

<b><u>No:</u></b>	<b>BH2021/03511</b>	<b><u>Ward:</u></b>	<b>Hangleton And Knoll</b>
<b><u>App Type:</u></b>	<b>Full Planning</b>		
<b><u>Address:</u></b>	<b>Court Farm King George VI Avenue Hove BN3 6XJ</b>		
<b><u>Proposal:</u></b>	<b>Demolition of existing buildings on site and erection of retail unit (Class E) with associated works including new access, car parking and landscaping. (For information: proposal is for 1895 sqm of gross floorspace, with 1315 retail floor space and 120 space car park).</b>		
<b><u>Officer:</u></b>	Russell Brown, tel: 293817	<b><u>Valid Date:</u></b>	30.09.2021
<b><u>Con Area:</u></b>	N/A	<b><u>Expiry Date:</u></b>	30.12.2021
<b><u>Listed Building Grade:</u></b>	N/A	<b><u>EOT:</u></b>	
<b><u>Agent:</u></b>	Katia Clarke Planning Potential Ltd Magdalen House 148 Tooley Street London SE1 2TU		
<b><u>Applicant:</u></b>	Aldi Stores Ltd C/O Planning Potential Ltd		

## 1. RECOMMENDATION

- 1.1. That the Committee has taken into consideration and agrees with the reasons for the recommendation set out below and resolves to **REFUSE** planning permission for the following Reasons as set out hereunder.

### Refusal Reasons:

1. The proposed development for a large-scale retail use is contrary to the objectives for, and requirements of, the strategic allocation of this site for a sustainable and mixed-use development to help meet the future needs of the city with ancillary supporting retail uses only. The proposal would also compromise the ability to make the most efficient and effective use of this strategic site for housing delivery to help meet the housing needs of the city. The proposal is therefore non-compliant with Policy DA7 of the Brighton & Hove City Plan Part One and SPD15.
2. The submitted Transport Assessment is not robust. Insufficient information has been provided in respect of travel forecasts / trip generation / cumulative impact with committed developments and the strategic allocation of the adjacent Toad's Hole Valley site to demonstrate that the proposal would have an acceptable impact on the road network and that future users would not be heavily reliant on the use of private cars. The proposal fails to provide adequate walking and cycling linkages to surrounding areas and would compromise the successful delivery of the strategic infrastructure necessary to enable sustainable delivery of the Court Farm and Toad's Hole Valley allocated sites. The proposal fails to enhance public transport accessibility. Insufficient information has been provided to adequately demonstrate that the proposal would not significantly compromise highway safety. The proposal

therefore fails to adequately address the demand for travel it creates and is contrary to Policies TR7 and TR15 of the Brighton & Hove Local Plan DA7, CP7, CP8, CP9, CP13 and CP18 of the Brighton & Hove City Plan Part One and DM33, DM35 and DM36 of the emerging Brighton & Hove City Plan Part Two as well as SPD14 and SPD15.

3. The proposal does not represent good quality design. The proposals do not successfully integrate with the verdant landscape character of the wider locality or that proposed for the adjacent Toad's Hole Valley site. The proposals are not a landscape-led design or exemplary in terms of sustainability. The proposals are dominated by built form and hardstanding and do not incorporate sufficient on-site soft landscaping or screening. The proposals fail to incorporate appropriate green / blue infrastructure features. The proposal fails to generate a sense of place or provide appropriate connections with its surroundings (including the Toad's Hole Valley site and South Downs National Park). The proposal is of an appearance, scale and materiality which is not contextually appropriate or reflective of the character and appearance of the wider area. The proposals are therefore contrary to Policies SU3, SU9, QD15 and QD16 of the Brighton & Hove Local Plan DA7, SA5, CP8, CP12 and CP13 of the Brighton & Hove City Plan Part One and DM18, DM22, DM40, DM42 and DM43 of the emerging Brighton & Hove City Plan Part Two as well as SPD06, SPD15, SPD16 and SPD17.
4. The proposal has failed to demonstrate that it would adequately preserve or enhance the biodiversity of the site and not have a harmful impact on hazel dormice and reptiles in particular. The proposal has not demonstrated that it incorporates sufficient on and off-site wildlife habitat or appropriate continuous connections to other adjacent habitats to maintain the favourable conservation status of these species. The cumulative and in combination effects of the proposals on the adjacent Toad's Hole Valley development site have also not been considered. The proposals are therefore contrary to Policies QD18 of the Brighton & Hove Local Plan DA7 and CP10 of the Brighton & Hove City Plan Part One and DM37 of the emerging Brighton & Hove City Plan Part Two as well as SPD11 and SPD15.
5. The proposals fail to adequately incorporate appropriate blue / green infrastructure such as nature-based sustainable drainage system (SuDS) and have not demonstrated that ground water sources would be adequately protected from pollutants. The proposal is therefore contrary to Policies SU3, SU9 and QD15 of the Brighton & Hove Local Plan DA7 and CP8 of the Brighton & Hove City Plan Part One and DM22, DM40, DM40 and DM43 of the emerging Brighton & Hove City Plan Part Two as well as SPD16 and SPD17.

