



Appeal Decision

Site visit made on 1 December 2021

by A M Nilsson BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23 March 2022

Appeal Ref: APP/G5180/W/21/3274124

Former Porcupine Inn, 24 Mottingham Road, Mottingham, London

SE9 4QW

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Lidl Great Britain against the decision of London Borough of Bromley.
 - The application Ref DC/19/01670/FULL1, dated 17 April 2019, was refused by notice dated 6 November 2020.
 - The development proposed is the demolition of the existing public house and the erection of an A1 retail foodstore, with associated car parking, reconfigured site access, landscaping, servicing and other associated works.
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Decision

1. The appeal is allowed and planning permission is granted for the demolition of the existing public house and the erection of an A1 retail foodstore, with associated car parking, reconfigured site access, landscaping, servicing and other associated works at Former Porcupine Inn, 24 Mottingham Road, Mottingham, London, SE9 4QW in accordance with the terms of the application, Ref DC/19/01670/FULL1, dated 17 April 2019 subject to the conditions in the attached schedule.

Preliminary Matters

2. Since the original decision, The London Plan 2021 (LP) has been published by the Mayor of London. It comprises the spatial development strategy for London and is now part of the development plan. The policies contained in the LP replace those of The London Plan 2016 referred to in the Council's original decision.
3. In their statement, the Council have commented that policies D1, T4 and T6.3 of The London Plan 2021, replace policies 6.3, 6.12 and 7.4 of The London Plan 2016 as referred to in the original Decision Notice.
4. On 20 July 2021, the Government published its revised National Planning Policy Framework ('the Framework'). It replaces the previous version published in February 2019. The Framework represents the Government's up-to-date planning policies for England and how they should be applied. Both main parties have had the opportunity to comment on any relevant implications for the appeal. I have had regard to the Framework in reaching my decision.

5. In accordance with paragraph 4 of the Regulations¹ I have determined the appeal with reference to the Use Classes Order 1987 as the application was submitted prior to 1 September 2020.

Background

6. The appeal site was subject to a similar, although not identical, development proposal for a retail foodstore in 2013. This previous application was refused planning permission that was then subject to a subsequent planning appeal². In light of the Council's reasons for refusal, the Inspector considered that the main issues were the effects of the proposed development on a) the character and appearance of the area, having regard to the loss of protected trees, b) the living conditions of adjoining occupiers with particular reference to visual impact, noise and disturbance, c) the provision of community facilities, d) the vitality and viability of the local centre, and e) highway safety.
7. In dismissing the appeal, the Inspector considered that the benefits of the proposed development to the local centre and the local economy would go a substantial way to outweighing any harm to the character and appearance of the area, the living conditions of nearby residents and the loss of an Asset of Community Value. However, in the overall planning balance, the Inspector considered that the harm to highway safety tipped the balance against allowing the appeal.
8. In the current appeal there is no dispute between the main parties in relation to matters of character and appearance, living conditions, the provision of community facilities, or the vitality and viability of the local centre. The sole matter in dispute between the main parties is in relation to pedestrian and highway safety.

Main Issue

9. The main issue is therefore the effect of the proposed development on pedestrian and highway safety.

Reasons

10. The appeal site measures approximately 0.25 ha in area and comprises the former Porcupine Inn public house that closed in 2013. It is a part single, and part two storey detached building. It is located on Mottingham Road and is within the defined Mottingham Local Centre. It has a forecourt to the front and a former beer garden to the rear. The site is bounded by a motorcycle showroom to the north and residential properties of Devonshire Road to the south and west. The local centre is made up of a number of small commercial units on Mottingham Road and Court Road and includes a public library that is opposite the appeal site. The site is close to the roundabout junction with West Park and contains a grade II listed war memorial. There is a petrol filling station with convenience store at the roundabout.
11. At the time of my visit the frontage was surrounded by security hoardings. The building was very much dilapidated with fixed steel grilles covering the openings on the ground floor. The grounds were significantly overgrown and there was evidence of fly tipping at the site.

¹ The Town and Country Planning (Use Classes) (Amendment) (England) Regulations 2020

