



Appeal Decision

Inquiry opened on 10 September 2024

Site visits made on 9, 10 (accompanied) and 12 September 2024

by Philip Major BA(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State for Housing Communities and Local Government

Decision date: 27th September 2024

Appeal Ref: APP/A1910/W/24/3341434

Land at Icknield Way and Sears Drive, Tring HP23 4JY

- 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 Limited against the decision of Dacorum Borough Council.
 - The application Ref: 23/00662/MFA, dated 13 March 2023, was refused by notice dated 28 September 2023.
 - The development proposed is the erection of a Class E discount foodstore with associated car parking, landscaping, engineering and drainage works.
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Preliminary Matters

1. After the appeal was submitted the Appellant responded to some criticisms of the proposed development by preparing small revisions to the layout and other details. It was agreed at the Case Management Conference held on 5 June 2024 that these revisions were so minor as to make no material difference to the nature of the proposal. It was also agreed that there would be no prejudice caused to any party (either substantively or procedurally) by my acceptance of these minor changes as part of the appeal. As a result I have determined the appeal on the basis of the revised provisions.
2. During the course of the appeal the Appellant has sought specialist advice on the likelihood of the appeal site coming forward for the employment use promoted in allocation Policy LA5 of the Site Allocations Development Plan Document (DPD) adopted in 2017, with its associated masterplan. This envisaged B1 business use (as it then was) led by office development, alongside the residential development to the south and west known as Roman Park, and the industrial estate to the east. The employment report prepared concluded that the demand for the envisaged employment use had fallen and that an office led scheme would be unviable. This conclusion has been accepted by the Council. I do not seek to disagree with the contention that employment use on the appeal site in the form envisaged by the LA5 allocation would not have any reasonable prospect of being delivered. There is therefore no realistic fallback position of the appeal site being used for employment purposes notwithstanding the fact that some parties have suggested that this should be pursued.
3. Because the Council has agreed that the business use has no reasonable prospect of being delivered there is agreement between the main parties that Policy LA5 is out of date. Further, the parties agree that the 'tilted' balance

pursuant to paragraph 11d) of the National Planning Policy Framework (NPPF) is engaged in this case. I do not differ from that position. However, as pointed out by the Council this does not mean that out of date policies carry no weight at all. Other policies are also in play and I deal with them as necessary below¹.

4. It is worth indicating here that the employment report I refer to above was criticised by local residents as being a report paid for by the appellant, and therefore unreliable and potentially biased. I wholly reject such criticism. The report was prepared by experts in their field and contained convincing evidence which supports the conclusions reached.
5. There have been many public comments made in relation to this proposal. Many of those comments are made by residents of Tring who would welcome a discount retailer. Many have objected to the proposal, and I was pleased that 2 local residents attended the inquiry to make oral comments. The level of public involvement cannot be taken to be determinative as the appeal must turn on the planning merits of the case. However, I should confirm that all public comments (oral and written) have been taken into account by me in reaching a decision on the appeal.
6. The Council did not pursue reason for refusal No 1 from their decision in light of the matters noted in paragraph 3 above. Reason for refusal No 6 was also not pursued as a S106 obligation has been submitted, which I deal with later in this decision.

Decision

7. The appeal is allowed and planning permission is granted for the erection of a Class E discount foodstore with associated car parking, landscaping, engineering and drainage works on land at Icknield Way and Sears Drive, Tring HP23 4JY in accordance with the terms of the application, Ref: 23/00662/MFA, dated 13 March 2023, subject to the conditions set out in the schedule at the end of this decision.

Main Issues

8. The main issues in the appeal are:
 - (a) Whether the proposed development would be situated in an acceptable location in relation to the likely users;
 - (b) The effect of the proposed development on local highway conditions;
 - (c) The impact of the proposal on the living conditions of nearby residents;
 - (d) Whether the proposal represents an appropriate design solution and its impact on character and landscape in this locality.

Reasons

Location

9. As a starting point here the Council acknowledges that there is no better location, in principle, within or around Tring for new retail development. There is acknowledgement that the development would not be harmful to the existing retail offer in the town and that there is both a quantitative and qualitative

¹ The development plan in this case includes the Dacorum Borough Local Plan 1999-2011 (Saved Policies) the Dacorum Borough Council Core Strategy (2013) and the Site Allocations Development Plan Document (2017)

need for further retail opportunities. One of the main areas of concern for the Council on this issue relate to what it sees as poor accessibility by means of transport other than the private car.

