dust suppression scheme (such measures shall include mechanical street cleaning, provision of water bowsers and wheel washing and/or road cleaning facilities). The approved statement shall be implemented and complied with during and for the life of the works associated with the development, unless otherwise is approved in writing by the Local Planning Authority.

Reason: This information is required to ensure that the site set up does not impact on highway safety, pedestrian safety, retained trees and residential amenity having regard to Policy H11 of the North Tyneside Council Unitary Development Plan 2002.

7. Veh Parking Garaging before Occ PAR04 \*

8. New Access Access Before Devel ACC10 \*

9. Visibility Splay Detail Before Devel ACC20 \*

10. Turning Areas Before Occ ACC25 \*

11. Prior to the occupation of the building details of facilities to be provided for the storage of refuse at the premises shall be submitted to and approved in writing by the Local Planning Authority. The facilities which should also include the provision of wheeled refuse bins shall be provided in accordance with the approved details, prior to the occupation of any part of the development and thereafter permanently retained.

Reason: In order to safeguard the amenities of the area having regard to policy H13 of the North Tyneside Unitary Development Plan 2002.

12. No development shall commence until a scheme for surface water management has been submitted to and approved by in writing the Local

Planning Authority. Thereafter, this scheme shall be implemented in accordance with the approved details before the development is occupied.

Reason: This is required from the outset of the development in the interests of effective surface water management.

13. Notwithstanding Condition 1, prior to the occupation of the building a scheme for the provision of secure undercover cycle parking shall be submitted to and approved by in writing the Local Planning Authority. Thereafter, this scheme shall be implemented in accordance with the approved details before the development is occupied.

Reason: In the interests of promoting alternative modes of transport having regard to NPPF.

14. Notwithstanding the Interim Travel Plan already submitted, within three months of occupation the developer shall submit a Final Travel Plan within six months of the development opening that takes into account staff surveys of travel patterns.

Reason: To accord with Central Government and Council Policy concerning sustainable transport.

15. Prior to occupation of the development a car park management strategy for the site shall be submitted to and agreed in writing by the Local planning Authority. Thereafter the management of the car park shall be carried out in accordance with the agreed details.

Reason: To ensure adequate parking facilities for the site and in the interests of highway safety.

16. The premises shall not be open for business outside the hours of 07:00 to 22:00 hours Monday to Saturday and 10:00 - 18:00 Sundays and Bank Holidays.

Reason: To safeguard the occupiers of adjacent properties from undue noise or other associated disturbance having regard to policy H13 of the North Tyneside Unitary Development Plan 2002.

17. Deliveries to and from the loading bay shall only take place between the hours of 06:00 hours and 23:00 hours Monday to Saturdays and between 09:00 hours and 19:00 hours on Sundays and Bank Holidays.

Reason: To safeguard the occupiers of adjacent properties from undue noise or other associated disturbance having regard to policy H13 of the North Tyneside Unitary Development Plan 2002.

18. Prior to the use of the building hereby permitted, a detailed Service Yard Management Plan for delivery operations shall be submitted to and approved in writing by the Local Planning Authority. The Management Plan shall be based on the Department of Transport Quiet Delivery Good Practice Guidance for Retailers (April 2014) and shall include the following measures:

- That the refrigeration units (on the HGV) are switched off during deliveries.

- Ensuring goods are off loaded from the vehicle directly into the internal

loading bay

- No off-loading is permitted to be carried out within the yard area.
- No reversing alarms to be used between 06:00 and 08:00 hours.
- Details of the buffering to be provided around the docking doors to

minimise noise breakout from the doors.

Thereafter the operations at the site shall comply with the approved measures.

Reason: To safeguard the occupiers of adjacent properties from undue noise or other associated disturbance having regard to policy H13 of the North Tyneside Unitary Development Plan 2002.

19. Prior to the use of the building hereby permitted details of the 2m high acoustic fence to the delivery bay to protect the proposed residential properties to the north of the site shall be submitted to and approved in writing by the Local Planning Authority and thereafter implemented prior to the commencement of the use of the building and retained thereafter.

Reason: To safeguard the occupiers of adjacent properties from undue noise or other associated disturbance having regard to policy H13 of the North Tyneside Unitary Development Plan 2002.

20. The noise rating level from the combined plant and equipment installed at the site shall not exceed the lowest background noise level of 35 dB(A) at the nearest sensitive receptors as specified in noise report reference A096354 dated February 2016.

Within 1 month of the installation of any plant and equipment acoustic testing shall be undertaken to verify compliance with this condition and submitted for written approval. The plant shall thereafter be maintained in working order.

Reason: To safeguard the occupiers of adjacent properties from undue noise or other associated disturbance having regard to policy H13 of the North Tyneside Unitary Development Plan 2002.

21. Noise No Tannoys Externally Audible                      NOI02      \*H13

22. The floodlighting or other form of external lighting shall be installed and thereafter retained in accordance with the Carpark Lighting Layout Plan Rev B submitted as part of the application.

Reason: In the interest of visual amenity and/or highway safety having regard to policy H13 of the North Tyneside Unitary Development Plan 2002.

23. Landfill Gas Investigate No Devel Before                      GAS01      \*

24. Underground Gas Investigate                                      GAS02      \*

25. Underground Gas Design to Guard Against                      GAS03      \*

26. Contaminated Land Investigation Housing CON01 \*

27. All recommendations set out in Section 7 (7.1 & 7.2) of the Phase 1 Habitat Survey Report must be implemented as part of the scheme.

Reason: In the interests of ecology and biodiversity.

28. No vegetation removal shall take place during the bird nesting season unless a survey by a suitably qualified ecologist has confirmed the absence of nesting birds immediately prior to works commencing

Reason: In the interests of ecology and biodiversity.

29. Four bird boxes shall be provided on the new building prior to its occupation. Details of the boxes and their locations shall be submitted to the Local Authority for approval prior to the use of the building commencing.

Reason: In the interests of ecology and biodiversity.