² APP/G5180/A/14/2217362

12. I observed moderate traffic levels on Mottingham Road during my mid-week afternoon site visit, and relatively low levels of pedestrian activity. The surrounding streets of Devonshire Road, Dorset Road and Portland Road, that mainly comprise residential properties, had high levels of on-street parking. On street parking is also available in front of the commercial units on Mottingham Road, limited to 30 minutes.
13. The proposed development would involve the demolition of the existing building, clearance of the site and the construction of a retail foodstore comprising a 749 sqm retail floor area and with a 33-space car park to the side and rear. It is proposed to close the two existing accesses with a new singular access to Mottingham Road being created. In order to achieve the necessary sightline, the road alignment is proposed to be adjusted by extending the footpath in front of the proposed store. This would result in a reduction in the footpath width of the footpath on the opposite side of the road. A replacement pedestrian refuge is proposed at the roundabout junction.
14. The planning application and this appeal are accompanied with a wide range of technical highway evidence. These include a Transport Assessment³, a Technical Note Responding to Non-Statutory Consultee/Highways-Related Comments⁴, Technical Note 02 Responding to Non-Statutory Consultee/Highways-Related Comments⁵, Full Highways Statement of Case⁶ and Rebuttal to the LPA Appeal Statement and to Third-Party Appeal Submissions⁷.
15. Mottingham Road is a single carriageway with a 30mph speed limit. The proposed development would be likely to lead to an increase in the level of vehicular and pedestrian traffic. It is nevertheless in a local centre where vehicular and pedestrian traffic movements would be expected to be higher in relative terms taking into account the wide range of facilities and services that are available, and notwithstanding the through traffic generated by residential properties themselves and educational facilities.
16. The Council consider that this intensification of use would lead to conditions that would have a detrimental impact on pedestrian and highway safety. This view is held despite the conclusions and recommendations of the appellant's evidence which resulted in no objection being raised from the Council's Highways Officer and following an independent review by Glanville consultants, who were appointed by the Council.
17. The evidence shows that at certain times the number of proposed parking spaces would not cater for the anticipated demand. However, it is not disputed that the number of spaces would accord with the relevant policy of The London Plan for a development of this scale and nature. At times, I find that the proposal may have the potential to result in queuing on the highway and parking off-site, although on the latter point the Council suggest that customers would be unwilling to park any significant distance away from the site within the less heavily parked roads.

³ SCP – March 2019 – Ref CG/18047/TA02

⁴ SCP – July 2019 – Ref CG/18047/TN01/01

⁵ SCP – August 2019 – Ref JRB/18047/TN02/01

⁶ SCP – April 2021 – Ref JRB/18047/SOC/01

⁷ SCP – October 2021 – Ref JRB/18047/RS/02

18. In terms of the increase in vehicular traffic, there is limited substantive evidence that this would lead to an unacceptable impact on highway safety or that the residual cumulative impacts on the road network would be severe. I accept that there would inevitably be an increase in traffic, which at peak times may result in localised queuing, however this does not automatically equate to unsafe highway conditions. At this section of Mottingham Road, vehicles are likely to be travelling at slower speeds as they approach or exit the roundabout junction. When combined with the footpath alterations, the speed of vehicles is likely to be further reduced as a result of the proposed development.
19. The Council has submitted videos of the traffic conditions in the area around the appeal site. These show a delivery vehicle parked on the highway and where it is suggested that the appellant has proposed to put a layby. There is no layby proposed in the scheme before me. I do not doubt that there may be occasions where inappropriately parked vehicles could pose a danger to road safety, however there is no evidence to suggest that this scenario would occur with the proposed development. The videos also show queuing traffic approaching past the BP garage from Grove Park Road. Although the queuing traffic does not reflect my own observations on my site visit, I recognise that traffic levels will vary across different days and times. Queuing traffic does not automatically equate to demonstrable harm to highway safety and there is no substantive evidence before me that the proposed development would generate traffic that would have an unacceptable impact on highway safety or significant impacts in terms of capacity and congestion.
20. Third parties have commented that the traffic surveys were undertaken at a time when, due to Covid-19 restrictions, traffic levels were not a true reflection of normal traffic volumes. It has also been raised that measuring equipment failed for part of the recording period.
21. The traffic surveys are but one measure of analysis in terms of the impact of the proposed development in highway safety terms. Whilst an argument can be made that Covid-19 restrictions and the temporary failure of equipment may have impacted on the results, I do not find that it renders the assessment wholly invalid. The equipment failure related to the southern automatic travel counter and occurred at a period (3pm Saturday to midday Sunday) when traffic levels are likely to be lower. Recordings were, however, taken for full weekday periods where traffic volumes are typically higher. Such surveys are indeed representative of a given period and I do not consider that the data should be disregarded or weakened as a result. It has been considered and accepted by the Council and I do not find reason to form a different view in this regard.
22. The evidence shows that the access and roundabout junction are capable of accommodating the uplift in traffic. The appellant also suggests that during peak hours, the increase in passing traffic is negligible, based on post-store opening at other stores. This, it is suggested, is due to the fact that car-borne custom tends to already be on the network in the peak hours and very few people make a conscious decision to undertake a single-purpose food trip in those time periods.
23. The appellant's suggestion rests on the typical habits of customers which I agree are influenced by various factors. I also agree that future customers will, in time, make an informed choice on means and times of travel. Customers

within walking distance, and purchasing a small number of items, will be largely unaffected by traffic conditions or parking, whereas customers needing to drive, or purchase a large number of items, may factor traffic conditions and parking into their time of visiting the store. Although I find that the increase in vehicular traffic would not cause an unacceptable impact, the self-regulation of customer journeys is likely to alleviate the impact.