10. Suitable accessibility was addressed at the inquiry in part by reference to the policies of the NPPF. The NPPF is not part of the development plan but is a material consideration of considerable weight. There is no dispute that the NPPF seeks to encourage walking, cycling and public transport before the use of private vehicles. The development plan includes the adopted Core Strategy of 2013, and Policy CS8 follows these principles of the NPPF and is consistent with it.
11. As pointed out by the Council, and confirmed by the Appellant, in this case reliance has been placed on the existing opportunities for walking, cycling and public transport use in the surrounding area. No new facilities or services are advanced save for detailed issues such as the provision of access ramps to the appeal site itself. The residential development to the south and west included some upgrade to pedestrian links to the adjacent industrial estate and access to the bus stops to the south on Aylesbury Road. The Appellant has simply assumed that these facilities, linked as they are to the wider area of the LA5 masterplan, are sufficient to make the site acceptable as a location for this development. That assumption seems to me to be somewhat rash given the likely differences between access demand for the appeal proposal and the development envisaged by the LA5 masterplan. Nevertheless I have considered the accessibility of the appeal site on its own terms.
12. Taking the preferred hierarchy step by step I begin with facilities for walking to the proposed store. There can be little doubt that the store would be an attractive retail destination for residents of the Roman Park development. Similarly it would be attractive to some residents to the south-east and to occupants of the industrial estate (noting here that the improved footway alongside Ickniel way is accessible to all parts of the industrial estate with ease). That attractiveness is based on proximity and the relatively gentle topography of the locality.
13. But of course there is a limit to which most people will be prepared to walk, especially if carrying a significant amount of goods. Various distances were addressed at the inquiry, but the most realistic seems to me to be a walk of about 10 to 15 minutes, with the upper end of that scale likely to serve top-up shopping rather than a more substantial shopping trip. My own observations during my site visits indicated that there is a significant number of properties within a 10 to 15 minute walk of the appeal site. Hence, although the Appellant has not offered further improvements to the walking opportunities locally it would be difficult to imagine what any improvements would entail.
14. The Council suggests that the footway alongside Ickniel Way could be further improved and whilst this would be possible any residents to the east of the industrial estate can in any event make use of alternative routes through residential areas which are of a good standard. The reorientation of the proposed access ramp, or provision of a link to the north-east corner of the site are very minor matters which would not materially affect the walkability of the site. The access to the building would be conveniently located for pedestrian access. In essence, therefore, I am satisfied that the walking opportunities

- hereabouts are sufficiently attractive that a reasonable population of Tring would have access to the store on foot.
15. I turn now to the opportunities for cycling to the store. There are few dedicated cycle links nearby, other than a short stretch within the Roman Park development. Some nearby streets, notably to the south-east, are residential in nature and would not be unattractive for cyclists wishing to visit the store. Again, however, I would not expect cyclists to be visiting the store for bulk shopping: rather it would be likely that such trips would entail top-up shopping visits.
 16. Icknield Way has a 50mph speed limit and is moderately busy. It is also used by some heavy and medium weight vehicles. The road itself is not very wide and I agree with the views expressed that it is not especially attractive as a cycle route. But in my judgement anyone wishing to cycle to the proposed store would be unlikely to be seeking to make a long journey (probably no more than a mile or two) and there are routes which would be safe in order to do so from the nearest residential areas. Aylesbury Road would provide access from the vicinity of Tring town centre, with the important proviso that it is possible to turn off that road onto quieter streets in order to visit the appeal site.
 17. Some discussion took place at the inquiry about the necessity or otherwise of providing signs to indicate a cycle route. I do not consider that this would be necessary. Cyclists are likely to be drawn from a local area and as such are sure to know the best, safest and most convenient ways to cycle to the proposed store.
 18. As with many proposals of this nature in or around existing settlements there may be limited opportunities to improve cycling infrastructure. This is especially so where existing through routes tend to be of limited width. The fact that there is no proposal to improve infrastructure here is not surprising given the configuration of local highways. But because there are residential streets which give access to the site, and which are suitable for cycling, I do not consider that the lack of proposals to improve cycling infrastructure should weigh against the proposal. Taken in the round I am satisfied that the majority of people who would wish to cycle to the store are adequately catered for. As agreed by the parties it is likely that many of the cyclists concerned would be employees of the development and would be well aware of available routes.
 19. It is agreed that bus stops are in the vicinity of about 600m to 800m from the appeal site. These are located on Aylesbury Road and Miswell Lane. These distances make the use of bus services to reach the store relatively unattractive as discrete trips, especially for more than a top-up trip. However it would be possible, for example, for a person travelling from work in Aylesbury to alight to the south of Roman Park, walk to the store for a few items, and then walk to the residential area to the south-east. Hence I do not discount a small number of people arriving at the store by bus.
 20. The service which has stops on Miswell Lane follows a circular route around Tring, either clockwise or anticlockwise. The routes generally serve the eastern and central parts of the town and slightly beyond. In my judgement these routes would not be attractive to shoppers at the appeal site. There may be some call for employees of the store to use these services, but the restricted hours of operation reduce the potential of this option. Overall I am not

satisfied that the existing bus services in the area (and there are no plans brought to my attention to alter the services) would be materially useful to the great majority of visitors to the proposed store.