30. A detailed landscaping plan shall be submitted to and approved in writing by the Local Authority prior to the occupation of the building hereby permitted. This shall include locally native species within the planting mixes. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the buildings or the completion of the development, whichever is the sooner, and any trees or plants which, within a period of five years from the completion of the development, die are removed or become seriously damaged or diseased, shall be replaced in the current or first planting season following their removal or failure with others of similar size and species, unless the Local Planning Authority first gives written consent to any variation.

Reason: In the interests of amenity and ecology and to ensure a satisfactory standard of landscaping having regard to policy E14 of the North Tyneside Unitary Development Plan 2002.

31. No ground works or development shall commence until a programme of archaeological fieldwork (to include evaluation and where appropriate mitigation excavation) has been completed. This shall be carried out in accordance with a specification provided by the Local Planning Authority.

Reason: The site is located within an area identified as being of potential archaeological interest and this is required to ensure that any archaeological remains on the site can be preserved wherever possible and recorded, in accordance with paragraph 141 of the NPPF and saved UDP policy E19/6.

32. The building shall not be occupied/brought into use until the final report of the results of the archaeological fieldwork undertaken in pursuance of condition 32 has been submitted to and approved in writing by the Local Planning Authority.

Reason: The site is located within an area identified as being of potential archaeological interest.

33. The building shall not be occupied/brought into use until a report detailing the results of the archaeological fieldwork undertaken has been produced in a form suitable for publication in a suitable and agreed journal and has been submitted to and approved in writing by the Local Planning Authority prior to submission to the editor of the journal.

Reason: The site is located within an area identified in the Unitary Development Plan as being of potential archaeological interest and the publication of the results will enhance understanding of and will allow public access to the work undertaken in accordance with paragraph 141 of the NPPF and saved UDP policy E19/6

34. The construction works shall be implemented in accordance with the shaft treatment measures detailed on drawing number S0002 and the proposed foundations detailed on drawing number S0001 (both prepared by PF Dwyer Ltd).

Reason: In the interests of ground stability.

35. Prior to occupation of the development the applicant shall carry out the following works, which are to be agreed with North Tyneside Council:

- Provision of new access
- Upgrade of footpath on Southgate abutting the site
- Upgrade of existing crossing on Northumbrian Way to pedestrian/cycle refuge
- Localised road widening where appropriate
- Associated drainage
- Associated street lighting
- Associated road markings
- Associated signage
- Associated legal notice

Reason: To ensure the development is satisfactory in terms of the impact on the highway having regard to Policy H11 of the North Tyneside Council Unitary Development Plan 2002.

**Statement under Article 35 of the Town & Country (Development Management Procedure) (England) Order 2015):**

The Local Planning Authority worked proactively and positively with the applicant to identify various solutions during the application process to ensure that the proposal comprised sustainable development and would improve the economic, social and environmental conditions of the area and would accord with the development plan. These were incorporated into the scheme and/or have been secured by planning condition. The Local Planning Authority has therefore implemented the requirements in Paragraphs 186-187 of the National Planning Policy Framework.

## **Informatives**

Contact ERH Construct Highway Access (I05)

Contact ERH Works to Footway (I08)

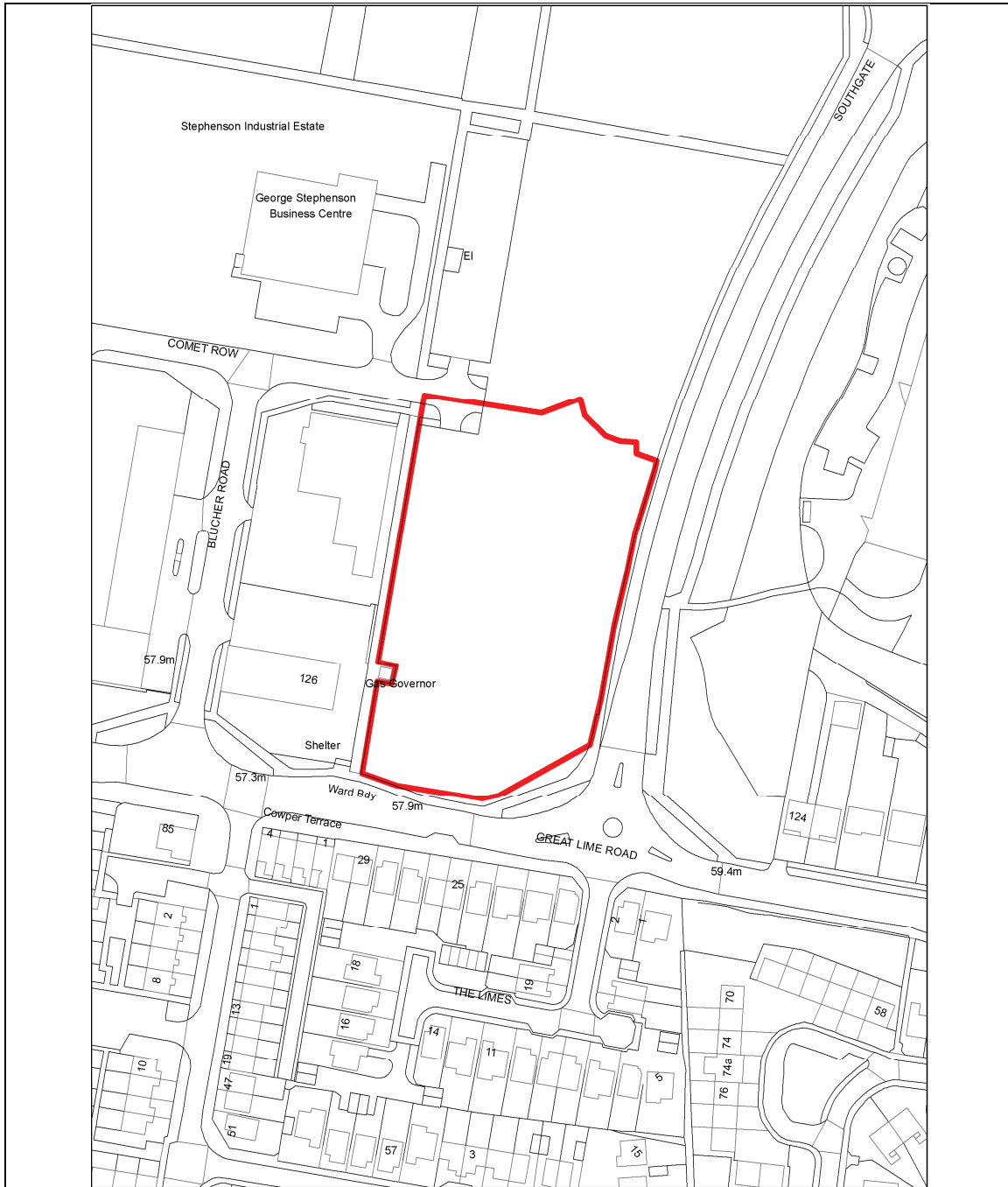
No Doors Gates to Project Over Highways (I10)

