

**PLANNING COMMITTEE**

**30th March 2021**

**APPLICATION FOR CONSIDERATION**

**0501/2020**

**REPORT OF ASSISTANT DIRECTOR - GROWTH & REGENERATION**

**Tamworth**  
Borough Council

**Application Number: 0501/2020**

**Development: Subdivision of the existing retail unit to create two units and to allow the sale of food from both units, alterations to the external appearance of the building and the existing car park, provision of a new service yard, and the erection of a restaurant and drive thru facility and associated landscaping works.**

**Location: Former John Lewis Store, Ventura Park**

## **1. Site and Surroundings**

- 1.1 The application site comprises of the former John Lewis retail store site. The site is host to a large rectangular building with associated car park and access, along with a service yard to the south. The access road to the service yard runs along the western edge of the site and backs onto the Plastics Omnium building, which fronts onto Winchester Road. The site lies to the north of the A5 (Wilnecote Bypass). To the front of the building is a large surfaced parking area and to the northern side is a further parking area (historically designated for employees). The parking area is surrounded by access roads linking the site to the other retail facilities within the area. These include the Jolly Sailor Retail Park to the north, the Cardinal Point Retail Park to the northwest and Ventura Retail Park to the east.
- 1.2 The site is accessed off Ventura Park Road and has two separate access points, one originally for customers and the other reserved for servicing and staff. The site is visible from the Ventura Retail Park roundabout. The site is also served by multiple bus routes, providing direct connections to Tamworth Town Centre.
- 1.3 The site is situated within an established out of Town retail area being host to B&Q, Sainsbury's, Asda, Next and Next Home, Curry's PC World, Sports Direct, Marks and Spencer, McDonald's Drive Thru and a Nando's restaurant (among others). The surrounding area also includes a large number of car garages/showrooms including Volkswagen, Toyota and Audi, along with large industrial and commercial developments.
- 1.4 The site is not within a conservation area nor is the building listed, however the site does fall within Flood Zone 3, but benefits from flood defences.

## **2. Proposal**

- 2.1 This planning application seeks permission to subdivide the former John Lewis retail unit into two units of 1,950sqm and 3,350sqm respectively for the purpose of food and non-food retail sales. The proposal also includes external alterations to the building, to provide two entrances, along with alterations to the car park to facilitate a new service yard, and the erection of a new 204sqm restaurant with drive thru facility. This facility would include eight waiting spaces for cars (to the rear of the building).
- 2.2 Aside from the floor space provided by the proposed restaurant with drive thru, the proposal would not result in the creation of new retail floor space; to clarify, the application is seeking consent for the subdivision of the existing retail unit to allow the end users to sell food and non-food related retail goods.
- 2.3 The proposed opening hours for the unit would be 05:00 – 23:00 seven days a week and staff would be in the store approximately 30 minutes prior to opening and 30 minutes after closure.

- 2.4 Throughout the course of this application, dialogue has been held with the applicant to secure more comprehensive details in regards to the Impact Assessment and Sequential Test. The additional information provided has focused on the potential impact of the proposed development on the Town Centre and the detailed assessment of alternative locations within the borough, and why these are not suitable. The agent has also provided additional justification relating to the subdivision of the units. The updated information has been duly considered in the decision making process.

### **3. Relevant Policies**

#### **3.1 Local Policy**

Adopted Tamworth Borough Council Local Plan 2006-2031

SS1 - The Spatial Strategy for Tamworth  
SS2 – Presumption in Favour of Sustainable Development  
EC1 - Hierarchy of Centres for Town Centre Uses  
EC2 - Supporting Investment in Tamworth Town Centre  
EC6 – Sustainable Economic Growth  
EN4 – Protecting and Enhancing Biodiversity  
EN5 – Design and New Development  
SU1 - Sustainable Transport Network  
SU2 – Delivering Sustainable Transport  
SU3 – Climate Change Mitigation  
SU4 - Flood Risk and Water Management  
IM1 – Infrastructure and Developer Contributions  
Appendix C – Car Parking Standard

#### **3.2 National Policy and Guidance**

The National Planning Policy Framework (NPPF) (as amended) 2019

Chapter 2 – Achieving Sustainable Development  
Chapter 4 – Decision-making  
Chapter 6 – Building a strong, competitive economy  
Chapter 7 - Ensuring the vitality of town centres  
Chapter 9 – Promoting sustainable transport  
Chapter 11 – Making effective use of land  
Chapter 12 – Achieving well-designed places  
Chapter 14 – Meeting the challenge of climate change, flooding and coastal change  
Chapter 15 – Conserving and enhancing the natural environment

Planning Practice Guidance (PPG)

Other Guidance/Legislation

None Relevant

### **4. Relevant Site History**

- 4.1 Outline planning permission was granted (at appeal) in March 2006 (LPA ref. 0070/2002 and appeal ref. APP/Z3445/A/04/1153751) for the erection of a retail unit measuring approximately 5,477sqm (GIA) with approximately 900sqm outside area. The reserved matters application (LPA ref. 0476/2008) was subsequently approved in January 2009. A non-material amendment application was then granted in May 2011 (LPA ref. 0152/2011)

for amendments to the outside area, including the relocation of the sprinkler tank and also clarification of the external retail floor area.

Condition 12 of the original consent stated:-

*“Notwithstanding the provisions of the Town and Country Planning (Use Classes) Order 1987 and the Town and Country Planning (General Permitted Development) Order 1995 (or any Order revoking and re-enacting these Orders with or without modifications) the premises shall not be used for any purpose other than the retail sale of non-food goods, DIY and associated garden products, and uses ancillary to the primary use of the site for A1 retailing, where such ancillary uses may include a store for retail goods, the office, staff restroom, customers’ coffee shop, parking and servicing, unless otherwise agreed in writing by the Local Planning Authority.”*

Condition 16 of the original consent stated:-

*“There shall be no subdivision into separate retail units of the retail unit hereby permitted.”*

The permission therefore restricted the unit from selling food, or from being subdivided.

- 4.2 In 2009, a certificate of lawful development/use was issued (LPA ref 0190/2009). This confirmed that there are no restrictions for the non-food unit in relation to the type or range of comparison goods that can be sold from the unit.
- 4.3 Planning permission was granted in February 2013 (LPA ref. 0379/2012) for the installation of a mezzanine floor measuring approximately 2,405sqm (GIA) providing 1,784sqm of net additional retail floor space. The permission was not implemented and has now lapsed.