21. There are therefore weaknesses in the opportunity to encourage and provide for travel to the appeal site by means other than the private car. Nonetheless this must be set against the Council's own views that the appeal site is the best sequentially available location for the expanded retail offer which is required in Tring. It is therefore unlikely that a more acceptable site would be found and brought forward. There is a hinterland of residential population which would no doubt walk or cycle to the store for a few items. But as with any retail store of this type, a bulky or weekly shop is more likely to rely on private transport in any event. With that in mind I turn to the question of car parking.
22. The Council contends that for a store of the size proposed the parking provision offered (99 spaces) is too great. It believes that fewer spaces would be sufficient and would accord with its parking Supplementary Planning Document (SPD). Whilst the provision of 99 spaces would impact upon the area available for landscape design (which I deal with later) I do not accept that it would be harmful in a wider context. The Council's suggestion that over providing car parking would simply encourage more car trips is not one to which I subscribe. A few extra spaces here would be largely immaterial to most people's journey planning.
23. The extracts provided by the Council of a decision elsewhere which suggests that potential customers would use local knowledge to self-regulate their visits to times when they would expect to find a parking space is interesting. However I have little detail of the case in question or the evidence which led to that perception. In this case I have nothing before me which gives any assurance that such a situation would arise. Of greater concern is the potential for a full car park to result in overspill parking on the surrounding streets.
24. The SPD indicates that any divergence from the standards set out should be supported by adequate evidence. In this instance the divergence is not great, and the Appellant has demonstrated that it may well be possible for the car park to fill up during busy times if the SPD standard is applied. The evidence from the Appellant on random arrivals and departures is somewhat conjectural, but I accept that it is based on an element of experience in the transport field. There is no compelling evidence to the contrary from the Council. On balance I accept that there is sufficient evidence here to depart in the manner proposed from the SPD standard.
25. One further point should be addressed. Retail uses are often preferred where visits can be combined with other trips, be they cultural, social or otherwise. At the appeal site I acknowledge that this is unlikely, especially as the town centre is beyond a distance that most people would wish to walk. However in the context of this being the best site available for a much needed retail offer this matter can carry limited weight. In any event parking at the store and then walking to the town centre would only add to the need for parking spaces on the site.
26. To draw the threads of this issue together it is clear that the Council accepts that the appeal site is acceptable in principle for the type of development proposed, and that there is no better site in or around Tring. Accessibility by foot or cycle is acceptable, though not unflawed. Accessibility by public

transport is also less than ideal. That said, it must be acknowledged that the principles of giving priority to pedestrians, cyclists and public transport users have been addressed in relation to this site. In my judgement their needs are catered for as well as could be expected here. A travel plan has also been offered in order to maximise the potential for non car use. I deal with this later.

27. As such the proposal conforms with the objectives of the NPPF which seek to ensure that opportunities to promote sustainable transport modes have been taken up. This also accords with the principles of Policy CS8 in seeking to give priority to modes of transport other than the private car, and Policy CS12 in providing sufficient car parking. It cannot be realistic to expect that whatever opportunities are provided for other modes of transport many, probably most, people will not abandon car use when carrying out a large shopping expedition.

Highway Conditions

28. The Council did not refuse the proposal for reasons related to the impact on the local highway network. However some local residents are concerned that there would be a significant and detrimental change to highway conditions, especially in relation to the northern access to the Roman Park development. This is the point where Icknield way meets Sears Drive. Residents commissioned an independent report to advise on highways and transport matters.
29. It is not contested that the proposed development would generate traffic on a different scale and temporal distribution if compared with the formerly promoted employment use for the site. Traffic associated with the proposed store would occur 7 days a week, from fairly early morning to late in the evening (except Sundays when the store would have restricted hours). I accept that an employment use would be more likely to be concentrated as employees arrived for work in the morning or left in the late afternoon/early evening. However, making this comparison is unhelpful given the unlikelihood of employment use being progressed. In this case a judgement must be made based on the likely traffic implications of the use as a discount store.
30. It is incontestable that traffic associated with a discount store would be of significantly greater magnitude in trip generation. The figures provided are based on trip generation at similar establishments and use established databases. What is clear is that light traffic to and from the site (that is vehicles used by customers) would be steady throughout opening hours, but with peaks at certain times. The net result is more traffic entering Sears Drive and the store car park, and subsequently that same traffic leaving and almost certainly turning onto Icknield Way (rather than turning into Roman Park).
31. The proposed development includes a widened section of Sears Drive so that there would be 2 lanes for a distance leading to Icknield Way. This would no doubt ease traffic movements as they leave Sears Drive. In any event the traffic count information provided indicates that the junction would operate well within its capacity now and in the future. It seems unlikely that there would be any significant build up of traffic waiting to leave Sears Drive, and I am satisfied that it has been demonstrated that the junction would operate satisfactorily.
32. Local residents are partially concerned about the potential to be hampered in either entering or leaving Dublois Close, a short cul-de-sac which connects with

Sears Drive close to its junction with Icknield Way. I understand that concern but it seems to me that any delay or inconvenience at this point would be likely to be intermittent and of a short duration. Such delay might in any event occur with an alternative use of the appeal site.