24. The Council have referred to the introduction of policy 31 of the Bromley Local Plan (2019) since the previous appeal decision. This policy requires, amongst other things, that new development that is likely to be a significant generator of traffic should be located in positions accessible by a range of travel modes, including public transport, walking and cycling.
25. In their consideration of this policy, the Council consider that the appeal proposal would be heavily car-orientated but provide limited evidence to support this. The site is in a defined local centre and is within a reasonable walking distance, via flat and well-lit routes, of many residential properties. There are some cycle markings on the roundabout junction and the provision of cycle parking at the store would further encourage cycling as a means of travel. The nearest bus stops are approximately 180m away (around a 2-minute walk) with a service frequency of one bus every 10 minutes. The above factors lead me to find that the proposed development is in a location that is accessible by a range of travel modes thereby according with the requirements of policy 31.
26. In terms of parking, the proposed use is located in a defined local centre where there is a heavy concentration of residential properties on the surrounding streets. I observed that these streets had high levels of on-street parking. Although it would not be inconceivable that any customers upon finding the car park full would park on the surrounding streets, the likelihood is that those customers using vehicles and looking to purchase lots of items, would be unwilling to park a significant distance from the store.
27. The parking situation would be subject to a similar self-regulation as the traffic volume whereby customers knowing, or desiring, of the need to park in the store car park may choose to shop at a time when they are more likely to be unaffected by parking demand. Customers may also choose to walk or cycle to the store or use the relatively frequent bus service. In order to achieve an appropriate turnover in the car park, a car park management plan has been submitted to ensure that parking is for customers only and that parking does not exceed 90 minutes. Concern is expressed that linked trips may be possible to other services in the local centre. However, I see no harm from this, particularly as such linked trips would ultimately meet with the aim of achieving a viable and sustainable local centre and would reduce the need to travel overall.
28. The Council has referred to illegal parking on Mottingham Road as evidence of a limited number of parking spaces within the immediate vicinity of the appeal site. Any illegal parking occurring at present or in future can be subject to enforcement. It is not necessarily evidence of a shortage but can reflect a desire to park as close as possible to a service or facility, particularly if it is for a short period of time.
29. I have considered the accident data that has been put forward, including that from representations. The number and nature of accidents within the identified

area does not suggest that there is an underlying highway safety problem. Nor is there any substantive evidence put forward that the proposed development would lead to a significant change. Evidence has referred to 'damage only' accidents where wooden bollards, lampposts and columns have required repair. I do not have the full details of these instances to give them significant weight and nor is there any substantive analysis of whether the proposed development would worsen the current situation to the extent that there would be unacceptable impacts. The majority of incidents that have been referred to relate to the roundabout junction. This is not proposed to be used for delivery vehicles and the transport assessments conclude that there is capacity at the junction to accommodate the increase in traffic. Therefore, whilst I acknowledge that accidents, including damage only incidents, have occurred in the vicinity of the appeal site, from the evidence before me, I am unable to directly attribute the proposed development to the creation of unacceptable or severe impacts.

30. In order to achieve acceptable visibility from the proposed access, the development would include works to the footpaths in the vicinity of the proposed access. This would include a reduction in the width of the pavement on the northern side of Mottingham Road and the increase in the width of the pavement on the southern side. There is nothing to suggest that increasing the width of the southern footpath would result in an unsafe pedestrian environment, and it would be logical to conclude that with the increased footfall in and around the store, combined with the position of the proposed access, it would be an appropriate undertaking.
31. In terms of the northern footpath this would be reduced in width ranging from 0.53m to 1.29m, leaving a section of footway between 2.02m and 3.23m, this is opposed to the current width range of 2.81m to 3.76m. It is highlighted that this route is used by patrons of the library and children and students walking to and from school. The evidence shows that the resulting width of the footway would comply with national guidance contained in Manual for Streets and TfL guidance. I also note that no objection to the proposed footpath width was raised as a result of the Council's own independent assessment.
32. The reduced width of footpath would cover a stretch of approximately 30m in length, with roughly half of this being in front of the hard surfaced area around the entrance to the library. This space widens the area available to pedestrians. Therefore, although the footpath is identified as a well-used route for patrons of the library and children and students walking to and from school, I consider that in light of the width that would be retained, the physical make-up of the area, and the compliance with the appropriate standards, the proposal would not have an unacceptable impact on pedestrian safety.
33. Reference is made in relation to Government guidance⁸ to local authorities on Traffic Management during the Covid19 pandemic. This guidance recognises the importance of space for pedestrians. For the reasons outlined above, I have found that the footpath width of around 2m over a short section would not have an unacceptable impact on highway safety. In relation to the Covid19 pandemic, there is no substantive evidence that there would be an unacceptable impact, particularly as the Government has removed restrictions that have been in place.