## **5. Consultation Responses**

- 5.1 National Grid: No objection.  
TBC Policy and Delivery: No objection.  
TBC Economic Development: No response.  
Environment Agency: No objection  
Local Lead Flood Authority: No objection subject to conditions.  
Severn Trent Water: No objection subject to conditions.  
Staffordshire County Council Highways Authority: No objection subject to conditions.  
TBC Environmental Health: No objection.  
TBC Tree Officer: No objection.  
Staffordshire Fire and Rescue: No objection.  
Staffordshire Police: No objection.  
Highways England – No response  
Waste Services – No objection
- 5.2 Whilst every effort has been made to accurately summarise the responses received, full copies of the representations received are available to view at <http://planning.tamworth.gov.uk/northgate/planningexplorer/generalsearch.aspx>
- 5.3 The consultation responses comments are précised if conditions are proposed these are included within the conditions at the end of the report unless stated otherwise.

## **6. Additional Representations**

- 6.1 As part of the consultation process, adjacent residents were notified and a press notice and site notices were erected. Whilst every effort has been made to accurately summarise the

responses received, full copies of the representations received are available to view at [www.tamworth.gov.uk](http://www.tamworth.gov.uk).

- 6.2. 1 objection was received during the consultation process. The objection raised concerns surrounding the position of the proposed drive thru blocking off an existing pedestrian access, which in turn would result in increased vehicle movements within Ventura Park. Having considered this objection it is clear from the plans that a pedestrian access would be retained at the car park entrance, which is not a considerable distance away and therefore it is not felt that the location of the Drive Through would result in a reduction of pedestrian movements. Highways have been consulted as part of the application process and have expressed no objection to the proposed development.

## **7. Equality and Human Rights Implications**

- 7.1 Due regard, where relevant, has been taken to the Tamworth Borough Council's equality duty as contained within the Equalities Act 2010. The Council has had due regard to the Public Sector Equality Duty (PSED). Under Section 149 of the Equality Act 2010, a public authority must in the exercise of its functions, have due regard to the interests and needs of those sharing the protected characteristics under the Act, such as age, gender, disability and race.
- 7.2 There may be implications under Article 8 and Article 1 of the First Protocol of the Human Rights Act, regarding the right of respect for a person's private and family life and home, and to the peaceful enjoyment of possessions. However, these issues have been taken into account in the determination of this application.

## **8. Environmental Impact Assessment**

- 8.1 As is required under the Town and Country Planning (Environmental Impact Assessment) (England and Wales) (as amended) Regulations 2017, a Screening Opinion has been undertaken and this concluded that the development proposal does not require an Environmental Impact Assessment.

## **9. Planning Considerations**

- 9.1 Taking into account the application made, the documents submitted (and supplemented and/or amended where relevant) and the site and its environs; the main issues central to the determination of this application are:

- Principle of development including impacts on the Town Centre and Economy
- Design, Character and Appearance
- Residential Amenity
- Highway Issues
- Drainage and Flood Risk
- Landscaping and Ecology
- Other Material Planning Considerations

### **9.2 Principle**

- 9.2.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires all planning decisions to be made in accordance with the development plan unless material considerations indicate otherwise. The National Planning Policy Framework (NPPF) is a material planning consideration. Both the Local Plan (LP) and the NPPF contain a presumption in favour of sustainable development. Policy SS2 (presumption in favour of

sustainable development) of the LP makes reference to the presumption contained within para 11 of the NPPF, which states:-

*Plans and decisions should apply a presumption in favour of sustainable development.*

*For decision-taking this means:*

*c) approving development proposals that accord with an up-to-date development plan without delay; or*

*d) where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless:*

*i. the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed<sup>6</sup>; or*

*ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.*

9.2.2 The adopted Tamworth Local Plan 2006-2031 (LP) is the starting point in assessing the acceptability of this planning application.

9.2.3 This application has arisen primarily as a result of conditions 12 and 16 of the original consent, for if these were not imposed, the changes now proposed could take place without the need for planning consent. These are as follow:-

Condition 12:

*“Notwithstanding the provisions of the Town and Country Planning (Use Classes) Order 1987 and the Town and Country Planning (General Permitted Development) Order 1995 (or any Order revoking and re-enacting these Orders with or without modifications) the premises shall not be used for any purpose other than the retail sale of non-food goods, DIY and associated garden products, and uses ancillary to the primary use of the site for A1 retailing, where such ancillary uses may include a store for retail goods, the office, staff restroom, customers’ coffee shop, parking and servicing, unless otherwise agreed in writing by the Local Planning Authority.”*

9.2.4 The purpose of this condition was to stop the retail unit from selling food goods as their primary purpose, which would prevent a supermarket, for example, occupying the building. The reasoning for such conditions are often to ensure that there would be no harmful retail related impacts (trade draw) on similar units within more sequentially preferable locations, in this case, the Town Centre.

Condition 16 of this permission states:

*“There shall be no subdivision into separate retail units of the retail unit hereby permitted.”*

9.2.5 Often (but not always) the subdivision of retail units, into smaller units within the same use class are not considered to constitute a ‘material change of use’ or to result in the creation of a new planning unit and is therefore not defined as ‘development’. As such, in many situations, subdivision does therefore not require the formal submission of a planning

application. However, there may be situations where it is both reasonable and necessary to restrict such, on the basis of planning policy concerns or other material considerations. Condition 16 was likely to have been imposed in this case as at the time of the application, there may not have been any comparable units/sites within a sequentially preferable location (such as the Town Centre) which could have accommodated the proposal. Had however the unit been smaller, there may indeed have been more sequentially preferable sites which could have fulfilled the need, and if this were the case, in the absence of such a condition preventing subdivision, the proposal may not have been found acceptable.

9.2.6 Central to the determination of this application, it is therefore essential to understand the impacts on the Town Centre (and any other sequentially preferable locations) of allowing food retail from the unit (s) and also to determine whether there are any sequentially preferable sites or buildings which could accommodate the proposal.

9.2.7 As the application also proposes a restaurant and drive thru, which is also defined as a main town centre use<sup>1</sup>, it is also necessary to understand the potential impacts of this facility on the town centre and whether it is situated in a sequentially appropriate location.

#### Impact upon Town Centre

9.2.8 Local Plan policy SS1 (The Spatial Strategy for Tamworth) states that Tamworth town centre will be the primary focus for new retail, leisure and tourism development over the Plan period.

9.2.9 The application site is shown on the Policies Map accompanying the Local Plan as 'Out of Centre Retail'. The relevant policy requirements are found within Policy EC1, as follows:- *where a development involving main town centre uses is proposed outside of the town centre, local or neighbourhood centres, it must demonstrate:*

*a.) Compliance with the sequential test*

*b.) Good accessibility by walking, cycling and public transport*

*c.) That there will be no adverse impact on the vitality and viability of other existing centres*

*d.) It will not prejudice the delivery of other strategic objectives*

9.2.10 Policy EC1 continues, defining a floorspace threshold for 'main town centre uses' within out of centre retail parks, (such as this) of 250sq.m, for when an impact assessment is required. Impact assessments are necessary to assess the retail related impacts of the new use on existing comparable uses.