Informatives:

1. In accordance with the National Planning Policy Framework and Policy SS1 of the Brighton & Hove City Plan Part One the approach to making a decision on this planning application has been to apply the presumption in favour of sustainable development. The Local Planning Authority seeks to approve planning applications which are for sustainable development where possible.

## 2. SITE LOCATION

- 2.1. The application relates to land at Court Farm, which is to the south side of the roundabout connecting the A27, Devil's Dyke Road, Mill Road, Dyke Road Avenue and King George VI Avenue (A2038). It is on the western-most edge of the Withdean area of Brighton and to the north of Hove. Court Farm House and the associated garages / storage building on site have been demolished and the site has mostly been cleared.
- 2.2. The site extends to 0.97 hectares and is part of the larger Development Area DA7 (Toad's Hole Valley) and is surrounded by the Urban Fringe (SA4) Strategic Allocation. It is noted that an application for the remainder of the adjacent Toad's Hole Valley (THV) site has been submitted as per the relevant history section of this report.
- 2.3. The site is not within a conservation area, nor is it a listed building or in the vicinity of one. However, the site is subject to the Court Farm Article 4 direction (removing permitted development rights for the erection of barns, piggeries, buildings for the storage of animal feeding stuffs, poultry houses, cow sheds and buildings for housing agricultural plant and machinery). To the west, south east and south west of the site is extensive 20th century suburban housing. The South Downs National Park is located to the north and north-east of the site. The Woodland Drive Conservation Area is located to the north-east of the site across King George VI Avenue, including Three Cornered Copse.
- 2.4. The site is located within a Groundwater Source Protection Zone, the Built Up Area Boundary (where development of land may be acceptable in principle) and the Hangleton and Knoll Neighbourhood Area. Three Cornered Copse, a Local Wildlife Site (LWS) and a Site of Nature Conservation Interest (SNCI), is to the east and there is another SNCI to the north, Waterhall golf course. There is a SNCI to the west of the wider THV site, which is statutory open access land.

## 3. RELEVANT HISTORY

- 3.1. Pre-application advice (**PRE2020/00225**) was sought for the redevelopment of site to provide an Aldi foodstore and three retail / commercial units alongside access, parking and landscaping. Advice was issued on 9 December 2020 that the proposal was unlikely to be supported in principle, and that highway impacts, ecology, landscape, wider views and sustainability were key issues.
- 3.2. **BH2018/02982**: Part-retrospective application for demolition of existing buildings and erection of 2no three storey blocks and 2no part three part four storey blocks containing 69no one, two and three bedroom flats (C3) (including 28no affordable housing units) and associated car and cycle parking spaces, landscaping and altered site access arrangements. Withdrawn 20 July 2020

- 3.3. **BH2015/04182:** Demolition of existing buildings and erection of 2no three storey blocks (one with basement parking) and 2no part three part four storey blocks containing 69no one, two and three bedroom flats (C3) (including 28no affordable housing units). Provision of 107 parking spaces, (67no at basement level and 40no at surface level) and 132 cycle spaces with associated landscaping and altered site access arrangements. Granted 27 March 2017 (Note: permission now lapsed)
- 3.4. **BH2012/03446:** Demolition of existing buildings and construction of 5no two storey detached dwelling houses and a 58 bed space, part two and part three storey nursing home with associated landscaping and access works and provision of 28 new car parking spaces and 15 cycle spaces. Refused 11 April 2013, but appeal allowed 18 February 2014
- 3.5. **BH2004/01017/FP:** Demolition of existing stables and construction of new building for storage and vehicle garaging. Granted 14 May 2004
- 3.6. Adjacent site at Toads Hole Valley (THV):
- 3.7. **BH2018/03633:** Outline application for a mixed use development comprising residential dwellings (C3 use); land for a 6-form entry secondary school (D1 use)/community sports facilities (D2 use); office/research/light industry floorspace (B1 use); neighbourhood centre including retail outlets (A1-5 uses), a doctors' surgery (D1 use) & community building (D1 use); public open space (including food growing space & children's play space), enhancements and alterations to the Site of Nature Conservation Interest (SNCI); & associated landscaping. Provision of 3no. vehicular accesses onto King George VI Avenue (unreserved) with associated highway alterations. Under consideration

#### **4. APPLICATION DESCRIPTION**

- 4.1. Planning permission is sought for the demolition of the existing buildings on site and the erection of a retail unit (Class E) with associated works including new access, car parking and landscaping. The proposal is for 1895sqm of gross floorspace, with 1315sqm retail floorspace and 120 space car park).
- 4.2. The proposal includes vehicular and pedestrian access from King George VI Avenue, 24 electric changing points, three motorcycle and 16 bicycle parking spaces, an integrated service area at the rear of the site, the retention of trees and the provision of a green roof. The proposed building would be constructed in black brick and silver and anthracite metallic cladding panels with an aluminium canopy over the lobby and trolley bays.