⁸ Traffic Management Act 2004: network management in response to COVID-19

34. I note that previous iterations of the development included the provision of a zebra crossing close to the roundabout junction. This was proposed in response to concerns that had been identified in relation to pedestrian movement. The Council's independent assessment concluded that such a crossing would likely result in the roundabout becoming blocked particularly during peak hours and consider a zebra crossing in this location is inappropriate. The zebra crossing was removed and replaced with a proposed plan⁹ showing improvements to the existing crossing, that were considered to be more suitable.
35. I acknowledge that some interested parties are of the view that a zebra crossing would be more appropriate and has somehow been lost from the scheme. I am, however, only able to determine the proposed development before me. The evidence outlines that the proposed improvements to be made to the crossing are acceptable and necessary to make the proposed development acceptable in planning terms. The failure to provide a zebra crossing would therefore not be a reason to dismiss the appeal.
36. The Council's reason for refusal refers to the impact of servicing and delivery vehicles, although this is not expanded upon in any significant detail in their appeal statement. The appellant has advised that up to two deliveries to the store using larger delivery vehicles (over 18 tonnes in weight and 10 metres in length) would take place each day, and that these vehicles would travel via Court Road (A208). This arrangement was opposed to the use of a smaller sized vehicle that increase the number of deliveries to three to four times per day and was not preferred by the appellant or the Council. A Delivery and Servicing Plan could be secured by condition were the appeal to be allowed in which the details of the servicing strategy would be agreed.
37. There is limited substantive evidence before me to contradict the supporting evidence which demonstrates that servicing and delivery vehicles may access the site in a manner which would not result in an unacceptable impact to highway or pedestrian safety. Objections have been raised in respect of the use of the adjacent roundabout by delivery vehicles, although this has been auto tracked and it is not part of the route that is proposed to be used by delivery vehicles. I also acknowledge that the existing businesses in the area will already experience a number of large delivery vehicles, including petrol tankers to the nearby petrol filling station.
38. Reference has been made in relation to the impact of delivery vehicles on pedestrians, cars and cyclists within the proposed car park. Although some supermarkets have an entirely separate access for delivery vehicles, this is not the case in the proposed development, where delivery vehicles will utilise the proposed car park for access and manoeuvring. The appellant however suggests that this arrangement is commonplace for a supermarket of the size proposed.
39. I acknowledge that having large delivery vehicles accessing and manoeuvring within the site at times when customers may be present is less than ideal. There would be a greater risk of conflict with customers and their vehicles than were deliveries to occur outside store opening hours. Nevertheless, there is no persuasive evidence before me to demonstrate that it would result in an unacceptable impact, particularly as service vehicles are likely to travel at slow speeds through the site. It will, however, be necessary to demonstrate,

⁹ SCP/18047/SK12 Rev A

through the submission of a Servicing and Delivery Plan, what measures will be put in place to minimise any conflict. The appellant has also highlighted that delivery drivers will be well-practiced in undertaking such deliveries given the similar situation at other stores.

40. Policy 31 of the Bromley Local Plan (2019) also sets out the requirement for any new development that is likely to be a significant generator of travel to submit a Transport Assessment, setting out the impacts of the development on the local transport network and the mitigation measures proposed to deal with the impacts. Such an assessment has been submitted with the proposed development including mitigation measures as set out. In line with the requirement of the policy, a Travel Plan has been submitted and satisfactory information relating to delivery and servicing, more detail of which can be secured by condition. Similarly, a construction method statement to address any highway impacts from this stage of the development can be secured by condition. The development will also result in improvements to the pedestrian crossing, maintaining a safe pedestrian environment and include the provision of cycle parking to encourage cycling.
41. Therefore, in conclusion on the main issue, and based on the evidence that is before me, I do not find that the proposed development would result in an unacceptable impact on pedestrian or highway safety or that the residual cumulative impacts on the road network would be severe. The proposal would therefore comply with Policies 31 and 32 of the Bromley Local Plan (2019). These policies require, amongst other things, that developments address a number of factors, as outlined above, to relieve congestion, and that the potential impact of any development on road safety is not significantly adversely affected.
42. Although not specifically referred to in the Council's reason for refusal, the proposed development would also comply with Policy 33 that requires, amongst other things, that developments consider the impacts on pedestrians and will seek provision of crossing facilities, designated routes and other improvements to the pedestrian environment as appropriate.
43. The proposed development would also comply with Policies T4 and T6.3 of the London Plan (2021). These policies set out how proposed developments should be assessed and mitigated in terms of their transport impacts, including that they should not increase road danger, and the requirements on retail parking, including maximum parking provision.
44. The Council have commented that Policy D1 of the London Plan is one of the policies that replaces the outdated policies of the London Plan 2016 as referred to in their reason for refusal. Policy D1 however concerns the requirements on Boroughs to undertake area assessments to define an area's character to understand its capacity for growth, and the requirement when preparing Development Plans to meeting borough wide growth requirements, including in relation to housing. There is no evidence that the proposed development would be contrary to this policy, and I do not find it to be pertinent to the main issue.