Do Not Obstruct Highway Build Materials (I13)

Street Naming and numbering (I45)

Highway Inspection before dvlpt (I46)

Consent to Display Advertisement Reqd (I04)



**Application reference: 15/01708/FUL**  
**Location: Land At Former Chan Buildings, Comet Row, Stephenson Industrial Estate, Killingworth**  
**Proposal: Erection of a foodstore (Use Class A1) and associated works including parking and landscaping. Additional Coal Mining information received 18.12.2015**

Not to scale

Date: 05.02.2016

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**Item 5.1**  
**Appendix 1 – 15/01708/FUL**

**Consultations/representations**

1.0 Internal Consultees

1.1 Highways Network Manager

1.1 This application is for the erection of a food store (Use Class A1) & associated works including parking and landscaping. The site is accessed from Southgate via a new access that may be also be utilised by the site to the north if further development is brought forward.

1.2 A Transport Assessment (TA) and Travel Plan (TP) were submitted as part of the planning application that analysed junctions in the vicinity of the site as well as the proposed site access. Whilst it is acknowledged that there some capacity issues on the surrounding network, the impact of the development is not considered to be severe.

1.3 The parking provided does not meet the maximum parking standards set out in LDD12; however the applicant has submitted evidence based on the existing Lidl stores at other locations which demonstrates that the parking as a whole should be adequate for the needs of the development.

1.4 Servicing will be carried out via the main site access and the service area is located to the north of the site. It has been demonstrated that appropriate service vehicles can turn safely within the site and enter and exit in a forward direction. **The applicant has advised that there will be one or two dedicated delivery vehicles per day and that each delivery will last approximately 45 minutes. Reversing alarms will be switched off and no banksman will be utilised. The proposed servicing arrangements are considered acceptable in terms of highway safety and in line with other stores.**

1.5 For the above reasons outlined above and on balance we recommend that the application be approved subject to conditions.

1.6 Recommendation - Conditional Approval

1.7 The applicant will be required to enter into a Section 278 Agreement with the Local Authority to carry out the following works:

Provision of new access  
Upgrade of footpath on Southgate abutting the site  
Upgrade of existing crossing on Northumbrian Way to pedestrian/cycle refuge  
Localised road widening where appropriate  
Associated drainage  
Associated street lighting  
Associated road markings  
Associated signage  
Associated legal notice



1.8 The applicant will be required to formally close all roads and footpaths within the site that are no longer required under Section 247/257 of the Town and Country Planning Act 1980.

1.9 Conditions:

ACC10 - New Access: Access before Devel  
ACC20 - Visibility Splay: Detail, Before Devel (\*2.4m by 43m by 0.6m)  
ACC25 - Turning Areas: Before Occ  
PAR04 - Veh: Parking, Garaging before Occ  
REF01 - Refuse Storage: Detail, Provide Before Occ  
SIT01 - Building Site Compound Storage  
SIT02 - Building Site: Construction Access  
SIT03 - Dust suppression  
SIT04 - Lorry routeing

1.10 Prior to works commencing a scheme for the provision of secure undercover cycle parking shall be submitted to and approved by in writing the Local Planning Authority. Thereafter, this scheme shall be implemented in accordance with the approved details before the development is occupied.  
Reason: In the interests of highway safety.

1.11 Notwithstanding the Interim Travel Plan already submitted, within three months of occupation the developer shall submit a Final Travel Plan within six months of the development opening that takes into account staff surveys of travel patterns.  
Reason: To accord with Central Government and Council Policy concerning sustainable transport.

1.12 Prior to occupation of the development a car park management strategy for the site shall be submitted to and agreed in writing by the Local planning Authority. Thereafter the management of the car park shall be carried out in accordance with the agreed details.  
Reason: To ensure adequate parking facilities for the site and in the interests of highway safety.

1.13 No development shall commence until details of a surface water management scheme have been submitted to and approved by in writing the Local Planning Authority. Thereafter, this scheme shall be implemented in accordance with the approved details and before the development is occupied.  
Reason: In the interests of surface water management

1.14 Informatives:

I05 - Contact ERH: Construct Highway Access  
I08 - Contact ERH: Works to footway.  
I10 - No Doors/Gates to Project over Highways  
I13 - Don't obstruct Highway, Build Materials  
I45 - Street Naming & Numbering

146 - Highway Inspection before dvlpt

### 2.0 Local Lead Flood Authority

2.1 This application is for the erection of a food store (Use Class A1) and associated works including parking and landscaping.

2.2 The developer is proposing to discharge into the nearby surface water sewer at a restricted 5l/s with the surface water from the site being attenuated within storage tanks in the car park.

2.3 Recommendation - Conditional Approval

2.4 Condition:

2.5 No development shall commence until a scheme for surface water management has been submitted to and approved by in writing the Local Planning Authority. Thereafter, this scheme shall be implemented in accordance with the approved details before the development is occupied.