#### **5. REPRESENTATIONS**

- 5.1. **Sixty (60) objections**, including from **Cycling UK, Brighton Swifts Group, The Regency Society and Hove Civic Society** were received. The following concerns were raised:
- 5.2. Transport / highways
- King George VI Avenue is already incredibly busy and incredibly difficult to cross so it will not be safe for pedestrians to access the site.
  - The access design is poor for north and southbound traffic
  - No sensible proposal to help with the additional traffic flow and road safety
  - Traffic profiling uses the already flawed calculations for the proposed Toads Hole Valley development and doesn't include Sackville Trading Estate.
  - Surveys taken to monitor traffic on King George VI Avenue were undertaken during Covid times.
  - Cyclists need safe, physically separated lanes adjacent to and on the site and the bus services in this area are not frequent or close enough.
  - The facilities for cycle parking are poor and don't include cargo or e-bikes.
  - It is contrary to NPPF paragraphs 110 (parts a and b) and 111.
  - Every pavement on the site and those leading to it should have a minimum width of 2m to allow two wheelchairs to pass each other.
  - An increase in motor traffic is counter to increase active, sustainable travel and access to the countryside.
  - Additional air pollution from the increase in motor traffic (and queues)
  - Disruption to residents in terms of delays to / additional time for journeys
- 5.3. Environment
- Negative impact all residents for absolutely no gain.
  - Noise, air, light and environmental pollution / damage, including an increase in the site's carbon footprint and rubbish.
- 5.4. Ecology and biodiversity
- If approved, the development would hinder the neighbouring Waterhall re-naturing project, which includes new walking and cycling routes.
  - Negativity impact on the ecology of the Three Cornered Copse
  - The biodiversity net gain at approx. 4% is too low given the new Environmental Act, which is now law, requires 10%.
  - 'Net gains' are not possible when building on an area thriving with protected species, such as badgers, hedgehogs, invertebrates and reptiles.
  - The proposal would also jeopardised dormice and butterfly habitats.
  - The development into an out-of-town supermarket would impose upon the site's ecological recovery / rewilding.
  - Relocating the dormice or reptiles to Three Copse would affect the balance of the ecosystem at that site
  - The appropriate number of swift bricks / boxes should be incorporated into the design of the development by condition to provide biodiversity enhancements.

#### Land use

- The site is not identified for retail in the City Plan or in SPD15.
- It is an unnecessary addition / there is no need another for supermarket
- Terrible use of land when leisure facilities are needed.
- Out of town shopping developments have proved to destroy the high street
- This supermarket would take trade away from the small shops planned in the Toads Hole Valley development.
- 50 employment places does not justify the proposal.
- There are alternative sites for a supermarket available on the Hollingbury industrial estate.

#### 5.5. Impact on surrounds

- The proposal would jeopardise the successful development of the adjoining Toad's Hole Valley (THV) site.
- The proposal would have a significant impact on the surrounding area, including the Woodland Drive Conservation Area.
- It would block views northwards from Hove, specifically of and from the South Downs National Park, which would be blighted by this supermarket.

#### 5.6. Design

- Overdevelopment
- A poor, ugly, generic Aldi design; a monstrous metal box at a prominent hilltop location. It would be visible for miles, especially at night.

#### 5.7. Other

- Many criticisms made during the consultation exercise have not seriously been addressed in the application as submitted.
- Detrimental to property prices

5.8. **Two (2)** letters of support were received stating that there are quite a number of residents nearby who do not have a supermarket within an easy walk or cycle ride. Planning permission should be granted, subject to conditions ensuring prioritised pedestrian and cycle access (including for electric bicycle users) and pedestrian permeability between Aldi and Toads Hole Valley. Sufficient mitigation should also be put in place for queueing traffic at the roundabout and at the store entrance, such as slip-roads and duplicated lanes.

5.9. **Goldstone Valley Resident's Association (GVRA): Objection**

5.10. **Councillors Brown and Bagaeen** have objected to the application. A copy of the correspondence is attached to the report.

## 6. CONSULTATIONS

### External:

6.1. **Brighton & Hove Buses: Objection.** Proposal fails to encourage sustainable travel with the nearest frequent bus route being too far away and unlikely to achieve mode share targets for bus use without additional measures. Funding would be needed for improvements to bus services.

- 6.2. **County Archaeology:** Recommend for approval, subject to conditions
- 6.3. **County Landscape Architect:** Recommend for approval, subject to amendments to provide onsite bold tree planting at the north east site boundary, larger tree species on the north and east boundaries, include disease resistant elm, enhance the existing woodland area and incorporate a wild meadow green roof.
- 6.4. **Designing Out Crime Officer (Sussex Police):** Comment. No major concerns, provided appropriate security measures incorporated.
- 6.5. **Ecology:** Recommend for refusal due to insufficient information on biodiversity in respect of the mitigation, compensation and enhancement measures for Hazel Dormouse and reptiles
- 6.6. **Environment Agency:** No comments received
- 6.7. **National Highways:** Recommend that planning permission not be granted due to insufficient information with regard to potential impacts upon the A27 trunk road in terms of its safety, reliability and / or operation and the cumulative impacts of the THV site
- 6.8. **Natural England:** No objection
- 6.9. **Neos Networks:** Comment. Requirement to ensure the proposed works do not affect apparatus, but if it does this would require a Budget Estimate.
- 6.10. **Scotia Gas Network (SGN):** Comment. There is an intermediate pressure gas main near the site. There may be restrictions on the work being undertaken to ensure the safety of your site and the protection of the gas pipes. Privately owned gas pipes or pipes owned by a Licensed Gas Transporter (GT) may be present in this area and information regarding those pipes needs to be requested from the owners.
- 6.11. **South Downs National Park Authority (SDNPA) (Comment):**
- Suitable landscape mitigation measures would need to be incorporated, including appropriate design details for external works and planting schemes.
  - The development would be less likely to impact on the setting of the National Park given it would be located in an area with existing development.
  - Consideration should be given to the visual impact of the development upon the landscape character of the National Park with regards to boundary treatments.
  - Consideration should also be given to dark night skies, which is a special quality of the National Park along with tranquillity that need to be protected. As such, there should be a sensitive approach to lighting, also taking into account biodiversity / wildlife / habitats.