Other Matters

45. I acknowledge the volume of representations that have been received to the proposed development, both objections and support. The majority of the

objections refer to the highway and pedestrian safety impact of the development which I have considered above.

46. Objection was received in relation to the impact of the proposed development on the living conditions of occupants of surrounding residential properties in relation to noise and disturbance associated with the proposed use, including from deliveries. Although the proposed use would no doubt be noticeable and at times cause noise and minor disturbance, the imposition of conditions including in relation to store opening and delivery hours would reduce the impact to an acceptable level that would not be unreasonable in a dense urban environment such as this. Construction would cause some disruption, but this would be temporary and would be mitigated by a Construction Method Statement which could be the subject of a condition.
47. The proposed development would require the removal of two trees that are subject to a Tree Preservation Order¹⁰. The loss of protected trees is, for the most part, generally resisted. In this case however, it is outlined that the Hawthorn tree has been subject to decay since 2013 and that the Oak tree has experienced poor quality work. Taking the proposed tree planting into account, which can be secured by condition, and the condition of the existing trees, I do not consider that their removal would have an unacceptable impact on the character and appearance of the area.
48. Objection was received due to the loss of the former public house. The evidence shows however that despite being listed as an Asset of Community Value for a period of 5 years, there is no real prospect of the public house use being reinstated. I also observed that there was another public house close to the appeal site, which the Council identify as being marginally over the 500m threshold (by 8m) as outlined in Policy 23 of the Local Plan.
49. Policy HC7 of the London Plan (2021) outlines that, applications that propose the loss of public houses with heritage, cultural, economic or social value should be refused unless there is authoritative marketing evidence that demonstrates that there is no realistic prospect of the building being used as a pub in the foreseeable future.
50. Paragraph 7.7.6 of the supporting text outlines factors that should be taken into account when assessing whether a pub has heritage, cultural, economic or social value. The heritage criteria referred to are not applicable to the appeal property, and given its closure in 2013, the operational factors also do not apply. I accept that were the pub to reopen it may go on to display some of the characteristics referred to in the assessment, however the marketing evidence, that has been considered by the Council and independently assessed, demonstrates that there is no realistic prospect of the building being used as a pub in the foreseeable future. The loss of the former public house would therefore not be a reason to dismiss the appeal.
51. I note objection was received in terms of pollution and impact on air quality. An Air Quality Assessment has considered the likely impact of the proposed development on local air quality and concludes that with the implementation of the recommended on-site mitigation measures, it is considered that air quality would not pose a constraint to the redevelopment of the site. The Council's

¹⁰ TPO 2556

Environmental Health Officer has considered that the submitted details are adequate and acceptable. There is no reason for me to form a different view.

52. Objection was also received in relation to possible flooding. As the Council have set out a Drainage Assessment and Surface Water Drainage Strategy has been submitted and this demonstrates that the surface runoff from the development will be controlled during the lifetime of the development without any increased flood risk in the area. Specific details can be secured by planning condition. I therefore do not find that there would be an increase in flooding or an increase in the risk of flooding as a result of the development.
53. There is a grade II listed war memorial located on the roundabout close to the appeal site. Its setting is characterised by the wide variation of building styles and sizes surrounding the roundabout, including a motorbike showroom and a petrol filling station. In this context, the proposed development would preserve the setting of the listed building.
54. Objections have referred to the lack of need for the proposed supermarket. The appeal site is located within a defined local centre, which the Framework is clear that is a location where main town centre uses, such as that which is proposed, should be supported. It is not necessary in this case to undertake a sequential test or impact assessment. It is very likely that the proposed development would enhance the vitality and viability of the existing local centre at least in terms of offering additional retail choice. I note the concerns expressed in relation to potential job losses at existing shops, but this has to be balanced against the employment opportunities that would be generated by the proposed development.
55. Comments have been made that an alternative use for the derelict site would be for some social housing, and some community social space. Comment is also made that a GP surgery would also be a welcome addition. I am however required to determine the development before me. The fact that schemes preferable to some interested parties may exist is therefore of limited weight. I am also mindful of the representations received in support of the proposed development and acknowledge that local shopping provision can also provide a service to the community.
56. Comments have been made that the appellant purchased the site in an underhand manner and have summarily rejected all seemingly reasonable offers to purchase and redevelop the site as well as obfuscating at every opportunity. There is no substantive evidence to support this suggestion. Either way, it is not pertinent to the main issue in the appeal.
57. There is no evidence that the proposal would give rise to an increase in anti-social behaviour or crime in the area. Suitable lighting to the car park could be secured by condition. I also observed that the existing site had been subject to fly-tipping. The proposed development would serve to remove such occurrences. There is also no evidence that there would be an unacceptable impact due to litter, and this would not be a reason to dismiss the appeal.
58. The issue of impact on property values has also been raised. It is a well-founded principle that the planning system does not exist to protect private interests such as value of land or property. This is therefore not a material consideration in the appeal.