Reason: In the interests of effective surface water management

### 3.0 Head of Regeneration

**3.1 The site is located on employment land which has been difficult to bring forward for employment use. The immediate area surrounding the site includes established residential and new build all within walking distance of the district centre of Killingworth.**

**3.2 Although the site is located outside of the town centre, given that the site has been difficult to develop for employment use and has been vacant for a number of years it is considered that the development would have regeneration benefits for the area. The Regeneration Team would support the scheme as long as the proposal adhered to wider Council priorities and Planning legislation.**

### 4.0 Manager of Environmental Health (Pollution)

4.1 I have concerns with regard to noise from the proposed food store affecting neighbouring residential properties on Great Lime Road and potential new residential properties to be located to the north of the site as an outline application for residential development has been granted planning consent at the Former Stephenson House site.

4.2 I have viewed the noise assessment report. I have concerns that noise monitoring was only carried out during the daytime and evening at representative store opening times. Weather conditions during the noise monitoring were variable with some periods of rain and wind speeds increasing to beyond the recommended 5 ms<sup>-1</sup>. BS4142 states that caution should be exercised when making measurements in poor weather conditions such as wind speeds greater than 5ms<sup>-1</sup>.

4.3 The noise survey was carried out to obtain only background noise levels for morning, mid afternoon and evening. No noise monitoring has been carried out during

the late evening or night time period when background noise levels will reduce although plant and equipment will operate continuously. Noise from external refrigeration plant has also not been considered within the assessment, as the noise consultant states that plant associated with the operation of the store are not yet finalised and cannot be quantitatively assessed within the scope of this report.

4.4 The noise from the refrigeration plant may require mitigation. This can be addressed by condition so that the rating level from external plant at nearest residential premises as measured in accordance with BS4142 does not exceed the existing background noise levels to ensure no deterioration in the existing background noise levels. This condition needs to be applicable to all external plant including air conditioning units, extraction units and refrigeration plant.

4.5 The noise assessment has considered customer noise only in relation to car park noise. The BS4142 assessment has incorporated a number of character corrections, but these have not taken into account potential noise from the use of the car park as impulsivity is scored as 0, but loading of goods by customers will occur in the car park e.g. clashing of trolleys, slamming of car boots and doors etc. The provision of a supermarket in this area will result in an intensification of use of the area from customers using the car park and as such there will be associated impact noise from slamming doors and trolleys. It will be necessary to consider the mitigation measures to either attenuate or control the noise from customer noise. I would suggest that operating times of the shops should be restricted to between 07:00 and 22:00 hours due to the close proximity to residential premises.

4.6 The applicant has clarified that there will be no bakery facility provided, only re-heating of pre-baked goods in a small heating oven. Potential risks of cooking odours impacting on neighbouring residential properties are likely to be minimal.

4.7 Although the site is located on the boundary of an industrial estate there are areas of the estate that have in principal been re-designated for residential use. The land located to north of the application site had outline approval for a residential care home and beyond that area at the former Stephenson house outline planning has been given for residential development. I would therefore have concerns with regard to noise from deliveries affecting the proposed residential properties to the north of the site that would be adjacent to the delivery bay. No consideration was given to the maximum noise levels associated with the delivery activity to determine whether mitigation is necessary. I disagree with the noise consultant on the assessment of delivery noise during the night. The noise report for night time deliveries has been considered in relation to WHO guidelines for internal noise ingress for sleep disturbance rather than assessed using BS4142. It is my considered opinion that if assessed in accordance to BS4142 there is likely to be a significant adverse impact for proposed residential properties to the north of the site.

4.8 The applicant has re-considered the deliveries hours and recommended 06:00 to 23:00 hours Monday to Saturday rather than 24 hour deliveries as indicated in the planning application. Given the location of the site on the boundary of an existing industrial estate and the distance to residential housing these hours are considered acceptable on the basis that acoustic screening is

provided to the side of the loading bay, rather than the 2m high palisade fencing proposed, to assist in mitigating associated delivery noise and that a 'quiet' deliveries scheme is implemented via a planning condition.

4.9 If planning approval is to be given I would recommend the following:

4.10 HOU03 07:00 to 22:00 hours Monday to Saturday and 10:00 - 18:00 Sundays and Bank Holidays.

4.11 Deliveries to and from the loading bay shall be restricted to 06:00 hours and 23:00 hours Monday to Saturdays and between 09:00 hours and 19:00 hours on Sundays and Bank Holidays.

4.12 A noise scheme shall be submitted, approved by Planning in writing and thereafter implemented with regard to the delivery operations. The noise scheme shall be based On the Department of Transport Quiet Delivery Good Practice Guidance for Retailers (April 2014).

4.13 Provide details of the 2m high acoustic fence to the delivery bay to protect the proposed residential properties to the north of the site and thereafter install and maintain prior to occupation of building.

4.14 EPL03

4.15 Noise from External Plant and Equipment - For external plant and equipment a noise scheme must be submitted in accordance with BS4142 to ensure that the rating level at the boundary of the nearest residential premises does not exceed the background noise level for the representative operating times of the plant and equipment.

4.16 It will be necessary following installation of the plant and equipment that acoustic testing is undertaken to verify compliance with this condition within one month of its installation and submitted for written approval prior to the operation of the plant and thereafter maintain in working order.

NOI02

HOU04

SIT03

LIG01 - to be installed and thereafter retained in accordance to the Carpark Lighting Layout Plan Rev B submitted as part of the application.

**4.17 Manager of Environmental Health (Pollution) continued - I have viewed the additional information submitted by the applicant for the above proposed food store**

**4.18 Delivery Noise**

**4.19 Lidl have indicated in letter dated 1<sup>st</sup> February by Rapleys, Planning Consultants that delivery noise will be reduced to a minimum by the**

following:

**4.20 No refrigeration or chiller units are fitted to HGV vehicles serving the store. It is advised all the chilled and frozen goods are stored into a temperature controlled unit fitted into the vehicle. Good practice guidance by the Department of Transport for “Quiet Deliveries” for Retailers recommends that refrigeration unit motors on HGV’s are switched off in noise sensitive areas.**

**4.21 Impact noise from docking by dropping of the tailgate is addressed by the gradient ramp and manual dock levellers in the loading bay, negating the need for noisy scissor or tail lifts as indicated in letter dated 1<sup>st</sup> February by Rapleys.**