9.2.11 Policy EC2 (Supporting Investment in Tamworth Town Centre) also states:

*Development that will have a significant adverse impact on the vitality and viability of the town centre will not be supported unless it has been demonstrated that the wider economic benefits will outweigh the detriment to the town centre.*

9.2.12 On the basis of condition 12 of the original consent, it is necessary to consider the impact associated with food retail sales on the vitality and viability of other existing centres (only food related retail impacts need to be considered as the unit has consent for non-food retail trade). In addition and on the basis of condition 16 of the original consent, a sequential assessment is also necessary to establish whether any sequentially preferable sites would

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<sup>1</sup> Retail development (including warehouse clubs and factory outlet centres); leisure, entertainment and more intensive sport and recreation uses (including cinemas, restaurants, drive-through restaurants, bars and pubs, nightclubs, casinos, health and fitness centres, indoor bowling centres and bingo halls); offices; and arts, culture and tourism development (including theatres, museums, galleries and concert halls, hotels and conference facilities). (NPPF)

be available to accommodate either the two smaller retail units proposed or the restaurant with drive thru.

9.2.13 Furthermore, para 86 of the NPPF offers further support, advising that a sequential test should be applied to planning applications for main town centre uses which are neither in an existing centre nor in accordance with an up-to-date plan and para 87 continues that when considering edge of centre and out of centre proposals, preference should be given to accessible sites which are well connected to the town centre. In regard to impact assessments, para 89 identifies that when assessing applications for retail and leisure development outside town centres, which are not in accordance with an up-to-date plan, local planning authorities should require an impact assessment if the development is over a proportionate, locally set floorspace threshold.

9.2.14 There are also a number of Court Judgements and appeal decisions which provide further clarity on the application of the sequential test. The key points can be summarised as follows:

- If a site is not suitable for the commercial requirements of the developer in question then it is not a suitable size for the purposes of the sequential approach;
- Provided the developer has demonstrated flexibility with regard to format and scale, the question is whether the alternative site is suitable for the proposed development, not whether the proposed development could be altered or reduced so that it can be made to fit the alternative site;
- 'Suitable' and 'available' generally mean 'suitable' and 'available' for the broad type of development which is proposed in the application by approximate size, type and range of goods;
- The area and site covered by the sequential test search should not vary from applicant to applicant according to their identity, but from application to application based on their content (i.e. the identity and corporate attitudes of an individual retailer are excluded);
- There is no requirement to consider the scope for disaggregation (unless specific circumstances dictate);
- A site needs to be available at the current time or expected to become available within a reasonable period.

9.2.15 Furthermore, the Planning Practice Guidance (PPG) provides guidance on the sequential assessment and highlights at Reference ID: 2b-011-20190722 that:

*"The application of the test will need to be proportionate and appropriate for the given proposal." The PPG also identifies at Reference ID: 2b-013-20190722 that in terms of viability:*

*"The sequential test supports the Government's 'town centre first' policy. However as promoting new development on town centre locations can be more expensive and complicated than building elsewhere, local planning authorities need to be realistic and flexible in applying the test."*

9.2.16 Importantly, the PPG recognises at Reference ID: 012 Reference ID: 2b-012-20190722 that in applying the sequential approach to site selection:

*"...certain main town centre uses have particular market and locational requirements which mean that they may only be accommodated in specific locations."*

9.2.17 It is considered that the approach outlined above is relevant in this instance given the nature of the proposed retailers to be accommodated on the application site have identified

the vacant John Lewis unit as the most appropriate site to meet their operational needs. The anticipated occupants also require a store that is large enough to offer a wide range of food goods as well as readily accessible parking. (to be considered in further detail below)

*a.) Compliance with the sequential test*

- 9.2.18 Application of the sequential site assessment must be attributed significant weight when assessing the acceptability of the proposal. This approach to site selection seeks to focus new development within existing town centres, where only if sites within, or on the edge of the centre are not suitable or available, will an out of centre site be appropriate. It has already been established that the application site comprises a sequentially preferable location to accommodate a retail unit of the size existing. It may be however, that there are sequentially preferable sites for smaller units, commensurate with the subdivided sizes now proposed and for the restaurant with drive thru facility.
- 9.2.19 In accordance with relevant guidance and case law the sequential test needs to consider the availability of more centrally located opportunities for the specific development proposed.
- 9.2.20 The application has been accompanied by a sequential assessment. This sets out the specific requirements relating to the proposal as a whole, which are considered justification as to why the disaggregation would not be an option in this case and would undermine the purpose of the proposal to occupy a vacant and already existing retail unit. On this basis it is agreed that any sequentially preferable site would need to accommodate the below:-
- The unit would need to be in a suitable location to serve the appropriate catchment area;
  - A unit size of circa. 5,300sqm (size of former John Lewis unit) (including a minimum floorspace of circa .4,770sqm and a maximum of circa. 5,830sqm, allowing for flexibility of +/- 10% of the proposed gross floorspace), for the retail unit as well as space to provide a Costa Coffee with a drive thru facility, to accommodate the proposal as a whole, or a site with an area of between 0.14ha and 0.17ha;
  - Prominent location with customer access at ground floor level;
  - Free and adjacent car parking with trolley bays within the car park for the customers, given the existing site includes a large car park;
  - Large floorplate areas, with the sales area on a single level and as few obstructions such as load-bearing columns as possible;
  - Good servicing arrangements separate from customer entrances including a service yard; and
  - Regular configuration.
- 9.2.21 Furthermore, a more sequentially preferable site would also need to be able to fulfil the retailer's specific requirements and business models; In this case the premises would need to be capable of selling food in one half, with the remaining half being able to sell 30% food goods.
- 9.2.22 The applicant's sequential assessment has acknowledged that there are a number of vacant sites within the town centre, but that these would be too small to accommodate the proposal and thus were initially discounted on these grounds. The assessment has therefore focused in more detail on two more comparable sites. These comprise of the former Gungate site and 44 Ankerside shopping centre.

*Gungate Site*

- 9.2.23 Planning permission was granted in 2010 for the redevelopment of this site to provide circa 20,660sqm of retail development with ancillary uses. The site is approximately 1.64

hectares. This permission was extended by an additional three years in 2013. This permission lapsed, however, a new application was subsequently submitted and granted in May 2017 (Ref. 0523/2016) which was a resubmission of the original permission. No reserved matters applications have been submitted and therefore, this permission has also now lapsed. This site remains a key regeneration priority for the Council, however in response to changing market demands, shopping habits and social demands, it is unlikely that any future re-development proposal will now be retail led. Furthermore, the site as a whole is not available on the open market. For the reasons set out this site is neither considered available or suitable for the proposed development.

#### *Ankerside (44) Shopping Centre*

9.2.24 Ankerside Shopping Centre is located on George Street in Tamworth Town Centre. This unit consists of a ground floor level, measuring 1,393sqm and basement level measuring 1,486sqm (ie total of 2,879sqm). As mentioned above, both retailers require one single level with access to their store on ground floor. On this basis, the basement level is unsuitable for either retailer.