59. Reference is made that the site has been used continuously as a public house since 1688 and thus constitutes a valuable heritage asset. I recognise that the site has some heritage value in this regard and consider to this end that an information board or plaque to be displayed on site or within the building, that can be secured by condition, to be an appropriate acknowledgement to this value. I do not, however, consider that the heritage value is of such significance that it would be reason to dismiss the appeal.
60. I have acknowledged that the proposed development would provide employment opportunities. There is no evidence to support the suggestion that the applicant's recruitment process does not accommodate jobs for local people and therefore adds no economic value to the existing community. This is therefore not a reason to dismiss the appeal.
61. Objection has been made in relation to the size of the building, and its adverse effect on the character and appearance of the area. The proposed development would sit adjacent to a large, somewhat utilitarian, motorbike showroom building. There is also a petrol filling station of conventional appearance close to the site. In this context, I do not consider that the proposed building by reason of its size or fenestration details would cause unreasonable harm to the character and appearance of the area.
62. A Unilateral Undertaking (UU) signed and dated 28 October 2021 has been submitted by the appellant. The agreement includes, amongst other things, the payment of a Monitoring Contribution of £5,000 for the purposes of monitoring the existing waiting restrictions, and a payment of a Carbon Offset Contribution of £53,051 to be used towards a carbon offset fund to help secure the delivery of carbon dioxide savings in the Council's administrative area.
63. It is necessary that I consider this agreement against the three tests set out in the Framework and Regulation 122(2) of the Community Infrastructure Levy Regulations 2010. I am satisfied that the proposed contributions would be necessary to make the development acceptable in planning terms. Furthermore, it would be directly related, and fairly and reasonably related in scale and kind, to the development proposed. The obligation therefore meets the relevant tests. I have therefore attached weight to this contribution in reaching my decision.

Conditions

64. In addition to the standard time limit condition, I have imposed a condition requiring that the development is carried out in accordance with the stated approved plans. This is in the interests of certainty.
65. I have considered the suggested conditions against advice in the Framework and Planning Practice Guidance. As a result, I have amended some of them for consistency, clarity and omitted others.
66. In the interests of the living conditions of occupiers of nearby residential properties, it is necessary to impose planning conditions requiring the submission of a construction management plan, a lighting strategy, servicing and delivery plan, restricting the opening and delivery hours of the supermarket, and the submission and installation of an acoustic barrier.
67. In the interests of the character and appearance of the area, it is necessary to impose planning conditions requiring the submission of details of external

- materials, details of proposed slab levels, details of replacement tree planting and landscaping.
68. In the interests of highway safety, conditions requiring the submission of a stage 2 and stage 3 Road Safety Audit are necessary. Also, in the interests of highway safety it is necessary to impose planning conditions requiring the implementation of highway works, the submission of a construction management plan, the submission of a car park management plan, the submission of a servicing and delivery plan including 24-month monitoring review.
69. In order to achieve a sustainable form of development conditions requiring the submission of details of cycle parking, carbon offsetting, and electric vehicle charging points are necessary.
70. In the interests of crime prevention, conditions requiring details of external lighting, the security gate and secured by design accreditation to be awarded by the Metropolitan Police are necessary.
71. In order to ensure that the development is not at risk of flooding, or increase the risk of flooding elsewhere, a condition requiring details of surface water drainage is necessary.
72. In acknowledgement of the heritage value of the site, it is necessary to impose a condition requiring the details of an information board or plaque to be displayed.
73. In relation to the condition requiring the submission of a construction management plan, this is required prior to commencement of development to ensure that the measures are in place for the duration of the demolition and construction phase.
74. The Council have requested that, in the event the appeal is allowed, a condition requiring that the premises to be used solely for retail purposes, and not other purposes including within Class E(a) of the Use Classes Order. Paragraph 54 of the Framework states that planning conditions should not be used to restrict national permitted development rights unless there is clear justification to do so. There is no clear justification in this case, and therefore the condition is not necessary.

Conclusion

75. There are no material considerations that indicate the application should be determined other than in accordance with the development plan. For the reasons given above, and having had regard to all other matters raised, I therefore conclude that the appeal should be allowed.