**4.22 The full details of the service yard management plan are to be agreed by condition. It must incorporate the statements made in the letter dated 1<sup>st</sup> February by Rapleys planning Consultants. The plan must specify:**

- That the refrigeration units (on the HGV) are switched off during deliveries.**
- Ensuring goods are off loaded from the vehicle directly into the internal loading bay**
- No off-loading is permitted to be carried out within the yard area.**
- No reversing alarms to be used between 06:00 and 08:00 hours.**
- Details of the buffering to be provided around the docking doors to minimise noise breakout from the doors.**

#### **4.23 Noise from External Plant and Equipment**

**4.24 Additional noise monitoring has been carried out to consider plant noise to the adjacent land that has been designated in principle for residential housing. Plans have been provided to identify the location of plant.**

**4.25 The plant will consist of air conditioning plant to the north west corner of roof and some plant will be located on western boundary. Noise modelling was carried out to show predicted noise levels.**

**4.26 This has confirmed the background daytime and night time noise levels for the area immediately adjacent to the loading bay. Plant noise has been assessed and a rating level for plant indicated within the noise report. This has determined that plant noise can be kept to a level not to exceed existing background noise levels.**

**4.27 I would therefore recommend the following condition to replace previously recommended condition for plant noise, if planning consent is to be given.**

**4.28 The noise rating level from the combined plant and equipment installed at the site shall not exceed the lowest background noise level of**

**35 dB(A) at the nearest sensitive receptors as specified in noise report reference A096354 dated February 2016.**

**4.29 It will be necessary following installation of the plant and equipment that acoustic testing is undertaken to verify compliance with this condition within one month of its installation and submitted for written approval prior to the operation of the plant and thereafter maintain in working order.**

4.30 Manager of Environmental Health (Contamination)

4.31 Based on historic land use the following should be attached:

Gas 01  
Gas 02  
Gas 03  
Con 01

5.0 Landscape Architect

5.1 The development site inhabits a prominent position on the south-eastern corner of Stephenson Industrial Estate and adjacent to the busy junction (roundabout) of Great Lime Road and Southgate. To the east of the site boundary, across Southgate (Road) is a linear belt of open grassland with semi-mature trees combining a cycleway and footpath.

5.2 The southern boundary is contained by Great Lime Road and The Limes housing development, with the larger settlement of Forest Hall beyond. The site is predominantly flat across its area and has some elements remaining of the original estate (conifer) planting along its northern boundary. The proposal looks to remove existing tree group on the site. However the scale of the project does not allow for the tree group to be retained and suitable replacement planting has been proposed along the frontage with Great Lime Road. This will maintain the character and provide a buffer to the development from the road. Replacement trees have been specified as large specimens (16-18cm girth), which will provide some instant impact from the outset.

5.3 The boundary landscaping inhabits some fairly narrow beds and leftover fillets of the car parking areas. Where space is limited, hedgerows have been proposed allowing continuity of planting to the boundaries of the site. Amended drawings show a range of plant species suitable for site and a number of trees are proposed to the boundaries where their visual contribution will be most significant.

5.4 Earlier issues raised regarding boundary treatment are now acceptable with the proposed timber trip rail being used as standard across all their new food stores and is considered an appropriate boundary treatment.

5.5 The landscape drawing and supporting documentation is acceptable.

## 6.0 Biodiversity Officer

6.1 I have no objection to the above application subject to the conditions below being attached to the application:-

6.2 All recommendations set out in Section 7 (7.1 & 7.2) of the Phase 1 Habitat Survey Report must be implemented as part of the scheme.

6.3 No vegetation removal will take place during the bird nesting season unless a survey by a suitably qualified ecologist has confirmed the absence of nesting birds immediately prior to works commencing

6.4 Four bird boxes to be provided on the new building. Details of boxes and their locations to be submitted to the Local Authority for approval prior to development commencing.

6.5 A detailed landscaping plan must be submitted to the Local Authority for approval prior to development commencing to include locally native species within the planting mixes.

## 7.0 Tyne and Wear Archaeologist

7.1 An archaeological desk based assessment has been submitted. There is also a previous report from 2012.

7.2 I asked that the Chan Building was archaeologically recorded before demolition back in 2012 (12/00542/OUT) because it was a Ryder and Yates design (two of their buildings in Killingworth are listed, the British Gas Research Station and their former office and two are on the Local List).

7.3 It is therefore really disappointing to find that this non-designated heritage asset has been demolished without record.

7.4 All of the recently demolished Ryder and Yates buildings in Killingworth, including two on them Local List (Stephenson House and Norgas House), have been lost without record, which I think is pretty tragic. I acknowledge however that planning permission is not required for demolition.

7.5 The site is of industrial archaeological interest. It includes the site of West Moor Colliery and Burradon and Killingworth Waggonways. Before the industrial development, the site would have formed part of Killingworth Moor, the medieval common land.

7.6 West Moor Pit opened in 1802. The first edition Ordnance Survey map of 1858 shows a row of miners cottages (Quality Row), a smithy, colliery buildings, a cistern, crank, gin and the pit shaft within the site. It closed in 1882 when the main shaft collapsed during repairs. The association of West Moor Pit with George Stephenson (who lived in nearby Dial Cottage) and the fabrication of early locomotives here, enhances the significance of the mine.

7.7 Killingworth Waggonway was built in 1765 to link the Killingworth Moor Colliery to staiths at Willington Quay. It was extended north-west of West Moor Pit in 1805.

Burradon Waggonway was built in 1819-20 to link Killingworth Waggonway at West Moor Pit to Burradon Colliery. It would have had iron rails on stone sleeper blocks. It remained in use until the 1940s.

7.8 Well preserved waggonway remains would be considered to be of regional significance.

7.9 Archaeological work required - The archaeological desk based assessment recommends a watching brief. I do not agree with this form of mitigation, particularly given the site's link to George Stephenson. Archaeological evaluation trial trenching is required. On figure 17 of the 2012 archaeological desk based assessment, four trenches are recommended to investigate the sites of the Burradon Waggonway, smithy and colliery buildings. If archaeological remains are found in the preliminary trenches, further archaeological excavation will be required.