33. There would, of course, be other vehicles visiting the appeal site, notably delivery vehicles. These would be capable of entering Sears Drive, the store car park, and the store loading bay with simple manoeuvres. That said, I recognise that the presence of large delivery vehicles using the store car park is of concern to some. But I am reassured by the fact that this is quite commonplace on discount store sites and that delivery drivers are properly trained so that there would be little cause for concern in relation to the safety of store users.
34. I am well aware that Icknield Way is subject to a 50mph speed limit. But visibility when leaving Sears Drive seems to me to be adequate. Underlying these findings is the fact that the County Council, as highway authority, has not offered any in principle objections to the scheme. It is content that the development could be located as proposed without detriment to highway safety subject to the imposition of appropriate conditions. Taking all these factors into account I am satisfied that the proposed store would not add unacceptably to highway safety concerns and would not have a severe residual cumulative effect on capacity. It would therefore comply with these elements of the NPPF and with Core Strategy Policy CS12 in providing a safe and satisfactory means of access.

Living Conditions

35. The comings and goings associated with the traffic noted in the previous issue are of concern to the Council and local people in relation to the living conditions of the residents closest to the appeal site. General disturbance by traffic movements, noise of cars, doors closing, conversations, noise from delivery vehicles and shopping trolley disturbance are all examples of matters raised. The Appellant has produced evidence of likely acoustic impacts which compares the existing noise environment with that which would be likely in the event of the proposal being implemented.
36. The closest properties to the development would be to the west and south on Sears Drive. Those to the west which would have direct line of sight to the proposed car park access include Nos 2, 4 and some of the block which includes Nos 6 -22. Nos 24 and 26 would face the side elevation of the store building whilst some properties to the south would face the rear of the building. I do not doubt that from these locations there would be some difference in outlook.
37. The Appellant's acoustic report identifies a relatively high level of noise at times at the appeal site, primarily associated with traffic on Icknield Way, the nearby A41, and the industrial estate to the east. The calculated immissions at the nearest dwellings, with windows open, indicates that any acoustic impact would be low, subject to mitigating screening being introduced to the south.
38. I do not have any expert technical evidence from the Council, but I accept that a judgement has been made that the general increase in activity throughout the day and evening would cause disturbance to the dwellings immediately to the west of the proposed car park. That judgement is not supported by any

comments from the Council's environmental protection officers. However I do accept that residents would be bound to be aware of increased activity. Whether that activity would lead to unwanted sound in the form of noise disturbance has not been substantiated by the Council or others. The expert evidence provided all points to sound levels associated with the proposed development being of a low impact and, essentially, being absorbed into the existing background acoustic environment without unacceptable consequences. This does not mean an occasional individual noise event would go unnoticed, but that any such events would not cause material harm to residential amenities.

39. With particular regard to reversing alarms on delivery vehicles, these would only be expected to be activated when the vehicle begins its manoeuvre towards the unloading dock on the eastern part of the site. This is the furthest part of the land from Sears Drive to the west and shielded by the proposed building itself. The buildings to the south would also be shielded by the store building, but also by the proposed acoustic fencing. I would not, therefore, expect these alarms to cause unacceptable disturbance.
40. In the light of all these matters it is my judgement that the proposed development would not cause unacceptable disturbance by reason of noise. The extra comings and goings would be noticeable, but these would not be likely, in themselves, to cause loss of privacy or loss of general amenity at the nearest dwellings on Sears Drive.
41. There have been a number of residents of surrounding streets other than Sears Drive who have expressed concern in relation to this proposal. Whilst those residents would be affected to a degree by the extra traffic associated with the store, the direct impact would be limited. Direct views towards the site are non-existent or at oblique angles and disturbance is unlikely to be at an unacceptable level such that living conditions would be adversely affected.
42. It is also suggested that the store would impinge upon what is described as a quiet residential neighbourhood in a semi rural location, and that this would affect the quality of life of the residents. I do accept that much of Roman Park is a pleasant and quiet locality, but the area close to Icknield Way and the appeal site is far less so because of the levels of background noise. In my judgement the presence of the industrial site to the east also adds to the urban character here. It is less semi rural and more urban edge. Hence I do not accept that there would be material or unacceptable loss of any residential amenities associated with the existing character of this locality.
43. Taken as a whole the proposed development would not offend the requirements of Core Strategy Policy CS12 which seeks to avoid loss of privacy and disturbance to surrounding properties.

Design, Character and Landscape

44. Policy CS12 also aims to respect adjoining properties in respect of a number of criteria, including layout, scale, height, bulk, materials and landscaping. The same policy also requires the provision of sufficient parking and servicing which I have dealt with above. There is acknowledgement from the Council that the proposed building is of an appropriate height and massing, but criticism remains in respect of the glazing on the northern elevation and the resultant potential for light spill.