9.2.25 The ground floor level, as mentioned above, measures 1,393sqm. This unit is therefore too small to accommodate the proposed development as a whole. Furthermore, if the proposed development were to be split, Unit 2 measures 3,350sqm and therefore, the ground floor level is too small to accommodate this unit. Unit 1 measures 1,950sqm and even with the flexibility of +/- 10% of the proposed floorspace for Unit 1 (Aldi), the ground floor level would still be too small to accommodate the Aldi unit on its own. On the basis of the above, it is agreed that this unit would not be suitable to serve the purposes of the proposed uses.

#### *Restaurant and Drive Thru*

9.2.26 The submitted sequential assessment has also considered whether any vacant units in the town centre could accommodate a restaurant with a drive thru facility. Of the sites assessed the sequential test has confirmed that the vacant units would either be too small (even allowing for reasonable flexibility) and/or they are of a format that would not allow the "drive-thru" element to be provided. On account of this, it is accepted that the drive-thru restaurant could not be accommodated on a sequentially preferable site.

9.2.27 The content and scope of the submitted sequential test have been considered and Officers concur that there would be no other similarly sized, available sites in a more sequentially preferable location, and so on this basis consider the sequential test to have been passed.

#### *b.) Good accessibility by walking, cycling and public transport*

9.2.28 In regards to criterion b.), the site and wider area currently functions as a retail destination and supports a board range of uses. As a result of this, the existing level of infrastructure and opportunities to access the site by walking, cycling and public transport are good. These connections mean that the site can promote opportunities for healthy and safe travel and reduce the need to travel by car. The proposal would also encourage sustainable transport modes (walking and cycling), with pedestrian and cycle links established within the area. Officers therefore consider that the proposal would be in compliance with this element of the Policy.

#### *c.) That there will be no adverse impact on the vitality and viability of other existing centres - Impact Assessment*

- 9.2.29 Policies EC1 and EC2 of the LP along with the NPPF require an assessment of the Impact of relevant development on the Town Centre, and assert that development proposals should be refused if they would be likely to have a significant adverse impact on Town Centre vitality and viability.
- 9.2.29 The application is accompanied by a Retail Impact Assessment, (as required by policy EC1) to determine whether the proposed development would have an impact on existing, committed and planned public and private sector investment in a centre, or centres within the catchment area of the proposal, and to determine the impact on town centre vitality and viability, including local consumer choice and trade in the Town Centre and wider retail catchment area.
- 9.2.30 The Impact Assessment solely focusses on the impacts associated with the sale of food from the premises and specifically the sale of food goods from 1,979sqm of the former John Lewis (ie 974sqm in the proposed Aldi and 1,005sqm in the proposed store in Unit 1) on the basis that the former John Lewis store is already permitted to sell non-food goods.
- 9.2.31 The assessment considered a number of issues under sub headings. The first of these related to impacts on Town Centre vitality and viability. This section set out by defining the catchment area, assessing the turnover of the defined centres and foodstores, calculating the food turnover of the proposal and finally by proving estimations in regards to the proportion of the proposals' food turnover that would be likely to be 'drawn' from existing centres and stores (based on a like for like comparison).
- 9.2.32 The research identified that the retail area in which the application site is situated has very significant levels of inflow and a large catchment area. Furthermore, notwithstanding that the Town Centre is unlikely to be in robust health, it includes a limited number of food retailers and small supermarkets including Iceland, Farmfoods and the Co-op, and is not therefore reliant on food retail. In addition, given the nature of the proposed discount foodstore and goods sold, it is expected that customers will continue to use other shops and facilities in the locality to supplement their food shop at the store.
- 9.3.33 In light of this, the food store proposed (Aldi) is expected to compete with retailers who sell a comparable range of goods. This includes the existing Aldi stores at Saxon Drive and Glascote Road, the Lidl at Bolebridge Street as well as other supermarkets, including the Asda at Ventura Park Road and Sainsbury's at Bitterscote Drive, which are both located opposite the site. The proposal is also likely to draw trade from the proposed Lidl at Ninian Way (although this development has not yet been consented). However, only limited trade is expected to be drawn from Tamworth Town Centre and nearby Local Centres given that these do not include any larger supermarkets and primarily include smaller food stores/shops who meet top up shopping needs.
- 9.3.34 In terms of the proposed variety store, similarly this again will primarily draw food trade from retailers who sell a comparable range of goods, including existing supermarkets and other variety stores (Home Bargains and B&M).
- 9.3.35 Overall the proposal would only result in an impact of 3% on the food retail turnover of the town centre, which would not be considered significant and should not be of a level that would result in the closure of existing shops. It should also be noted that the town centre and its health is not reliant on food retailing given that variety of uses within.
- 9.3.36 In terms of cumulative food related impacts, the associated impacts of the proposed Lidl and B&M at Ninian Way on the food turnover of the various centres and foodstores within the Study Area have also been considered. The study identifies that even taking into account these commitments, the proposal would only have a 7.1% cumulative food impact on Tamworth town centre, which is not considered to represent a significant adverse

impact. It is acknowledged however that whilst the proposal at Ninian way has received a resolution to approve, it has not yet been granted planning permission.

- 9.3.37 The policy wording within the NPPF and the Practice Guidance is concerned with 'significant impact'. National policy and guidance have been purposefully drafted in these terms because it is accepted that most new developments will have at least some impact on the surrounding area. As a consequence, the bar for what is deemed to be unacceptable is set very high and the pertinent question therefore is not whether there will be an impact, but whether the impact is 'significantly adverse'.
- 9.3.38 In considering the impacts, there are a range of material considerations which are influential. These include the fact that the former John Lewis store (having a net sales area of 3,902sqm (excluding the outdoor sales area) could be re-occupied by a range of non-food retailers who would compete with shops in Tamworth Town Centre and could actually draw more trade from the town centre than the proposal. Furthermore, the site is already situated within an established retail area and additional retail floorspace has already been accepted at the site through the granting of permission for a mezzanine floor of 2,405sqm providing 1,784sqm of net additional retail floorspace (although this consent has now lapsed and so can no longer be implemented).
- 9.3.39 Overall it is considered that whilst there may be an element of harm in terms of vitality and viability, it is unlikely that there would be a demonstrable quantitative significant adverse impact on the vitality and viability of the Town Centre that would warrant refusal of the application. On this basis Criterion c) is considered to have been satisfied.