- Consideration should also be given to the creation of links between the development and the National Park.

6.12. **Southern Water:** (Comment):

- Foul sewerage disposal to service the proposed development can be facilitated. An application for any new connection to the public sewer is required.
- The SuDS are proposed to be under private ownership and maintenance, but in certain circumstances they will be adopted by Southern Water should this be requested. Adoption will be considered where they form part of a continuous sewer system and if they comply with the relevant guidance. Otherwise, arrangements must exist for the long-term maintenance of the facilities in perpetuity.
- Where a SuDS scheme is to be implemented, the drainage details should be submitted to the LPA.
- The Council's Building Control team should comment on the adequacy of soakaways to dispose of surface water from the proposed development.
- General hardstanding that may be subject to oil / petrol spillages should be drained by means of appropriate gullies or interceptors.
- It is possible that a sewer now deemed to be public could be crossing the development site. An investigation of the sewer will be required to ascertain its ownership if one is found during construction works.
- If approved, an informative should be attached stating that details of the proposed means of foul sewerage and surface water disposal should be provided to Southern Water. The design of drainage should ensure that no groundwater or land drainage enters public sewers.
- Water supply to service the proposed development can be facilitated. A formal application for a connection to the water supply is required.
- As the site lies within a Source Protection Zone, consultation with the Environment Agency is required to ensure the protection of the public water supply source.

6.13. **UK Power Networks:** No objection subject to safe construction practices.

Internal:

6.14. **Air Quality:** Comment. Insufficient Information in respect of the daily vehicle trip generations, especially with regard to cumulative contributions to AQMA1, AQMA3 and AQMA4.

6.15. **Arboriculture:** No objection, subject to revisions such that off-site planting is not relied upon and larger specimen species and evergreens are included

6.16. **City Regeneration:** No adverse comments, subject to employment and training strategies and a financial contribution being secured by a legal agreement. The 50 jobs created would be less than the OffPAT Employment Density Guide figure of 95 based on one full-time job per 20m<sup>2</sup>.

6.17. **Employment and Skills:** Support, subject to employment and training strategies and a £15,345 contribution being secured by a legal agreement



- 6.18. **Environmental Health:** No comment, concerns or conditions to recommend.
- 6.19. **Planning Policy:** Objection on the basis of the supermarket retail use for the site being non-compliant with the strategic site allocation in Policy DA7 and SPD15. The supermarket is not considered ancillary to the THV development due to the size of the proposed store and attracting customers from a wide catchment area. It could also prevent the delivery of a policy-compliant resident scheme, potentially further depleting the city's future housing supply.
- 6.20. With regard to retail impact assessment, it has been satisfactorily demonstrated that no suitable sequential sites are available and there would be no adverse impacts to local shopping centres, and per the NPPF and local policy tests.
- 6.21. **Sustainability:** Comment. Whilst the development proposals incorporate sustainable measures and are targeting BREEAM Excellent, they need to be enhanced in respect of sustainability, biodiversity and water drainage to meet the priorities of Policy DA7. Recommend for approval, subject to conditions.
- 6.22. **Sustainable Drainage:** Objection due to not proposing landscape-led sustainable drainage solutions or green/blue infrastructure, inadequately sized grate storage soakaways and insufficient water quality treatment
- 6.23. **Transport:** Unable to recommend approval due to a failure to improve the sustainability of the site's location; the public transport accessibility; walking and cycling connections to THV, the SDNP and existing neighbourhoods; non-compatibility with the emerging THV proposals; Transport Assessment not robust - issues with the trip rate data; potential car parking overspill; congestion / traffic; cumulative impact and future traffic growth rates. Non-compliant Road Safety Audit and highways safety issues.
- 6.24. **Urban Design:** Objection due to not prioritising pedestrian and cyclist connectivity between the application site, the adjacent THV site, surrounding residential neighbourhoods and the SDNP; not successfully integrating the site into its context, not being exemplary in sustainable design, the proposed landscape character would not enhance the verdant character of the area or link with the adjacent THV site; the lack of green / blue infrastructure; not generating a sense of place; contextually inappropriate appearance and materiality and lack of information on embodied carbons

## 7. MATERIAL CONSIDERATIONS

- 7.1. In accordance with Section 38 (6) of the Planning and Compulsory Purchase Act 2004, this decision has been taken having regard to the policies and proposals in the National Planning Policy Framework, the Development Plan, and all other material planning considerations identified in the "Considerations and Assessment" section of the report.