45. The dwellings on Roman Park are of a relatively commonplace house type design, using a mix of materials which are intended to reflect the Chiltern vernacular. Elements of these materials, such as brick and flint, have been proposed for the store itself. In bridging the space between residential and industrial buildings it seems to me that there is scope for some flexibility in design. The proposal as set out would not be seeking to replicate residential properties, but would pay some heed to them in its height and use of materials common to the area. The extent of glazing to the northern elevation would not detract from the character of the area, but would add a degree of interest in the transition between the housing area and the industrial estate to the east. The Council does acknowledge that fenestration would be necessary around the store entrance, and this is the point closest to Sears Drive.
46. Clearly there would be no escaping the fact that much of the land would be illuminated in periods of darkness until after store closing. But Sears Drive itself has tall lighting columns, and any lighting observed in the appeal site would be filtered by the planting proposed, and directed to minimise its impact (in accordance with an agreed scheme). The Council is content that this would be acceptable and would eliminate any risk of light spill or pollution to either nearby residents or the Chilterns National Landscape (NL). I therefore find that the design of the store itself would not be unacceptably harmful to the locality and would not conflict with Core Strategy Policy CS12 where it relates to the avoidance of visual intrusion, integration with streetscape character and the matters in criterion (g) of that policy. Nor would there be conflict with saved Local Plan Policy 113 which deals with exterior lighting.
47. Landscaping is proposed and would provide relief from the view of the car park and store. Part of the objective of the LA5 masterplan for the locality was to introduce an avenue effect along Sears Drive. That would be possible with the introduction of trees and other planting on the east side of Sears Drive. There are already young trees planted along the opposite side of the road as part of the Roman Park housing development. I do not share the view that the landscaping areas proposed alongside Sears Drive are inadequate; the width is clearly sufficient to allow trees and shrubs to be introduced successfully.
48. Planting within the proposed car park would be possible around the perimeter, and some limited scope exists within the parking area itself. I accept the expert evidence that it is possible to design these areas so that any vegetation has the maximum chance to survive and thrive. Taken overall I am satisfied that landscaping could be successfully introduced here. The parties have agreed that a fully detailed scheme could be required by condition which would expand on the information already supplied. In this way the scheme would be assimilated into its surroundings as required by Core Strategies CS12 and CS13. It would also accord with saved Local Plan Policies 99 and 100, which deal with vegetation retention and planting.
49. To conclude on this issue it is my judgement that the proposed development would introduce a building which would be appropriate in its location, offering a transition between residential and industrial uses. It would not add unacceptably to the lighting environment during hours of darkness and would be capable of being suitably landscaped. The impact on the character and appearance of the locality would be acceptable.

Other Matters

50. The appeal site lies relatively close, but not adjacent, to the Chilterns National Landscape. Some comments have suggested that the proposal would be harmful to that landscape or its setting. The closest parts of the NL lie to the west of the Roman Park houses, and beyond farmland to the north. From neither of these locations would the development be likely to be observed given intervening distance, vegetation and topography. The Council accepts that there would be no adverse impact on the NL and that is a position with which I agree. There is therefore no conflict with saved Local Plan Policies 97 and 113.
51. The hybrid planning permission granted some years ago included condition 32, which I am told required the appeal site to be marketed for employment purposes. I am also told that did not happen and that there has therefore been a breach of condition. That is not a matter before me, and in any case the Council accepts that the business use of the appeal site envisaged at that time is now unlikely. Furthermore no substantive evidence has been made available to me of any interest in the land for that purpose.
52. Some members of the community are concerned that the proposed store would constrain the ability of existing stores in the town centre to compete and thrive. However that is not a matter which is of concern to the Council, and it is a matter of agreement between the main parties that the retail impact on Tring would not be harmful. There is no suggestion that the vitality and viability of the town centre would be harmed.
53. Although the Council has criticised the scheme as providing too much parking, some residents believe that insufficient parking is proposed, based on proposed developments elsewhere. Given the Council's views, and the SPD requirements, I am not able to agree that the proposal would provide too little parking.
54. Criticism has been made of the lack of consultation with local people on the proposal. That is not a matter which is before me to comment upon, except to say that the many representations submitted seem to indicate that the local populace has had adequate opportunity to comment and engage with the proposal.
55. I have given consideration to the fears expressed by some residents who live in close proximity to the site that it would attract young people who may purchase alcoholic drinks at the store and subsequently cause nuisance either in the car park or the open space to the west of Roman Park. However, there is simply no substantive evidence that such behaviour would be likely.
56. One further point made is that the site is currently unoccupied and quiet, and so does not add to levels of activity or the acoustic environment. Whilst that may be so at present it would be unrealistic to expect the site to remain undeveloped. My judgement has therefore focussed on the effects of the proposed development as submitted.

The Planning Balance

57. The Council fairly acknowledges that whether the proposal accords with the development plan turns on the conclusions on the main contested issues. It is clear from my findings above that I am satisfied that the development is in accordance with those policies which have been identified as the most

important for determining the appeal, and other relevant policies. There is no suggestion that these policies are not consistent with the NPPF.

58. The Council attaches substantial weight in its evidence to the provision of further convenience retail provision in Tring. Similarly substantial weight is afforded to the creation of about 40 full time equivalent jobs, as is the redevelopment of an urban brownfield site. I do not demur from these judgements.
59. Whilst the opportunities for travel other than by private car are not sufficient here to attract great weight, those opportunities have been addressed and do not detract from the benefits of the proposal. In a similar vein, although local residents would clearly be aware of a change in the traffic using the junction with Icknield Way and entering the appeal site, that change would be insufficient to outweigh the clear benefits of the proposal. It is also clear to me that any impact on the living conditions of those living nearby would be limited, and would not be so substantial as to indicate that planning permission should be refused on that basis.
60. I find that the design and landscaping of the site would be suitable, and can be ensured as necessary by condition. There is no detriment in that regard which can justify dismissing the appeal.
61. In relation to Policy LA5, which is out of date, I accept that some of its principles continue to be relevant. However, as I have set out above, my judgement on the main issues in this case turn on the particular circumstances pertaining to the proposal. I cannot identify any of the key development principles of Policy LA5 with which this proposal is in conflict.
62. Taking all matters into consideration it is clear to me that the proposed development is in accordance with the development plan taken as a whole, and accords with the principles set out in the NPPF. The tilted balance is engaged here and planning permission should be granted unless adverse impacts would significantly and demonstrably outweigh the benefits. That has not been shown to be the case, and therefore planning permission should be granted.