*d.) It will not prejudice the delivery of other strategic objectives*

- 9.3.40 In relation to criterion d. (of Policy EC1), policy EC2 states that the Gungate redevelopment scheme is the preferred location for main town centre uses in Tamworth up to 2021 and that this remains the case until either the site is developed or the end of 2020/21 has been reached with no substantial progress having been made; in which case a review of Tamworth's retail requirements will be carried out to consider potential alternatives. On this basis, whilst the Gungate site remains the preferred location for town centre uses, any proposed development that prejudices the delivery of that site should be considered to be contrary to policy EC1. This said, we are now a significant way through 2020/21 with no progress having been made on the delivery of a retail-led development on the Gungate site. Additionally, the Council has now taken ownership of the site and is exploring options for its redevelopment with a scheme that is more appropriate in the current economic and social climate. Officers therefore consider that, should the proposed development be approved and implemented, it would be unlikely to be factor in the failure of a retail-led scheme being delivered on the Gungate site. On that basis, Officers are satisfied that the proposal would be unlikely to prejudice the delivery of other strategic objectives set out in the Local Plan.
- 9.3.41 In order to be considered appropriate, this proposal would need to meet the requirements as set out in policy EC1. Due to the change in circumstances on the Gungate site, Officers are satisfied that the proposal would comply with requirements a) and d). Furthermore, due to its good accessibility, there would be no conflict with requirement b). Finally, on the basis of the submitted Retail Impact Assessment, it has been demonstrated that there would be no significant adverse impact on the vitality and viability of the existing centres and so criterion c). would be met.
- 9.3.42 On balance, it is not considered that the impact upon the town would be significant enough to justify refusal of the application. This is particularly the case when the fall-back position is taken into account. The application is therefore considered to be in accordance with policies EC1 and EC2 of the adopted Local Plan.

## **9.4 Design, Character and Appearance**

- 9.4.1 An important consideration in determining the acceptability of the proposal are impacts of the proposed design on the character and appearance of the site and the surrounding area.
- 9.4.2 The importance of design is highlighted in policy EN5 of the LP. This seeks to ensure that high quality buildings and places are achieved across Tamworth and includes specific criteria (a – j) to ensure such. The criteria seeks to specify requirements relating to architectural style, mass, layout and scale, materials and landscaping, the incorporation of active frontages and measures to aid legibility, minimise or mitigate environmental impacts, pay regard to highways safety and secure health benefits.
- 9.4.3 Furthermore, para 124 of the NPPF sets out that: - *The creation of high quality buildings and places is fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities.*
- 9.4.5 This application proposes only minor alterations to the existing building. The proposed front elevation alterations would provide two new entrances for the separate retailers. The shopfront design would be modern and uniform, similar to those within the wider retail area. Overall the scheme has been designed to be of high quality and be in keeping with and respond to the existing character of the retail park, thus minimising its impact on the surrounding area. The proposals would create a policy compliant and appropriately designed scheme that positively complements its surroundings.
- 9.4.6 The proposed restaurant and drive thru would be located in the existing car park, at the north-eastern corner of the wider site. The proposal would comprise of a single storey unit with a floor area of 204sqm. The unit would be finished in horizontally laid timber cladding and blockwork (painted white) and the roof would be made from plastisol coated profile panels sprayed black. The overall appearance of this building would therefore be modern and in keeping with similar facilities in the surrounding area. To minimise visual and traffic related impacts, the drive-thru access road is to be located along the southern boundary of the site. A landscaped buffer is also proposed, which would soften and help assimilate the proposal within its setting.
- 9.4.7 In light of this, the proposed development demonstrates high quality design principles that respect the surrounding area. There scheme therefore complies with Policy EN5 of the Local Plan along with the intensions of Chapter 12 of the NPPF and the Design SPD.

## **9.5 Residential Amenity**

- 9.5.1 Criterion g of Policy EN5 of the LP seeks to minimise or mitigate environmental impacts for the benefits of the existing and future occupiers of adjacent land. Notable impacts identified include loss of light, privacy or security, unacceptable noise, pollution and flooding and a sense of enclosure and Criterion e of Para 170 of the NPPF states that LPA's should: - *prevent new and existing development from contributing to, being put at unacceptable risk from, or being adversely affected by, unacceptable levels of soil, air, water or noise pollution or land instability. Development should, wherever possible, help to improve local environmental conditions such as air and water quality, taking into account relevant information such as river basin management plans.*
- 9.5.2 Due to the intensified use of the site, there would be the potential for increased levels of noise and disturbance. However appraisal of these issues must be considered in the context of the fallback position (in that the site has a lawful retail use) and on the basis of

the character and composition of uses in the surrounding area. In terms of land use, there are no residential properties immediately adjoining the site, the nearest residential properties are located approximately 420m from the site. On consideration of the intervening distances between the site and closest residential area, it is not considered that the proposal would result in a material level of harm in terms of residential amenity (on the basis of issues identified above).

- 9.5.3 Overall, on the basis of the site context, the fall-back position and the distance of nearby residential properties from the site, it is not considered that the proposal would result in any materially harmful impacts in terms of residential amenity. The proposal is therefore considered compliant with the requirements of policy EN5 of the Local Plan and the overarching intentions of the NPPF.

## **9.6 Highway Issues**

- 9.6.1 Policy SU1 of the LP seeks to ease and improve the quality of access within the Borough through a range of policy criteria (a – i) of specific relevant to this application criterion i) requires improvements and traffic management measures as required to mitigate the impact of development traffic, with the Policy continuing to state that contributions towards infrastructure will be required where proportionate and necessary. In addition, Policy SU2 of the LP requires development to be accessible by walking, cycling, and public transport... and that planning permission should only be granted where development would ensure adequate highway safety, suitable access for all. The Policy continues that Planning Permission will be refused where travel to and from the development would be likely to cause harmful levels of pollution, highway safety or capacity issues. In regards to new roads, design advice is provided, in that they should result in a high quality public realm and finally a section on parking requirements is included, supplemented by Appendix C.

- 9.6.2 The NPPF at para 108 states that:- *in assessing sites that may be allocated for development in plans, or specific applications for development, it should be ensured that:*

*a) appropriate opportunities to promote sustainable transport modes can be – or have been – taken up, given the type of development and its location;*

*b) safe and suitable access to the site can be achieved for all users; and*

*c) any significant impacts from the development on the transport network (in terms of capacity and congestion), or on highway safety, can be cost effectively mitigated to an acceptable degree.*

- 9.6.3 *And para 109 continues that:- Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.*

- 9.6.4 The application site was previously occupied by the John Lewis store and so when considering the highway impacts associated with the current proposal, the previous situation and fallback position must be considered. On this basis, the previous use would have generated a considerable number of vehicle movements, thus impacting on the surrounding highway network.