- 7.2. Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990
- 7.3. The development plan is:
- Brighton & Hove City Plan Part One (adopted March 2016);
  - Brighton & Hove Local Plan 2005 (retained policies March 2016);
  - East Sussex, South Downs and Brighton & Hove Waste and Minerals Plan (adopted February 2013);
  - East Sussex, South Downs and Brighton & Hove Waste and Minerals Sites Plan (adopted February 2017);
  - Shoreham Joint Area Action Plan (October 2019)
- 7.4. Due weight has been given to the relevant retained policies in the Brighton & Hove Local Plan 2005 according to their degree of consistency with the NPPF.

## 8. RELEVANT POLICIES

### The National Planning Policy Framework (NPPF)

#### Brighton & Hove City Plan Part One

DA7	Toad's Hole Valley
SA4	Urban Fringe
SA5	The Setting of the South Downs National Park
SA6	Sustainable neighbourhoods
SS1	Presumption in Favour of Sustainable Development
CP1	Housing delivery
CP2	Sustainable economic development
CP4	Retail provision
CP7	Infrastructure and developer contributions
CP8	Sustainable buildings
CP9	Sustainable transport
CP10	Biodiversity
CP11	Flood risk
CP12	Urban design
CP13	Public streets and spaces
CP15	Heritage
CP18	Healthy city

#### Brighton & Hove Local Plan (retained policies March 2016)

TR4	Travel plans
TR7	Safe Development
TR12	Helping the independent movement of children
TR14	Cycle access and parking
TR15	Cycle network
TR18	Parking for people with a mobility related disability
SU3	Water resources and their quality
SU5	Surface water and foul sewage disposal infrastructure
SU9	Pollution and nuisance control

SU10	Noise nuisance
QD5	Design - street frontages
QD15	Landscape design
QD16	Trees and hedgerows
QD18	Species protection
QD25	External lighting
QD26	Floodlighting
QD27	Protection of amenity
SR3	Retail warehouses
NC4	Sites of Nature Conservation Importance (SNCl)s and Regionally Important Geological Sites (RIGS)
HE6	Development within or affecting the setting of a Conservation Area
HE12	Scheduled ancient monuments and other important archaeological sites

#### Brighton & Hove City Plan Part 2:

Policies in the Proposed Submission City Plan Part 2 do not carry full statutory weight but are gathering weight as the Plan proceeds through its stages. They provide an indication of the direction of future policy. Since 23 April 2020, when the Plan was agreed for submission to the Secretary of State, it has gained weight for the determination of planning applications. The weight given to the relevant CPP2 policies considered in determining this application is set out in the Considerations and Assessment section below where applicable.

DM18	High quality design and places
DM20	Protection of Amenity
DM22	Landscape Design and Trees
DM33	Safe, Sustainable and Active Travel
DM35	Travel Plans and Transport Assessments
DM36	Parking and Servicing
DM37	Green Infrastructure and Nature Conservation
DM40	Protection of the Environment and Health – Pollution and Nuisance
DM42	Protecting the Water Environment
DM43	Sustainable Urban Drainage
DM44	Energy Efficiency and Renewables
DM45	Community Energy

#### Supplementary Planning Documents

SPD03	Construction and Demolition Waste
SPD06	Trees and Development Sites
SPD11	Nature Conservation and Development
SPD14	Parking Standards
SPD15	Toad's Hole Valley
SPD16	Sustainable Drainage
SPD17	Urban Design Framework

#### Other Documents

Urban Characterisation Study 2009

Developer Contributions Technical Guidance - June 2020

## 9. CONSIDERATIONS & ASSESSMENT

9.1. The main considerations in the determination of this application relate to:

- Principle of development and a retail land use
- Design and impact on the setting of the South Downs National Park
- Biodiversity, Ecology, Landscaping and Trees
- Impact on Neighbouring Amenity
- Impact on Highways
- Sustainability
- Archaeology

### **Summary of Key Issues:**

9.2. The principle of the development is considered unacceptable because it would be contrary to the objectives for and requirements of the strategic allocation of this site, thereby compromising the ability of this site to help meet the housing needs of the city, with a poor quality design, form, layout, appearance, scale and materiality that fails to provide appropriate connections with its surroundings, relate well to landscape character, be landscape-led (including sustainable drainage system), or be exemplary in terms of sustainability. The application has also failed to demonstrate that it would adequately preserve or enhance the biodiversity of the site, would not have a harmful impact on protected species, would protect ground water sources from pollutants or would have an acceptable and safe impact on the road network, and would not be heavily reliant on the use of private cars by future users. Additionally, the proposal fails to provide adequate linkages to surrounding areas and would compromise the successful delivery of the strategic infrastructure necessary to enable sustainable delivery of the Court Farm and Toad's Hole Valley allocated sites.

### **Principle of development:**

9.3. The site is partly a greenfield site but is located within the defined Built Up Area and is allocated for development in principle under Development Area Policy DA7. Policy DA7 is the key relevant planning policy applicable to this development and covers the adjoining Toads Hole Valley (THV) site as well as this Court Farm site.