Conditions and Obligation

63. A list of planning conditions has been provided in the event that planning permission is to be granted. It is largely agreed between the 2 main parties and I am grateful for their cooperation in providing the list. Conditions dealing with the matters I address briefly below are reasonable and necessary and meet the tests for the imposition of conditions. As would also be expected conditions imposing the time limit for commencement and identifying the permitted plans would be required. Where necessary I have amended wording for clarity.

Pre-commencement conditions

- Details of sustainable drainage and its management, in order to ensure the site is properly drained;
- Installation and retention of tree protection measures, in the interests of visual amenity and biodiversity;

- Evidence of the purchase of biodiversity net gain offsetting credits, and its implementation and management in the interests of the natural environment;
- The approval of a construction management plan in order to minimise the impact of construction and protect amenity and highway safety;
- Bat and hedgehog surveys, in the interests of the ecology and the natural environment.

Before development above slab level conditions

- The submission of material samples to ensure a satisfactory external appearance;
- Although the Appellant does not agree I consider it necessary to impose a condition requiring further detail of some parts of the building, to ensure an acceptable impact on the locality;
- Further details of some aspects of the landscaping of the development, to ensure successful assimilation into the surroundings;
- A landscape and ecological management plan, in order to ensure that the development enhances the natural environment;
- Full details of highway improvements are necessary to achieve safe and secure access arrangements.

Prior to occupation conditions

- The car parking and circulation areas to be laid out and demarcated in the interests of safety;
- The provision of a car park management plan, including increasing EV charging points, in order to encourage sustainable travel;
- A delivery and servicing management plan in order to ensure proper operation of the development;
- A ground condition report, and methods for dealing with any contamination uncovered, in order to ensure the site is suitable for occupation;
- The provision of visibility splays to ensure safe use of the highway;
- Confirmation of foul water capacity in order to avoid pollution and ensure satisfactory operation;
- The provision of an acoustic fence to protect residential amenities.

Other conditions

64. Conditions are required to control hours of operation of the store and to prevent external storage in order to ensure the development is properly assimilated into the locality. For the same reason a condition requiring external lighting to follow submitted details is necessary. It is also necessary to require adherence to the energy usage and sustainability statement provided, in order to ensure the development accords with the aims of the development plan in this regard.

65. I do not consider that it is necessary to impose a condition requiring a signage strategy for pedestrians and cyclists since the store location would no doubt be

quickly known to those potential customers. Despite the concerns of some residents I do not consider that it is necessary to impose a condition requiring a litter management plan because I have no reason to doubt that the store operator would ensure the site is kept tidy.

Planning Obligation

66. An agreement pursuant to S106 of the 1990 Act has been submitted. It is a relatively simple agreement which binds the owner of the land to pay a sum to the County Council in relation to its Travel Plan Evaluation and Support role. It further binds the owner to produce a Travel Plan, ensure that it is implemented and reviewed, and to make changes, as necessary, over time. I am satisfied that the obligation meets the tests set out in Community Infrastructure Levy Regulations. I am therefore able to take it into account in reaching a decision on this appeal.

Overall Conclusion

67. For the reasons given above, and having considered all evidence and representations made both orally and in writing, I conclude that the appeal should be allowed.

Philip Major

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:
 - PL-01 Rev C
 - PL-02 Rev D
 - PL-03 Rev R
 - PL-04 Rev C
 - PL-05 Rev C
 - PL-06-Rev K
 - 10947-FPCR-XX-XX-DR-L-0001 P06
 - 10947-FPCR-XX-XX-DR-L-0002 P06.
- 3) No development shall take place until details of the implementation, adoption, maintenance and management of a sustainable drainage system have been submitted to and approved in writing by the Local Planning Authority. Those details shall include:
 - (a) a timetable for its implementation; and
 - (b) a management and maintenance plan for the lifetime of the development which shall include the arrangements for adoption by any public body or statutory undertaker, or any other arrangements to secure the effective operation of the sustainable drainage system throughout its lifetime.