- 9.6.5 A Transport Assessment accompanies the application. This demonstrates that the proposals would not result in materially different vehicle movements to those relating to the existing lawful use of the site. The key conclusions of the Transport Assessment are as follow:

- The site is located on an established retail park with good accessibility by sustainable modes of
- transport, including frequent bus services to Tamworth town centre from bus stops immediately outside the site;
- A traffic generation exercise has been undertaken which indicates that the proposed
- development would not result in a material increase in traffic when compared to the figures used for the original planning permission for the existing unit;
- Vehicle access is to remain as existing;
- A car parking accumulation exercise has been undertaken which indicates that the level of car parking proposed is more than sufficient to cater for the predicted demand associated with the proposed development; and
- The site is in a sustainable location, safe and suitable access can be achieved for all users, and there are no significant impacts from the development on the local highway network.

9.6.6 In relation to parking provision, Appendix C of the Local Plan sets out the maximum car parking standards. The proposed development includes a loss of 31 parking spaces (25 of these are from the staff parking area to the north of the site) to accommodate the restaurant and drive thru facility and the proposed service yard.

9.6.7 For retail uses the standards require a maximum provision of 1 staff car parking space per 100sqm of floorspace and 1 customer space per 20sqm of floorspace. The floorspace of the subdivided unit would be 5,300sqm and so on this basis the maximum customer car parking spaces would be 265. However the proposal would provide 280 car parking spaces.

9.6.8 The restaurant and drive thru facility would provide two dedicated disabled car parking spaces and a delivery/servicing space, and the supporting information states that dedicated core and fresh deliveries would take place three times per week from a mix of vehicles.

9.6.9 In terms of highway access, Ventura Park Road provides access within the retail park. This is an unclassified road with a 30mph speed limit. It has footways to both sides and street lighting. Ventura Park Road is linked to the A5 trunk road by Thomas Guy Way (maintained by Highways England). The site is currently served by two vehicular access points, one to the customer car park and the other to the service yard. Existing parking provision on the site comprises of 275 customer bays (including 14 disabled bays and 8 parent & child spaces) plus 36 staff parking bays, resulting in a total of 311 spaces.

9.6.10 The County Highways Authority have been consulted on the application. They have made a number of comments, but have raised no objection subject to conditions and a planning obligation to secure a Travel Plan and monitoring fee.

9.6.11 Highways have commented that the scheme would result in some changes to the customer and staff parking to accommodate the additional service yard and drive through. They have acknowledged that parking provision for customers would comply with the identified parking standards, but that the reduced staff parking area (16 spaces) would provide significantly less than the required 53 spaces. For these reasons, and to encourage sustainable travel a Framework Travel Plan for the site is has been requested.

9.6.12 The above comments and the request for a Framework Travel Plan will be considered in further detail. Whilst it is accepted that the current proposal would result in the loss of a number of parking employee parking spaces, overall the proposal would continue to provide in excess of the maximum number of spaces (albeit that a reduced number would be specifically be designated for staff parking). The central consideration in regards to parking provision is whether there is an under provision that would result in a highways safety issue associated with an increased demand fro on street parking in the area. In this case there would be no highway safety issue caused as the overall numbers of parking

spaces would be adequate to cater for the proposal. In regards to the Justification for a Framework Travel Plan, the CHA have made reference to when such are required. They have referenced a table in which it is identified that proposals for either food or non-food retail would require such if the units were to have a floor area in excess of 1000m<sup>2</sup>. In this case the combined floor area would be well in excess of this threshold, however the majority of this would be existing floor area. The only new floor area proposed would be that relating to the restaurant and drive thru. On this basis the net increase in floor area would be just over 250m<sup>2</sup>. Furthermore the proposal would only result in a net increase of 18 employees in comparison to the historic operation. On account of this, it is therefore not considered that a Framework Travel Plan would either be necessary to make the development acceptable in planning terms or fairly and reasonably related in scale and kind to the development proposed. As such the request would fail to meet the tests as set out in the Community Infrastructure Levy (CIL) Regulations 2010 and so will not be imposed.

- 9.6.13 In regards to vehicle tracking and turning for the service yard, this has been considered as acceptable.
- 9.6.14 In terms of vehicle movements during peak hours, these have been derived from TRIC's database and are predicted to be similar to the previous use. Parking accumulation, also derived from TRIC's, suggests that customer parking is sufficient for the proposed uses. The highways authority have also pointed out that it is unclear if any Electric Vehicle Charging Points are proposed, but given the increased numbers of such vehicles, it is recommended that a minimum of two charging points are provided prior to first use of the site. Finally in regards to cycle parking provision, the facilities proposed are not considered adequate to cater for the number of staff and customers and so a condition has been recommended to secure the provision of an adequate number of facilities.
- 9.6.15 On the basis of the above, it is considered that the development would be situated within a sustainable location which benefits from good access from a various modes of transport and subject to those conditions which are considered both reasonable and necessary, would not result in any severe impacts upon highway or pedestrian safety. The application is therefore considered to comply with policy SU2 of the adopted Tamworth Local Plan 2006-2031 and the NPPF 2019.

## **9.7 Contamination and Pollution**

- 9.7.1 Criterion g) of Policy EN5 of the LP seeks to ensure that environmental impacts associated with a development are minimised or mitigated and Policy SU5 of the LP states that development should manage the risk of ground or water pollution and where risk is identified it should be mitigated. The Policy continues that permission will be refused where pollution would pose an unacceptable risk to public health, quality of life or the environment which is not mitigated. The NPPF at para 178 (a) states, planning policies and decisions should ensure that: *a site is suitable for its proposed use taking account of ground conditions and any risks arising from land instability and contamination. This includes risks arising from natural hazards or former activities such as mining, and any proposals for mitigation including land remediation (as well as potential impacts on the natural environment arising from that remediation)* and at para 179 it is confirmed that where a site is affected by contamination..., responsibility for securing a safe development rests either the developer and/or landowner.
- 9.7.2 Environmental Health have been consulted as part of the application process. They have expressed no objection to the proposed development and have no concerns relating to ground conditions or that the proposed development would be at risk of contamination or harm public health. As such, the proposal would therefore be in accordance with Policies

EN5 and SU5 of the LP and the relevant paragraphs of the NPPF and is deemed to be acceptable.