9.4. The primary aim of Policy DA7 is to secure a modern, high quality and sustainable mixed-use development to help meet future needs of the city, improve accessibility and provide new community facilities to share with adjacent neighbourhoods. Importantly in relation to this application, Policy DA7 seeks provision of only ancillary supporting uses such as shops (i.e. small scale, very local only), as part of a balanced and sustainable community.

9.5. Policy DA7 specifically makes provision for a minimum of 700 residential units, 3.5-4.5 ha employment space, a 5ha site for a new secondary school, 2ha

public open space, a multiuse community building, ancillary retail uses, 0.5 ha food growing space and integrated green infrastructure.

- 9.6. Supplementary Planning Document SPD15: Toads Hole Valley is also a material consideration of considerable weight. This builds upon Policy DA7 and provides guidance to assist in its delivery.
- 9.7. The site is designated for a new modern, high quality and sustainable neighbourhood with a balance of mixed uses and the priority land uses sought are residential, office and a school, although it is predominantly a residential-led allocation. The policy seeks a minimum of 700 residential units and seeks to make the most effective use of the site to help meet the Council's acute housing need. Therefore, a large-scale retail use is not one of the key land uses sought on this site. No evidence has been submitted to verify the applicant's claim that the proposal for a discount foodstore of 1,895m<sup>2</sup> would complement the three smaller retail units proposed on the main THV site, the amount of floorspace and specific occupiers for which have not been approved as yet. Indeed, the proposal could undermine the viability of the proposed local shops and the place-making benefits of the creation of a neighbourhood centre to the development. Taken together, it is not accepted that they are ancillary or would meet just very local needs since the store proposed by this application clearly would generate demand from a much wider area, as noted in the submitted Planning & Retail Statement. Therefore, an in-principle objection in relation to compliance with Policy DA7 is raised to the proposal.
- 9.8. A Retail Impact Assessment has been prepared by the applicant as required by policy CP4 of the CPP1 and para 90 of the NPPF. Policy CP4 sets a local threshold for an impact assessment to be carried out on schemes of 1,000 sqm or more.
- 9.9. Paragraph 90 of the NPPF states that planning applications for retail uses out of town centres should be assessed against the impact of the proposal on:
- the impact of the proposal on existing, committed and planned public and private investment in a centre or centres in the catchment area of the proposal; and
  - the impact of the proposal on town centre vitality and viability, including local consumer choice and trade in the town centre and wider area.
- 9.10. The applicant is not required to demonstrate that there is a 'need' for their proposal, but the NPPF (paragraph 87) suggests an applicant must demonstrate the development cannot be met in sequentially preferable locations, allowing for flexibility.
- 9.11. Paragraph 91 of the NPPF states that where an application fails to satisfy the sequential test or is likely to have significant adverse impact, then it should be refused.
- 9.12. Hove Town Centre and Boundary / Station Road District Centre are in the proposed discount food store's catchment area and would be the most affected centres. Whilst the Council's retail consultant concludes that population and

expenditure projections and the expected turnover figures of the store are robust, the applicant's combined comparison and convenience goods estimates are considered to be misleading because the figures only included convenience goods trade diversion. The Council's retail consultant's sensitivity estimates suggest a combined impact of -3.6% on Hove Town Centre (rather than -2.9% suggested by the applicant) and -10.4% on Boundary / Station Road District Centre (marginally higher than the applicant's -10.1%). The evidence suggests the cumulative impact in respect of growth projections and trade diversion figures on the most affected centres would not be significant i.e. few shop closures and an insignificant increase in the overall vacancy rate. A significant reduction in consumer choice or existing investment is therefore not anticipated.

- 9.13. In terms of the sequential assessment, the applicant is required to assess potential sequentially preferable sites in or on the edge of designated centres that would serve a similar catchment area. Four potential site opportunities have been identified by the applicant, but are considered too small to accommodate a foodstore broadly similar in size to that proposed. Additionally, the availability of the sites in a reasonable period of time is unclear. Based on the information provided there are no potential opportunities within centres that are large enough to accommodate a discount foodstore and, as such, the sequential test has been addressed and satisfied in accordance with City Plan Policy CP4.
- 9.14. However, just because there are no sequentially preferable sites that are suitable and available, it does not mean that the subject site is the most appropriate location for the proposed development. It is noted that the current THV application proposes more dwellings (880) than required by part B of Policy DA7 (a minimum of 700), but this is yet to be determined and the Council has a five year housing land supply position of 2.2 years (equivalent to a shortfall of 6,604 dwellings) in light of City Plan Part One reaching five years since adoption, and the requirement to apply an additional 35% uplift as one of the top 20 cities in the urban centres list. Added to the fact that Brighton and Hove is a tightly constrained urban area with few opportunities to physically expand given the need to safeguard the city's highly valued natural and historic environments, it is essential that efficient and effective use is made of all the Council's housing sites. It should be noted that this is set out in the supporting text to Policy DA7.
- 9.15. As evidenced by the approval of BH2015/04184, residential development is appropriate for the Court Farm site, subject to detailed design matters. Despite the case made by the applicant to the contrary, there is no need for a different land use to provide a buffer between the roundabout junction and the wider THV development since this can be achieved by inclusion of appropriate measures such as landscaping and soundproofing.
- 9.16. In terms of delivery of the elements sought by the allocation of the main THV site, officers recognise that the outline application currently indicates the ability of that site to accommodate all the uses (and their minimum amounts) as set out in Policy DA7. That proposal is not yet determined. Furthermore, it does