The sustainable drainage system shall be implemented and thereafter managed and maintained in accordance with the approved details.
- 4) No development shall take place until the tree protection measures identified in the Arboricultural Impact Assessment by Ascerta (Rev C dated February 2024) have been installed. No equipment, machinery or materials for the development shall be taken onto the site until these measures have been installed. The works must be carried out according to the approved details and thereafter be retained until completion of the development and no materials, plant, soil or spoil shall be stored underneath the canopy of any tree on the site which is shown for retention on the approved drawing.
- 5) Prior to the commencement of development, evidence of proof of purchase of off-site of biodiversity offsetting credits from a third party provider within the administrative area of Dacorum where possible, shall be submitted to and approved in writing by the Local Planning Authority. The approved ecological enhancements shall subsequently be implemented in full prior to first occupation of the building and shall be maintained thereafter according to the approved Landscape Management Plan required under this planning permission (condition 11 below).
- 6) No development shall commence until a Construction Management Plan has been submitted to and approved in writing by the Local Planning Authority. Thereafter the construction of the development shall only be carried out in accordance with the approved plan.

The Construction Management Plan shall include details of:

- (a) Construction vehicle numbers, type, routing;
 - (b) Access arrangements to the site;
 - (c) Traffic management requirements;
 - (d) Construction and storage compounds (including areas designated for car parking, loading/unloading and turning areas);
 - (e) Siting and details of wheel washing facilities;
 - (f) Cleaning of site entrances, site tracks and the adjacent public highway;
 - (g) Timing of construction activities (including delivery times and removal of waste) and to avoid school pick up/drop off times;
 - (h) Provision of sufficient on-site parking prior to commencement of construction activities;
 - (i) Post construction restoration/reinstatement of the working areas and temporary access to the public highway;
 - (j) Where works cannot be contained wholly within the site a plan should be submitted showing the site layout on the highway including extent of hoarding, pedestrian routes and remaining road width for vehicle movements.
- 7) The development shall be carried out in accordance with the Conclusions contained within the Preliminary Ecological Appraisal Rev A, ref. P.1648.22, by Asceta, June 2022. Prior to the commencement of development, an updated bat roost assessment and hedgehog reasonable avoidance measures (RAM) survey shall be submitted to and approved in writing by the Local Planning Authority.
- 8) No development above slab level shall take place until samples of the materials including flintwork (not pre-constructed panels) to be used in the construction of the external surfaces of the development hereby permitted have been submitted to and approved in writing by the Local Planning Authority. Materials should be kept on site and arrangements made with the Planning Officer for inspection. Development shall be carried out in accordance with the approved details.
- 9) No development above slab level shall take place until 1:20 details of the following have been submitted to and approved in writing by the Local Planning Authority.
- (a) full details of solar panels in context of the elevations;
 - (b) details of roof design;
 - (c) door and window fenestration, (including frame recess);
 - (d) cycle parking, including the location of 7 stands.
- Development shall be carried out in accordance with the approved details.
- 10) Notwithstanding any details submitted, no development above slab level shall take place until full details of both hard and soft landscape works

have been submitted to and approved in writing by the Local Planning Authority. These details shall include:

- (a) soft landscape works including planting plans; written specifications (including cultivation and other operations associated with plant and grass establishment); schedules of plants, noting species, plant sizes and proposed numbers/densities;
- (b) proposed finished levels or contours;
- (c) minor artefacts and structures (e.g. furniture, play equipment, lighting, signs, other units, etc).

The details as approved shall be carried out before the first occupation of the development. Any tree or shrub which forms part of the approved landscaping scheme which within a period of 5 years from the date of planting fails to become established, becomes seriously damaged or diseased, dies or for any reason is removed shall be replaced in the next planting season by a tree or shrub of a species, size and maturity to be agreed with the local planning authority.

- 11) Prior to commencement of works above slab level, a Landscape and Ecological Management Plan (LEMP) including long term design objectives, management responsibilities and maintenance schedules for all landscape areas shall be submitted to and approved in writing by the local planning authority. The LEMP shall also describe how it is planned to incorporate biodiversity as part of the development and achieve overall net gains for biodiversity.

The LEMP should refer to the recommendations set out in the approved Preliminary Ecological Assessment Rev A dated June 2022.

The approved plan shall be implemented in accordance with the approved details. Any planting must be carried out within one planting season of completing the development. Any tree or shrub which forms part of the approved landscaping scheme which within a period of five years from planting fails to become established, becomes seriously damaged or diseased, dies or for any reason is removed shall be replaced in the next planting season by a tree or shrub of similar species, size and maturity.

- 12) Notwithstanding the details indicated on the submitted drawings no on-site works above slab level shall commence until a detailed scheme for the necessary offsite highway and access improvement works as indicated on drawing numbers PL-03 R and SCP/210814/SK02 within the Transport Assessment dated 2023 have been submitted to and approved in writing by the Local Planning Authority. These works shall include:
- (a) A rearranged bellmouth access at the junction of Sears Drive with Icknield Way including a pedestrian refuge island and any associated necessary works including pedestrian dropped kerbs and tactile paving;
 - (b) Realigned footway on the eastern side of Sears Drive;
 - (c) Alterations to the existing bell mouth into the site from Sears Drive including pedestrian dropped kerbs and tactile paving on either side;

- (d) Any other associated necessary works including lighting and signage.

Prior to the first use of the development hereby permitted the offsite highway improvement works referred to above shall be completed in accordance with the approved details.