A M Nilsson

INSPECTOR

Schedule of Conditions

1. The development hereby permitted shall begin not later than 3 years from the date of this decision.
2. The development hereby permitted shall be carried out in accordance with the following approved plans and details
 - Site Location Plan – 4974 AL 01 rev D
 - Proposed Site Plan – 4974 AL 02 rev I
 - Proposed Floor Plans – 4974 AL 03 rev G
 - Proposed Roof Plan – 4974 AL 08 rev E
 - Proposed Elevations – 4974 AL 11 rev G
 - Proposed Sections (Part 1) – 4974 AL 21 rev E
 - Proposed Sections (Part 2) – 4974 AL 22 rev E
 - Proposed Security Gate Detail – 4974 AL 31 rev A
 - Boundary Treatment Plan 4801-0100 rev P01
 - S278 General Arrangement Plan – SCP-18429-0000-002 rev D (appendix 3 of Technical Note 5)
 - S278 Kerbs & Edgings – SCP-18429-1100-001
 - S278 Signs and Road Markings – SCP/18429/1200/001
 - Proposed improvements to pedestrian crossing facilities along Mottingham Road and clarification of existing and proposed footway widths – SCP/18047/SK12 rev A
 - Proposed relocation of lighting column on north side of Mottingham Road – SCP/18047/SK18
 - Identification of typical HGV dimensions – SCP/18047/SK19
 - Lias Design Notes and Luminaire Schedule – DWG 00
 - Proposed Lighting Layout – DWG 01
 - Planning Statement by Walsingham Planning dated April 2019
 - Design and Access Statement by Boyes Rees Architects
 - Heritage Statement by Heritage Collective dated January 2019
 - Lighting Assessment by Signify dated 21st February 2019
 - Noise Impact Assessment (revised revision F) by Acoustic Consultants Ltd dated December 2019
 - Transport Assessment by SCP dated March 2019
 - Travel Plan by SCP dated March 2019
 - Technical Note Responding to Highways Comments by SCP dated July 2019
 - Technical Note 2 Responding to Highways Comments by SCP dated August 2019
 - Technical Note 3 Responding to Councillor Highways Comments by SCP dated August 2020
 - Technical Note 4 Assessment of Pedestrian Circulation Space pre and post Development
 - Traffic Management Act 04: network Management in response to Covid 19 dated 20th May 2020.
 - Technical Note 5 Responding to Glanville's Transport Document Review by SCP dated August 2020
 - Technical Note 6 – response to Mottingham residents Association Highways Summary Note dated October 2020

- Arboricultural Impact Assessment by Landmark Trees dated 12th February 2019
 - Energy and Sustainability Statement (rev B) by JS Lewis dated December 2019
 - Drainage Assessment & Surface Water Drainage Strategy by RSK dated December 2018
 - Delivery, Servicing and Waste Management Plan by SCP dated 1st February 2019
 - Car Park Management Strategy by SCP dated January 2019
 - Air Quality Assessment by Syntegra Consulting dated May 2019
3. No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to, and approved in writing by the local planning authority. The Statement shall provide for:
- i. the parking of vehicles of site operatives and visitors;
 - ii. route of construction traffic to and from the site and measures to ensure safe pedestrian movement;
 - iii. loading and unloading of plant and materials;
 - iv. storage of plant and materials used in constructing the development;
 - v. the erection and maintenance of security hoarding including decorative displays and facilities for public viewing where appropriate;
 - vi. wheel washing facilities;
 - vii. measures to control the emission of noise, dust and dirt during construction and demolition;
 - viii. a scheme for recycling/disposing of waste resulting from demolition and construction works;
 - ix. delivery, demolition and construction working hours.
- The approved Construction Method Statement shall be adhered to throughout the construction period for the development.
4. Prior to first occupation of the foodstore, the highway improvement works set out on drawing reference: SCP/18246/0000/002D; which require the realignment of Mottingham Road including the widening of the footway on the south side and the widening of the existing pedestrian refuge, shall be carried out to the satisfaction of the Local Planning Authority.
5. Prior to commencement of any above ground works, a Stage 2 Road Safety Audit shall be submitted to and approved in writing by the Local Planning Authority. The approved works shall be implemented strictly in accordance with the approved details to the satisfaction of the Local Planning Authority prior to the completion of the development.
6. As soon as practically possible following satisfactory completion of the highway works and prior to the development hereby permitted being open to the public, a Stage 3 Road Safety Audit shall be submitted to and approved in writing by the local Planning Authority. Any measure required as a result of the Stage 3 Audit shall be implemented within 3 months of being approved and thereafter be retained.