7.10 Archaeological Excavation and Recording Condition - No ground works or development shall commence until a programme of archaeological fieldwork (to include evaluation and where appropriate mitigation excavation) has been completed. This shall be carried out in accordance with a specification provided by the Local Planning Authority.

Reason: The site is located within an area identified as being of potential archaeological interest.

7.11 The investigation is required to ensure that any archaeological remains on the site can be preserved wherever possible and recorded, in accordance with paragraph 141 of the NPPF, Local Plan S9.11, Policy DM9.12 and DM9.13 and saved UDP policy E19/6.

7.12 Archaeological Post Excavation Report Condition - The building(s) shall not be occupied/brought into use until the final report of the results of the archaeological fieldwork undertaken in pursuance of condition ( ) has been submitted to and approved in writing by the Local Planning Authority.

Reason: The site is located within an area identified as being of potential archaeological interest.

7.13 The investigation is required to ensure that any archaeological remains on the site can be preserved wherever possible and recorded, in accordance with paragraph 141 of the NPPF, Local Plan S9.11, Policy DM9.12 and DM9.13 and saved UDP policy E19/6

7.14 Archaeological Publication Report Condition - The buildings shall not be occupied/brought into use until a report detailing the results of the archaeological fieldwork undertaken has been produced in a form suitable for publication in a suitable and agreed journal and has been submitted to and approved in writing by the Local Planning Authority prior to submission to the editor of the journal.



Reason: The site is located within an area identified in the Unitary Development Plan as being of potential archaeological interest and the publication of the results will enhance understanding of and will allow public access to the work undertaken in accordance with paragraph 141 of the NPPF, Local Plan S9.11, Policy DM9.12 and DM9.13 and saved UDP policy E19/6

#### 8.0 Conservation Officer

8.1 No objections.

#### 9.0 Representations

9.1 One letter of objection received from a resident of Great Lime Road. The objection can be summarised as following:

9.2 Traffic – this area is already overloaded with traffic from all directions. School Run time is an accident waiting to happen.

9.3 Entrance – The proposed entrance to the site is directly opposite the school. Could the entrance not go via Blucher Road and Comet Row

9.4 Supermarkets – This is yet another supermarket to add to Morrisons, Asda, Aldi and 2 smaller shops in Forest Hall. This is more than adequate in my opinion.

#### **10.0 Letter of objection from Bellway Homes (received 26.02.2016 and prior to the additional noise information referenced in the proposal section of the report)**

**10.1 One letter of objection on behalf of Bellway Homes. Bellway are progressing a residential development proposal for approximately 90 homes on brownfield land immediately adjacent to the north of the application site. A pre-application submission has been made to the Council and Bellway's proposals are already well progressed.**

**10.2 The site to the north already has an extant planning permission for residential development. It is also a draft housing allocation in the emerging North Tyneside Local Plan and its future development for housing will contribute positively to the Council's 5 year housing land supply and targets for housing development on brownfield sites. In this regard it is important to ensure that development of this area is planned comprehensively and that future development proposals are not prejudiced.**

**10.3 Bellway has been advised by officers that the current proposal by Lidl would likely prejudice future proposals for residential development on the site to the north. Whilst Bellway do not object to the principle of the proposed supermarket they are understandably concerned that the noise impact of the current Lidl proposals on the amenity of future residential occupiers has not been properly considered.**

**10.4 The noise survey submitted to support the Lidl application does not take into account any future residential development to the north and as such the design and siting of the supermarket and service area along with deliveries, external plant and vehicle movements on neighbouring residents has not been properly considered.**

**10.5 Bellway are keen to ensure that the Lidl store and future housing are able to co-exist to the mutual benefit of both companies and to the Council who would presumably also wish to avoid future complaints from residents.**

**10.6 In order to ensure that the design of the Lidl store and the proposed housing incorporates suitable mitigation measures where necessary, we propose that the application is deferred to a later Planning Committee. This will allow time for technical assessments to be undertaken to determine the impact on residential amenity and will enable the two developers to work together on a comprehensive and joined up noise mitigation solution that will enable both schemes to progress unhindered.**

10.7 External Consultees

10.8 Northumbrian Water

In making our response Northumbrian Water assess the impact of the proposed development on our assets and assess the capacity within Northumbrian Water's network to accommodate and treat the anticipated flows arising from the development. We do not offer comment on aspects of planning applications that are outside of our area of control.

10.9 Having assessed the proposed development against the context outlined above NWL have the following comments to make:

10.10 We would have no issues to raise with the above application, provided the application is approved and carried out within strict accordance with the submitted document entitled "*Flood Risk Assessment*". In this document it states that foul flows from the proposed development will discharge to the existing combined sewer at manhole 2402, whilst a restricted surface water discharge of 5l/sec will discharge to the existing surface water sewer at manhole 2403.

10.11 We would therefore request that the *Flood Risk Assessment* form part of the approved documents as part of any planning approval and the development to be implemented in accordance with this document.

10.12 It should be noted that we are not commenting on the quality of the flood risk assessment as a whole or the developers approach to the hierarchy of preference. The council, as the Lead Local Flood Authority, needs to be satisfied that the hierarchy has been fully explored. Our comments simply reflect the ability of our network to accept flows if sewer connection is the only option.

## 11.0 The Coal Authority

11.1 The Coal Authority is a non-departmental public body sponsored by the Department of Energy and Climate Change. As a statutory consultee, The Coal Authority has a duty to respond to planning applications and development plans in order to protect the public and the environment in mining areas.

11.2 The Coal Authority Response: Material Consideration - The application site falls within the defined Development High Risk Area; therefore within the application site and surrounding area there are coal mining features and hazards which need to be considered in relation to the determination of this planning application, specifically four recorded mine entries, a thick coal outcrop and associated unrecorded coal workings at shallow depth.

11.3 The Coal Authority previously objected to this planning application in a letter to the LPA dated 2 December 2015. Whilst the submitted Geo-environmental Appraisal (dated May 2015, produced by Dunelm) was able to discount any risks posed by unrecorded shallow coal workings, the objection was raised on the grounds that the application layout had not been properly informed by the constraints imposed on the site by the mine entries and that no justification had been demonstrated as to why the site cannot be developed in an alternative manner. Consequently, our recommendation was that the layout should be reconsidered and details provided of the remediation and treatment proposed for the mine entries.