## **9.8 Drainage and Flood Risk**

- 9.8.1 Policy SU4 of the LP states that all new developments including regeneration proposals, will need to demonstrate that there is no increased risk of flooding...and shall seek to improve existing flood risk management. The Policy continues that all development will be expected to incorporate appropriate Sustainable Urban Drainage Techniques (SUDS) that will manage flow rates on site, limit surface water runoff discharge rates and limit or avoid the connection of surface water discharge into the combined sewer network. The Policy further requires that development should not have an adverse impact on water quality and that major development should demonstrate that there is adequate wastewater infrastructure in place to serve the development. The NPPF at para 163 advises that LPA's should ensure that floor risk is not increased elsewhere and c) that SUDS are incorporated unless there is clear evidence that this would be inappropriate.
- 9.8.2 The site is located within Flood Zone 3, meaning that there is a high probability of flooding. As such, under Policy SU4 of the Local Plan and paragraph 163 of the NPPF, a Flood Risk Assessment (FRA) has been prepared and submitted alongside this application. The FRA acknowledges the existing and proposed uses of the site and considers flood risk in this context. Notwithstanding this, the proposed restaurant and drive thru are identified, but conclusions are drawn that there would be no sequentially preferable and available sites within a lower area of risk. Overall the FRA concludes that the proposed development would be acceptable in flooding terms. The report also identifies that the site is protected from fluvial flooding from the River Tame by EA maintained flood defences and in light of this, the FRA concludes that future users of the proposed development would be safe from flooding and there will be no detrimental impact on third parties.
- 9.8.3 On the basis of the specific site circumstances and due to the application being a major development proposal, the Environment Agency (EA), the Local Lead Flood Authority (LLFA) and Severn Trent Water have been consulted.
- 9.8.4 The LLFA have confirmed that the site is within EA flood zone 3, but that the area benefits from flood defence measures. In regards to surface water flooding, they have identified that the updated Flood Map shows the site could be susceptible to ponding associated with a 1:1000 – year event, but have continued that there have been no recorded flooding events within 20m of the site. On this basis they have raised no objection to the application subject to the imposition of pre-commencement conditions. These conditions would ensure that the full detailed drainage design is submitted for review, and that sufficient measures would be put in place to ensure no increase in flood risk will be caused as a result of the development. Two specific conditions have been suggested, the first would require final detailed surface water drainage design, incorporating sustainable drainage techniques and the second would seek details to ensure satisfactory arrangements for the control of surface water are in place as part of any temporary works associated with the permanent development, to ensure that flood risk is not increased prior to the completion of the approved drainage strategy.
- 9.8.5 Severn Trent Water and the LLFA have responded to confirm that they have no objections subject to a pre-commencement condition requiring the submission of details for surface and foul water drainage.
- 9.8.6 The Environment Agency have similarly confirmed no objection subject to the development being undertaken in accordance with the details included within the submitted flood risk assessment and the identified mitigation measures, which state that the finished floor levels shall be set at existing ground level or higher. (The mitigation in reference to the

floor levels would only be applicable to the proposed restaurant and drive thru as the other binding on site is existing.)

- 9.8.7 Subject to the imposition of the suggested conditions and on the basis of the existing flood defence measures it is not considered that the proposed development would increase the risk of flooding within the site, to the surrounding highways or to the nearby commercial/residential properties and there would be adequate infrastructure /measures in place to manage surface water in a sustainable way. Furthermore, the LLFA, EA and Severn Trent have all expressed no objections to the proposed development, subject to conditions. Therefore the proposed development is compliant with Policies SU4 and SU5 of the Local Plan and the NPPF para 163. As such the proposed development is deemed to be acceptable.

## **9.9 Landscaping and Ecology**

- 9.9.1 Policy EN4 of the LP states that development should not result in a net loss of biodiversity by ensuring that where harm to biodiversity is unavoidable and it has been demonstrated that no alternative sites are suitable, development is adequately mitigated or as a last resort, compensated for. In regards to landscape related matters the Policy suggests that developments should incorporate planting of native trees, where appropriate. The NPPF at para 170 advises that when determining planning applications, local planning authorities should:-

d) minimising impacts on and providing net gains for biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures;

and para 175 of the NPPF continues that:-

a) if significant harm to biodiversity resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused.

- 9.9.2 A landscaping scheme has been submitted with the proposal. This identifies that the proposed development would result in the loss of 10 existing trees along the boundary of the application site fronting onto Ventura Park Road. To mitigate this, 16 new trees have been proposed within the landscaped area surrounding the boundary of the application site. This would result in an improved situation in terms of biodiversity and amenity value over and above that existing and TBC's Tree Officer has been consulted, and has expressed no objection to the proposed development.

- 9.9.3 In relation to landscaping and biodiversity, as a result of the enhanced landscaping, there would be no loss in terms of biodiversity and it is considered that the natural environment and character of the area would be preserved and enhanced. As a result the proposal would be compliant with Policy EN4 of the Local Plan and the relevant paragraphs of the NPPF.

## **9.10 Material Planning Considerations**

- 9.10.1 In regards to economic impacts more generally, the NPPF at para 80 sets out that:- *Planning policies and decisions should help create the conditions in which businesses can invest, expand and adapt. Significant weight should be placed on the need to support economic growth and productivity, taking into account both local business needs and wider opportunities for development.* With Paragraph 81(d) advising that policy should *be flexible enough to accommodate needs not anticipated in the plan,*

*allow for new and flexible working practices (such as live-work accommodation), and to enable a rapid response to changes in economic circumstances.*

- 9.10.2 The Council aims to support the redevelopment of brownfield sites through bringing them back into a viable use. This approach is supported by para 117 of the NPPF which states that planning policies and decisions should promote an effective use of land in meeting the need for homes and other uses and para 118 c) identifies that:- substantial weight should be attributed to the value of using suitable brownfield land within settlements for homes and other identified needs. The application site constitutes a previously developed site (brownfield land) and this alone is considered as favourable to the alternative of developing a greenfield site and so should be attributed weight.
- 9.10.3 Through the redevelopment of the site employment opportunities would be created. These would comprise of construction related employment as well as a range of opportunities created by the proposed end users. This should help boost local job creation and the local economy as a whole. In terms of numbers, it is estimated that the proposal would result in 40 jobs within the proposed Aldi store, approximately 90 jobs in the other retail unit and 11 new jobs within the Costa Coffee unit. The proposal would, therefore, result in 141 jobs (including a mixture of full and part time jobs) for the Borough. This is a net increase of 18 jobs for the site, if John Lewis were still to occupy the unit, however, as it stands, the unit is currently vacant and therefore, providing no jobs. This is a material consideration in favour of the development.
- 9.10.4 The application site is currently vacant and has been for some time. The proposal would bring the site back into viable economic use, and due to the intensified form of development proposed, the scheme would result in the efficient use of land. Furthermore, the development would result in environmental enhancements through the re-use of a previously developed site. Therefore on this basis there would be enhancements to the local and wider economy and overall, the development would be compliant with the overarching intentions of Local and National Planning Policy.

## **9.11 Overall Planning Balance; Summary and Conclusion**

- 9.11.1 The application site comprises of an existing retail site, on which is a large building benefiting from consent to trade in non-food related retail goods. The site is served by existing accesses and parking provision and whilst in flood zone 3, benefits from EA flood defences. The building on the site has been vacant for almost a year and is not therefore currently contributing to the local economy.
- 9.11.2 The application has been submitted to fulfil the needs of three identified end users. One who would trade in food related goods, one who would trade in a combination of food and non-food related goods and the other who would provide associated restaurant and drive thru facilities.
- 9.11.3 Whilst there are various planning considerations applicable to this development, the central concerns relate to the retail related impacts of the development on the Town Centre and whether or not there would be any sequentially preferable sites which could accommodate the proposal. To assess such impacts, the application has been supported by a Retail Impact Assessment and a Sequential Assessment. The content of these assessments have been considered and where necessary, further information has been sought. On balance however, Officers agree with the conclusions drawn in these documents, in that there would be no sequentially preferable sites on which to accommodate the proposal and that any impact on the Town Centre, in terms of its vitality and viability would not be significantly adverse.