7. Prior to commencement of above ground works, details (including samples) of the materials to be used for the external surfaces of the building which shall include roof cladding, wall facing materials and cladding, window glass, door and window frames, decorative features, rainwater goods and paving where appropriate shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.
8. Prior to commencement of any above ground works (excluding demolition) details of the proposed slab levels of the building and the existing site levels shall be submitted to and approved in writing by the Local Planning Authority. The development shall be completed strictly in accordance with the approved levels.
9. Prior to its first occupation, details of the security gate including operation and secured by design accreditation awarded by the Metropolitan Police shall be submitted to and approved by the Local Planning Authority. The approved details shall be implemented prior to the first occupation of the building and maintained during the lifetime of the development.
10. Prior to the first occupation, details of a minimum of 12 replacement trees, including sizes and species, should be submitted to, and approved in writing by, the Local Planning Authority. The new trees shall be planted in such positions as shall be agreed by the Authority within 12 months of the removal of the trees. Any replacement tree which dies, is removed or becomes seriously damaged or diseased within 5 years of the date of this consent shall be replaced in the next planting season with another of similar size and species to that originally planted.
11. Details of a scheme for the management of the car park shall be submitted to and approved in writing by the Local Planning Authority before any part of the development is first occupied and the car park shall be operated in accordance with the approved scheme at all times unless previously agreed in writing by the Authority.
12. Details of arrangements for bicycle parking (including covered storage facilities where appropriate) shall be submitted to and approved in writing by the Local Planning Authority prior to construction of any above ground works. The approved arrangements shall be completed before any part of the development hereby permitted is first occupied, and permanently retained thereafter.
13. Prior to the first occupation of the building, details of servicing and delivery shall be submitted and approved by the Local Planning Authority. The details shall include: size of delivery vehicle; delivery hours; delivery route; delivery frequency; and measures to ensure safety of all car park users. The approved details shall be implemented during the lifetime of the development and subject to the requirements of condition 14.
14. Upon 24 months of its first occupation, an updated servicing and delivery plan including a review of the size of delivery vehicle, delivery hours, delivery route, delivery frequency and measures to ensure safety of all car park users should be submitted and approved by the Local Planning Authority. The approved details shall be implemented during the lifetime of the development.
15. Prior to any works commenced above ground level, details of surface water drainage design shall be submitted and approved by the Local Planning Authority. The approved details shall be implemented and maintained during

the lifetime of the development. The surface water from private land shall not discharge on to the highway.

16. Prior to commencement of above ground works details of treatment of all parts on the site not covered by buildings shall be submitted to and approved in writing by the Local Planning Authority. The site shall be landscaped strictly in accordance with the approved details in the first planting season after completion or first occupation of the development, whichever is the sooner. Details shall include:
- i. A scaled plan showing all existing vegetation and landscape features to be retained and trees and plants to be planted
 - ii. location, type and materials to be used for hard landscaping including specifications, where applicable for: a) permeable paving b) tree pit design c) underground modular systems d) Sustainable urban drainage integration e) use within tree Root Protection Areas (RPAs);
 - iii. A schedule detailing sizes and numbers/densities of all proposed trees/plants;
 - iv. Specifications for operations associated with plant establishment and maintenance that are compliant with best practice; and
 - v. Full details of retained and proposed boundary treatments (ii) There shall be no excavation or raising or lowering of levels within the prescribed root protection area of retained trees unless agreed in writing by the Local Planning Authority. (iii) Unless required by a separate landscape management condition, all soft landscaping shall have a written five-year maintenance programme following planting. (iii) Any new tree(s) that die(s), are/is removed or become(s) severely damaged or diseased shall be replaced and any new planting (other than trees) which dies, is removed, becomes severely damaged or diseased within five years of planting shall be replaced. Unless further specific permission has been given by the Local Planning Authority, replacement planting shall be in accordance with the approved details.
17. Within 6 months from its first occupation, a verification report confirming the achievement of carbon offsetting in line with the Energy Statement shall be submitted and approved by the Council.
18. Prior to the first occupation of the building, details of a 2.4 metres high barrier including its performance and maintenance responsibility shall be submitted and approved by the Local Planning Authority. The approved details shall be implemented prior to its first occupation and maintained during the lifetime of its development.
19. Prior to the first occupation of the building, an external lighting strategy including the lighting hours should be submitted and approved by the Council. The approved details shall be implemented and maintained during the lifetime of the development.
20. Prior to the first occupation of the building, details of a commemorative information board outline the historic value of the site shall be installed within the site shall be submitted and approved by the Council. The approved commemorative information board shall be installed at a prominent location within the site prior to its first occupation and maintained during the lifetime of the development.

21. Prior to the first occupation of the building, details of electric changing points shall be submitted and approved by the Council. The approved details shall be installed prior to its first occupation and maintained during the lifetime of the development.
22. The premises shall only be open for customers between the following hours 08:00 – 22:00 Monday to Saturday and 10:00 to 16:00 on Sundays.
23. Deliveries shall be taken at or dispatched from the site only between 08:00 – 21:00 Monday to Saturday and 10:00 to 16:00 on Sundays.

-----End of Conditions Schedule-----