not follow that if a more efficient use of the wider THV site is possible, that a large scale retail use is appropriate. It is also, worth noting that the minimum amount (3.5 ha) of B1 employment space is proposed as part of the THV application when Policy DA7 outlines a need for up to 4.5 ha. There is also an identified strategic demand for additional B1, now Class E(g), jobs in the city so it is not the case that retail is the only possible non-residential use for this site. The creation of 50 retail jobs is welcomed in principle, although it is not clear if these are for local people / residents as required by part A4 of Policy DA7.

- 9.17. It is worth noting that the reference in DA7 and SPD15 for community facilities does not apply to retail, and shops are very much seen as an ancillary supporting use.
- 9.18. It is considered that this development would be contrary to the aims and objectives of Policy DA7 and SPD15, contribute to preventing an improvement to the city's five year housing supply situation and would fail to be ancillary in nature to the rest of the THV site. As such, the principle of the development is considered unacceptable when weighed against the benefits of the proposal. The other impacts of the scheme namely design, impact on the South Downs National Park, biodiversity, ecology, landscaping, trees, neighbouring amenity, highways, sustainability and archaeology are assessed below.

**Design and impact on the setting of the South Downs National Park:**

- 9.19. City Plan Part One Strategic Area Policy SA5 sets out that the Council will protect and enhance the natural beauty of the South Downs National Park. Since this proposal is within its setting, it must respect and not significantly harm it, but where any adverse impacts are had, these must be minimised and appropriate mitigation or compensatory measures proposed, which should have regard to landscape character and impacts.
- 9.20. NPPF paragraph 176 outlines that development within the setting of a National Park should be sensitively located and designed to avoid or minimise adverse impacts.
- 9.21. Policy DA7 states that there is an opportunity to improve links from the THV and Court Farm sites to the South Downs National Park. All new development is also expected to meet high standards of sustainability and design, as per adopted policy.
- 9.22. The subject site is at a sensitive and prominent location at the top of a hill set against the rural backdrop of the SDNP. As such, it is particularly important that the design, height, massing and layout is high quality, appropriate and sympathetic to its context. As such, it should be a landscape-led design.
- 9.23. The applicant's development vision includes the objective to respect the setting of the SDNP, but no objectives are included regarding local / strategic city views. However, the submitted analysis of views does take account of identified strategic viewpoint 2: Toad's Hole Valley identified in SPD17. The Design & Access Statement (DAS) identifies that the view from the adjacent

roundabout is screened by existing vegetation on the application site and therefore is unaffected by the proposal. There is also significant off-site screening that therefore cannot be relied upon in the future, particularly because much of it comprised of ash trees, which may suffer from dieback disease, a matter which was raised by consultees. Robust landscaping and revised site layout are therefore necessary. In any case, the intention in SPD17 is that this viewpoint is not just from a fixed point on the roundabout and also encompasses sea views down across Toad's Hole Valley from the Court Farm site itself. As such, the view would be affected in some way by proposals. It is considered that analysis of other local views is helpful in indicating that King George VI Avenue is the active frontage of this site.

- 9.24. Officers consider that the landscape proposal does not generate a sense of place. Although a supermarket may not be considered a "place" in the same way as an urban public square, the site's position adjacent to the SDNP and between several neighbourhoods, along with the views offered from the site across THV, provide the opportunity for a "place" to address local policy regarding enhanced connections between the city and the SDNP in line with paragraph 3.97 of the supporting text to Policy DA7. Also, as stated previously, there are concerns that the proposal could undermine the wider placemaking objectives and compromise the 'heart' or centre of the new THV neighbourhood alongside the community uses as sought within the THV application, and as sought by SPD15 (and the Design Review Panel).
- 9.25. In regard to connectivity, this has not been prioritised between the application site, the adjacent THV site, the SDNP and surrounding residential neighbourhoods with the connections proposed considered to be illegible and unnatural. This is a significant concern and is contrary to adopted policy and local and national guidance. Whilst the DAS indicates that there are a number of established footpaths and routes leading to the site from the residential areas, no in-depth analysis of these, of the cycle routes in these areas, nor of the cycle and pedestrian routes leading to the SDNP are presented to inform the proposed site layout. Indeed, it appears that connections do not exist or are very poor. The pedestrian and cycle connection into the rest of THV is of limited width and is unsatisfactory. The proposal fails to deliver the expected key strategic infrastructure (see Transport section below), and this is a significant concern. As such, the site would not be successfully integrated into its context and the proposal would not generate a sense of place and would be far from being an exemplary sustainable development as required by Policy DA7.
- 9.26. The County Landscape Architect has also provided comments. The conclusions of the Landscape and Visual Impact Assessment (LVIA) that the proposed development would have an overall minor beneficial effect on local landscape character and views are not disputed, but the beneficial effects would only be realised with the implementation of a robust landscape masterplan, to which they have suggested improvements in the form of bold on-site tree planting, larger tree species on the north and east boundaries and the inclusion of disease resistant elm. This is a concern and would need to be addressed, most likely requiring a revised layout and landscaping scheme,



which could not have been secured wholly by condition (had the application been found to be otherwise acceptable).