11.4 Building over or within the influencing distance of a mine entry will only be permissible when expert advice allows a suitable engineering design to be developed and agreed to take account of all the relevant safety and environmental risk factors including gas and mine-water.

11.5 The Coal Authority appreciates that it is not always possible to revise a development layout and confirms receipt of the Remediation Strategy (December 2015, prepared by Dunelm Geotechnical & Environmental Limited), which provides justification for the layout; a proposed mineshaft remediation scheme and the design of the foundations to take into account the treated shafts. In addition, and whilst the Report recommends a site strip to locate the remaining shaft not identified, along with its subsequent treatment, as confirmed by The Coal Authority previously, it is possible that it may be duplicated from different evidence sources.

11.6 On the basis that the three mine entries which would be located beneath the building's footprint have all been located and that the treatment schemes and subsequent foundation solutions have been agreed with the Coal Authority's Permitting Manager, this would now allow the LPA to impose a prescriptive condition on any consent granted to ensure that those details approved should be implemented accordingly. The Coal Authority would now, in this case, be willing to withdraw its objection, subject to appropriately worded planning conditions being imposed on any consent granted.

11.7 The Coal Authority Recommendation to the LPA - The Coal Authority considers that the development layout as identified on drawing number S0001 (prepared by PF Dwyer Ltd), along with the applicant's commitment to stabilise the recorded mine entries prior to the commencement of development, as detailed in the Remediation Strategy (December 2015, prepared by Dunelm Geotechnical & Environmental Limited), are sufficient to ensure that these hazards pose no significant risk to either the proposed structures or public safety. The Coal Authority therefore withdraws its objection to the proposed development.

11.8 However, The Coal Authority recommends that the LPA impose a Planning Condition should planning permission be granted for the proposed development requiring the shaft treatment measures detailed on drawing number S0002 and the proposed foundations detailed on drawing number S0001 (both prepared by PF Dwyer Ltd) to be implemented prior to the commencement of development/integral to it.

The Coal Authority considers that the content and conclusions of the additional information received are sufficient for the purposes of the planning system in demonstrating in demonstrating that the application site can be made safe and stable for the proposed development with the proposed mitigation measures.

## 12.0 Civil Aviation Authority

12.1 The proposed development has been examined from a technical safeguarding aspect and does not conflict with our safeguarding criteria. Accordingly, NATS (En Route) Public Limited Company ("NERL") has no safeguarding objection to the proposal.

12.2 However, please be aware that this response applies specifically to the above consultation and only reflects the position of NATS (that is responsible for the management of en route air traffic) based on the information supplied at the time of this application. This letter does not provide any indication of the position of any other party, whether they be an airport, airspace user or otherwise. It remains your responsibility to ensure that all the appropriate consultees are properly consulted.

12.3 If any changes are proposed to the information supplied to NATS in regard to this application which become the basis of a revised, amended or further application for approval, then as a statutory consultee NERL requires that it be further consulted on any such changes prior to any planning permission or any consent being granted.

HP/rth/696/200/1

01 February 2016

Cllr Mulvenna  
North Tyneside Council  
Planning (1L),  
Quadrant East,  
The Silverlink North,  
Cobalt Business Park,  
North Tyneside,  
NE27 0BY

Dear Cllr Mulvenna,

RE: PLANNING APPLICATION REF: 15/01708/FUL - PROPOSED DEVELOPMENT OF A LIDL FOODSTORE WITH ASSOCIATED ACCESS AND CAR PARKING AT THE FORMER CHAN BUILDINGS, COMET ROW, STEPHENSON INDUSTRIAL ESTATE, KILLINGWORTH, NE12 6DS

Following deferral of the above Planning Application at the Planning Committee meeting on Tuesday 26<sup>th</sup> January, on behalf of my client Lidl, I would like to take this opportunity to provide clarity on the points raised by Members in respect of the application.

The application attracted no objections from Statutory Consultees. Furthermore, the applicant worked closely with Officers to agree minor alterations and conditions, to ensure the proposals were fully supported. Consequently, having secured a recommendation for approval by Officers we are extremely disappointed that Members were not minded to grant the application subject to the agreed Section 106 Contributions.

Having attended the Planning Committee, we believe Members had all of the necessary information available to them to determine the application and understood that Members were not adverse to the development since no concerns had previously been raised.

In the instance that an application is approved, it is common practice to provide additional information that is not available at the application stage through the stipulation of condition and their subsequent agreement/approval by the relevant Officers prior to installation/implementation.

In this context, the information requested by Members should not be considered material in the determination of this application as the matter is dealt with sufficiently by condition. Consequently, we find it difficult to comprehend why the application was deferred.



For ease of reference, I have summarised the main points highlighted by Members below and provide a response to each. This information is to be provided to Members for consideration prior to the Planning Committee Meeting on 16 February 2016.

1. Members raised concerns over the noise impact upon future development to the north.
2. Members requested that a Servicing Management Plan be provided to understand the impact of deliveries on highway safety.
3. Members requested that further information is provided on details and location of plant machinery.

#### 1.Noise impact on proposed future development.

The Noise Assessment prepared by Enzygo in support of the application robustly assesses both the impact of the development on existing and also that on proposed development. In respect of existing development, the report concluded that noise associated with typical daytime activities associated with the store would provide “an indication of the specific sound source having a low impact” and that there are no significant issues relating to noise impacts that should restrict the proposals from being granted permission on grounds of noise.

In addition, the Noise Assessment also considers the impact that the proposal may have on the future residential development site to the north and concluded that acoustic mitigation would be required to control overnight noise from the service yard.

Following consideration of the application and the Noise Assessment by the Council’s Environmental Health Officer, further discussions took place over the restriction of delivery hours, and the provision of suitable measures to address this and mitigate the development against development to the north.