- 9.11.4 In regards to other planning issues, subject to the imposition of conditions (where requested and deemed reasonable/ necessary) the development is not considered to result in any materially harmful impacts in terms of design, character or appearance, residential amenity, highway safety, flood risk and drainage or biodiversity and trees.
- 9.11.5 There are also a number of other material planning considerations which must be attributed positive weight in the decision making process. The site is host to a lawful retail use along with associated built development and infrastructure, the proposal would bring the site back into a viable economic use (including job creation) and through the proposed intensification and by virtue of the site being defined as brownfield land, the development would result in efficiencies of land use.
- 9.11.6 On balance, and on the basis of the content of this appraisal and the submitted application documents and suggested conditions it is considered that the development would be acceptable and in accordance with the adopted Tamworth Local Plan 2006-2031 and the National Planning Policy Framework 2019 (as amended).

## **10 Recommendation**

Approval subject to the conditions outlined below in accordance with the requirements outlined in this report.

## **11 Conditions/Reasons:**

1. The development shall be started within three years of the date of this permission. Reason: To comply with Section 91 of the Town and Country Planning Act 1990 (as amended by Section 51 of the Planning and Compulsory Purchase Act 2004).
2. The development hereby approved shall only be carried out in accordance with the application form, the supporting letter and drawing numbers: The development hereby permitted shall only be carried out in accordance with the application form, the supporting letter and drawings:

3241/200 – Location Plan  
3241/204 Revision B – Proposed Site Plan  
3241/205 Revision B – Proposed Floor Plan  
3241/206 Revision C – Proposed Elevations  
3241/207 – Proposed Coffee Drive Thru\* Plans and Elevations  
0398/20/B/1 – Landscape Planting Plan

Reason: For the avoidance of doubt and in the interests of achieving sustainable development. To define the permission.

3. No development shall begin until the final detailed surface water drainage design has been submitted to and approved by the Local Planning Authority in consultation with the Lead Local Flood Authority. The design must demonstrate:
  - Surface water drainage system(s) designed in accordance with the Non-technical standards for sustainable drainage systems (DEFRA, March 2015).
  - SuDS design to provide sufficient water quality treatment, in accordance with the CIRIA SuDS Manual Simple Index Approach and SuDS treatment design criteria.
  - Mitigation indices are to exceed pollution indices for all sources of runoff and sufficient treatment measures should be in place.
  - Limiting the discharge rate generated by all rainfall events up to 100 year plus climate change in accordance with the guidance in the SCC SUDS Handbook.

Provision of surface water runoff attenuation storage to achieve the limited discharge.

- Detailed design (plans, network details and full hydraulic calculations) in support of any surface water drainage scheme, including details on any attenuation system, SuDS features and the outfall arrangements.
- Calculations should demonstrate the performance of the designed system and attenuation storage for a range of return periods and storm durations, to include as a minimum the 1:1 year, 1:30 year, 1:100 year and the 1:100-year plus 40% climate change return periods.
- Plans illustrating flooded areas and flow paths in the event of exceedance of the drainage system.
- Finished floor levels to be set higher than ground levels to mitigate the risk from exceedance flows.

These mitigation measures shall be fully implemented prior to occupation and subsequently in accordance with the scheme's timing/ phasing arrangements. The measures detailed above shall be retained and maintained thereafter throughout the lifetime of the development.

Reason: To reduce the risk of flooding to the proposed development and future occupants

4. No development shall begin until drainage plans for the disposal of foul water flows have been submitted to and approved by the Local Planning Authority. The scheme shall be implemented in accordance with the approved details before the development is first brought into use.

Reason: To ensure that the development is provided with a satisfactory means of drainage and to minimise the risk of pollution.

5. No phase of the development shall take place, including any demolition works, until a Construction Vehicle Management Plan (CVMP) has been submitted to and approved in writing by the Local Planning Authority. The approved statement shall be adhered to throughout the construction period. The statement shall include:

- Arrangements for the parking of site operatives and visitors.
- Loading and unloading of plant and materials.
- Storage of plant and materials used in constructing the development
- Construction and delivery hours
- Measures to remove mud or debris carried onto the highway

Reason: To protect pedestrian and highway safety in accordance with Policy SU2 of the Local Plan

6. The development hereby permitted shall not be brought into use until the parking, turning and servicing areas have been provided in accordance with the details as shown on submitted Drg. 'Proposed Site Plan drawing 3241/204 Rev. B' and the parking bays shall be clearly delineated. The parking, turning and servicing areas shall remain free from obstruction and shall be retained for their intended use thereafter.

Reason: To protect pedestrian and highway safety in accordance with Policy SU2 of the Local Plan.

7. The development hereby permitted shall not be brought into use until covered and secure cycle storage for staff and customers are provided in accordance with details first to be submitted to and approved in writing by the Local Planning Authority. These facilities shall subsequently be maintained retained thereafter. Reason: To encourage

alternative, more sustainable modes of transport in accordance with Policy SU2 of the Local Plan.

- 8 Notwithstanding the information provided prior to their incorporation in to the building(s) hereby approved, details and/or samples of the facing materials to be used shall be submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be constructed using the approved facing materials. Reason: In the visual interest of the building(s) and the surrounding area.
- 9 The approved details of soft landscaping shall be carried out in the first planting and seeding seasons following the first occupation of the buildings or the completion of the development, whichever is the sooner; any plants which within a period of five years (ten years in the case of trees) from the completion of the phase die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species and thereafter retained for at least the same period, unless the Local Planning Authority gives written consent to any variation. Reasons: In the interests of the setting and visual appearance of the development in compliance with policies EN4 and EN5 as set out in the Tamworth Local Plan 2006-2031 and provisions of the NPPF.
- 10 Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015, as amended, or any order revoking and re-enacting that Order with or without modification, the restaurant and drive thru hereby approved shall be used only for the specified purpose and for no other purpose whatsoever. Reason: Only the approved use has been considered in establishing whether the proposal would have acceptable impacts in this location, and other uses would require further detailed consideration by the Local Planning Authority.
- 11 The two retail units hereby approved shall not be subdivided into smaller retail units. Reason: In the interests of preserving the vitality and viability of the Town Centre as there may be more sequentially preferable sites available for smaller units.

### **Informatives**

While the site is in an area benefiting from flood defences the impact that a breach or overtopping of the defences should be considered in the design of the development. We would strongly advise including a finished floor level freeboard and incorporating a flood proof design to the new buildings to make the site resilient should these events happen.