- 13) Prior to the first occupation of the development hereby permitted the proposed internal access roads, on-site car parking (including EV provision) cycle parking, and turning areas shall be laid out, demarcated, surfaced and drained in accordance with the approved plan and retained thereafter as available for that specific use.
- 14) Prior to the first occupation, a car parking management plan, including a strategy to increase the number of EV charging points to 20 spaces where required over a period of 10 years, shall be submitted to and approved in writing by the Local Planning Authority, and shall be implemented as approved.
- 15) Prior to the occupation of the foodstore, a Delivery, Servicing & Waste Management Plan shall be submitted to and approved in writing by the Local Planning Authority. The Delivery, Servicing and Waste Management Plan shall be implemented in accordance with the approved details.
- 16) This site shall not be occupied, or brought into use, until:
- (a) All works which form part of the Applied Geology Report on Ground Investigation (Report ref: AG3396-22-AO45-Issue 2) dated March 2023 have been fully completed and if required a formal agreement is submitted that commits to ongoing monitoring and/or maintenance of the remediation scheme.
- (b) A Remediation Verification Report confirming that the site is suitable for use has been submitted to, and agreed in writing, by the Local Planning Authority.
- 17) Any contamination, other than that reported by virtue of Condition 16 encountered during the development of this site shall be brought to the attention of the Local Planning Authority as soon as practically possible; a scheme to render this contamination harmless shall be submitted to and approved in writing by, the Local Planning Authority and subsequently fully implemented prior to the first occupation of the development. Works shall be temporarily suspended, unless otherwise agreed in writing, during this process. Should no ground contamination be encountered or suspected upon the completion of the groundworks, a statement to that effect shall be submitted in writing to the Local Planning Authority prior to the first occupation of the development hereby approved.
- 18) Prior to the first use of the development hereby permitted visibility splays shall be provided in full accordance with the details indicated on the approved drawing number SCP/210814/SK02 within the Transport Assessment dated 2023. The splay shall thereafter be retained at all times free from any obstruction between 600mm and 2m above the level of the adjacent highway carriageway.
- 19) The development shall not be occupied until the following details have been submitted to and agreed in writing by the Local Planning Authority (in consultation with Thames Water):

- (a) Foul water capacity exists off site to serve the development, or
 - (b) A development and infrastructure phasing plan has been agreed. Where a development and infrastructure phasing plan is agreed, no occupation shall take place other than in accordance with the agreed development and infrastructure phasing plan, or
 - (c) All foul water network upgrades required to accommodate the additional flows from the development have been completed.
- 20) Prior to first use of the development, acoustic fencing shall be installed to the south of the building in accordance with the recommendations contained within the Noise Impact Assessment, Revision 3, by Hoare Lee dated 02 March 2023, and as shown on Drawing number PL-03 Rev R.
- 21) No external storage shall take place except as may be shown on the approved site plan.
- 22) Customers shall not be permitted in the foodstore other than at the following times:
- (a) 08.00 to 22:00 Mondays to Saturdays including bank holidays;
 - (b) 10:00 to 16:00 on Sundays.
- 23) The development shall be carried out in accordance with the following drawings:
- 23-4473-E63-EX02 Rev A – External Lighting Plan Rear of Store On
- 23-4473-E63-EX01 Rev B – External Lighting Plan Rear of Store Off
- The car parking lighting should be operational no more than 30 minutes prior to opening, and no more than 1 hour after closing of the foodstore.
- The lighting shall thereafter be operated and maintained for the lifetime of the development in accordance with these parameters.
- 24) The development hereby permitted shall be carried out in accordance with the submitted and approved Energy Usage and Sustainability Statement (Issue 5 dated 3 March 2023). The passive and active design strategies, as set out, shall be provided, in addition to the alternative low or zero carbon technologies identified.
- A checklist pursuant to Core Strategy Policy CS29 shall be submitted to and approved by the local planning authority prior to the first occupation of the development. Thereafter the scheme shall be implemented in accordance with approved details.
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APPEARANCES²

FOR THE LOCAL PLANNING AUTHORITY:

Mr S Bird	King's Counsel
He called	
Mr A J C Parrish	Lead Planning Officer, Dacorum Borough Council
BA(Hons) MA MRTPI	

FOR THE APPELLANT:

Mr C Howell Williams	King's Counsel
Miss S Bruce-Smith	Counsel
They called	
Mr T Jackson BA(Hons)	Senior Director, FPCR Environment and Design
DipLA CMLI	Ltd
Mr J Budd MSc FCIHT	Director, Singleton Clamp and Partners
Mr A McCordick	Acoustic Engineer, Hoare Lea LLP
BSc(Hons) MIOA	
Mrs K Russell-Smith	Director, Carney Sweeney
BSc(Hons) MRTPI	

INTERESTED PERSONS:

Mrs G Petrilli	Local Resident
Miss J White	Local Resident

DOCUMENTS HANDED IN AT THE INQUIRY

- 1 Opening Statement for the Appellant
- 2 Opening statement on behalf of the Council
- 3 Updated list of suggested planning conditions
- 4 Closing submissions on behalf of the Council
- 5 Closing statement for the Appellant

² Those listed as being called above either gave formal evidence or took part in round table sessions on particular topics.