As a result, no objection was raised subject to the following conditions:

- Condition 17: Deliveries to and from the loading bay shall only take place between the hours of 06:00 hours and 23:00 hours Monday to Saturdays and between 09:00 hours and 19:00 hours on Sundays and Bank Holidays.
- Condition 18: Prior to the use of the building hereby permitted, a noise scheme for delivery operations shall be submitted to and approved by writing to by the Local Planning Authority.
- Condition 19: Prior to the use of the building hereby permitted, details of the 2m high acoustic fence to the delivery bay to protect the proposed residential properties to the north of the site shall be submitted to and approved in writing by the Local Planning Authority.

Conditions 18 and 19 will only be discharged by the Council if the details provided are acceptable to the Environmental Health Officer. As such, in conjunction with Condition 17, they are



considered appropriate and sufficient to protect the amenity of neighbouring residents; both existing and proposed.

It must be emphasised that Bellway Homes have not yet submitted a planning application to the Council for consideration and therefore, the site is not committed for residential development. Consequently, it is for Bellway Homes to consider the impact that the proposed Lidl store, if approved, will have on this part of the site and to implement a mitigation strategy for noise if, and as required. It is not reasonable for Lidl to consider planning for all eventualities which may come forward for the site to the north.

Nonetheless, Lidl have taken all the necessary measures to sufficiently consider the impact that the foodstore may have on any future residential development, a position which has been considered acceptable by the Council's Environmental Health Officer.

Lidl have been in direct dialogue with Bellway Homes over the last 6 months to achieve a strategic and holistic approach to facilitate the delivery of the proposed access point off Southgate. The access point as proposed, serves both parcels of land to the agreement and benefit of each party. As such, Bellway Homes have been aware of the proposed development for some time.

In this context, it was wholly unreasonable that an objection is presented to Members, at such a late stage and outside the consultation period for the application.

In terms of the comments raised, which suggested a 'masterplan approach' should be encouraged to facilitate development of the wider site in conjunction with Bellway, it must be acknowledged that Lidl have fully engaged pragmatically with Bellway in every respect.

## 2. Impact of deliveries on highways safety

A detailed Servicing Management Plan will be provided to the Council prior to the next Committee Meeting. In the interim, I would like to draw to your attention the relevant information included within the Planning Statement which may assist in addressing Members queries.

As stated in the Planning Statement at paragraph 5.34, the store will have one delivery per day with a maximum of two deliveries per day on some occasions which will take place over a 45 minute delivery window. Delivery vehicles have the ability to deliver goods to store and remove any stored waste as required eliminating the need for numerous HGV vehicles to visit the store.

I refer to paragraph 4.9 of the accompanying Planning Statement which states that '*Delivery vehicles will drive into the site in forward gear and reverse into the delivery bay, where products will be deposited within the warehouse*'. The tracking plan and justification for the proposed delivery route taken is included within the accompanying Transport Assessment. The report clarifies at paragraph 10.6 that '*The servicing ramp, located on the northern side of the store will be accessed via the new access off Southgate Road, with the delivery lorry able to drive to and from the public highway in a forward gear and would undertake any reversing in a safe manner at the northern side of the car park.*'



This is a standard arrangement for the majority of new Lidl stores across the country and although a banksman will not be present during deliveries, given the limited frequency of deliveries, it is considered a safe and efficient solution to managing delivery operations.

This is a view shared by the Council's Highways Officer.

Paragraph 5.35 adds that it is a company policy for vehicles engines to be switched off to reduce noise and disturbance. New stores feature graded ramps in the delivery bay and manual dock levellers, negating the need for noisy scissor or tail lifts. Furthermore, HGV vehicles include individual temperature controlled units to store frozen and chilled goods which can be loaded directly onto the vehicle. This removes the need for noisy air conditioning units on the vehicle.

All store waste will be stored internally located within the warehouse area to the rear of the store and will be collected by the same delivery vehicle. The waste will then be delivered directly to Lidl's nearest Regional Distribution Centre to be sorted, therefore, minimising disruption wherever possible.

### 3.Details and location of plant

Members requested that details of plant and machinery be provided upfront prior to determination of the application.

Lidl would like to clarify that if details and positioning of plant including re Fridgeration condensers and air conditioning units were available at the time of submission of the planning application, this information would have been provided.

However, the application proposed, comprises one of Lidl's new format model stores and is currently being rolled out across the country. At present, there are only a very limited number of new format stores in operation as the majority remain either at the planning or construction stage. As such, Lidl are still in the initial stages of determining the location and design for their plant specification, and therefore have limited information available.

In accordance with proposed Condition 20 of the Committee report, these details must be provided to, and approved in writing by the Council prior to installation.

Further to this, Condition 21 requires a noise assessment to be undertaken prior to the installation of any external plant and equipment to ensure that the rating level at the boundary of the nearest residential premises does not exceed the background noise level for the representative operating times of the plant and equipment.

The location and the noise emitted from plant will therefore be restricted by condition which can only be discharged on agreement with the Environmental Health Officer. Therefore, the amenity of existing and future residents will be sufficiently protected.

Notwithstanding the above, Lidl have instructed their Noise Consultant to undertake the required surveys, however, given the short timescale for turnaround of this information and due to the





necessary weather conditions required to undertake the noise surveys, providing an updated noise assessment may not be feasible.

Plans will, however, be provided to the Council prior to the Committee Meeting indicating the location of plant, for reference.

#### Conclusion

In summary, we have addressed all of the comments raised in respect of the application and hope that this correspondence provides further clarity on Members queries.

We trust that the information now allows Members to favourably reconsider the application at the next Planning Committee on 16th February and respectfully request that the application be approved subject to the signing of the Section 106 Agreement in accordance with Officers recommendation for approval.

As the principle of development was broadly accepted by Members at the Committee Meeting, we reserve our right to appeal against non determination if faced with deferral of the application on a second occasion.

I would be grateful if you could circulate this correspondence to Members for consideration.

Please contact me should you wish to discuss this matter in further detail.

Yours sincerely,

**Richard Huteson**

Richard Huteson (Feb 1, 2016)

Richard Huteson MA, Dip PS, MRTPI

Partner - Town Planning

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