- 9.27. The proposed sloping roof reduces visual impact as viewed from the SDNP to a degree, and generates a building form that helps nestle the building more comfortably into the site.
- 9.28. No rooflights have been proposed to protect the SDNP's designated status as an International Dark Sky Reserve. The lighting scheme is proposed to be designed to have zero lux within the "ecology zones", which is supported in principle, but further details would be secured by condition if the scheme was considered acceptable in other respects.
- 9.29. Subject to necessary revisions, the application is considered to have the potential to protect and conserve the natural beauty of the SDNP.
- 9.30. It is noted that the previously approved residential scheme is a definite parameter for the site in terms of height and siting in proximity to boundaries. The height of the proposed development is lower than that previously approved on the site, and is considered to be acceptable in principle. However, the overall mass of the building in the form of a singular volume would be significantly harmful to the character of the area and the proposed sloping green roof, whilst welcomed in terms of it being planted with a wild flower mix, would not acceptably mitigate this harmful impact. It would have been preferable if the building had been broken down into different elements through scale and articulation. As such, the proposal is not reflective of the scale or form of buildings common to the area or setting.
- 9.31. The urban grain and layout analysis submitted does not account for the adjacent outline application for THV. Whilst it is not an approved scheme, it is indicative of what is expected to be built out on that site and reflects SPD15 guidance. The lack of analysis is particularly concerning given that the site occupies an important, strategic location with regard to connectivity between several residential neighbourhoods and the SDNP. The proposal also fails to explain how it seeks to respond to the prevailing architectural character of the site surrounds and how it can enhance it, particularly as the analysis finds this to be of little value. It is considered that there is an opportunity to reference a local downland agricultural vernacular style.
- 9.32. The proposal is largely a standard, rather functional, Aldi supermarket design and it has therefore followed that a contextual material specification and elevational composition have largely been overlooked in this proposal, and it would not positively contribute to the prevailing character of the area. Elevation A (south east), considered to be the primary public facing elevation, features an insufficient amount of glazing and there is significant concern regarding the blankness of proposed cladding panels and their dominance of this elevation. the proposed appearance is considered to be harmful to the character of the public realm. However, Elevation D (south west) would have a large area of glazing, which is considered to be successful as it enlivens and activates the building's appearance, generating a welcoming interface with the

public realm. The appearance of the proposed building is considered to be harmful to the character of the public realm. As such, the proposed appearance and materiality is considered to be contextually inappropriate and would not be reflective of its sensitive and prominent location or the prevailing visual character of the adjacent residential neighbourhoods or the agricultural Downland environment.

- 9.33. Whilst some element of branding on a proposal of this nature would be accepted, the proposals appear to apply a corporate appearance specifically associated with the Aldi brand to all sides of the building. As such, this is not considered to be contextually appropriate.
- 9.34. The proposal does not include any information on embodied carbon and, as such, are not policy compliant in that regard. As such, they do not wholly comply with CPP1 Policy CP8 or Policy DA7, and sustainability is discussed further in a section below.
- 9.35. The internal layout and orientation, however, are arranged appropriately. The back-of-house areas would be located to the north, whereas the front-of-house area would enjoy a southerly aspect and, as such, offers the potential for high levels of natural light.
- 9.36. Overall, the proposal is not considered to represent a good quality design. The proposal would not generate a sense of place, not successfully integrate itself into its context, not link in with the prevailing visual or landscape character or preserve its setting, not be contextually appropriate and would not be exemplary in sustainable design. As such, it would be non-compliant with City Plan Part One Policies DA7, SA5, CP8, CP12 and CP13, emerging Policy DM18 of City Plan Part Two, SPD15 and SPD17 and paragraphs 8, 92, 130 and 134 of the NPPF.
- 9.37. These policies and guidance seek sustainable development through fostering well-designed, beautiful and safe places, supporting communities' health and social well-being and protecting and enhancing the natural environment, including and mitigating and adapting to climate change, including moving to a low carbon economy. They also require developments to add to the overall quality of the area over their lifetime, be visually attractive, sympathetic to local character, establish a strong sense of place and create safe, inclusive and accessible places. The latter makes it clear that development that is not well designed should be refused functions, specially where it fails to reflect local design policies and guidance, including supplementary planning documents.

**Biodiversity, Ecology, Landscaping, Trees and Sustainable Drainage:**

- 9.38. The subject site is not designated for its nature conservation interest, but several Local Wildlife Sites (LWSs) lie nearby. The site is however a habitat to various wildlife including protected dormice and reptiles. The amount of development and site layout therefore requires careful consideration, and proposals need to ensure they both protect and enhance biodiversity.

- 9.39. Whilst development of the site is achievable in principle (as can be seen from previous permissions) the presence of dormice is a recent consideration, and they benefit from significant protection under Schedule 5 of the Wildlife and Countryside Act 1981, as amended, and Schedule 2 of The Conservation of Habitats and Species Regulations 2017, as amended, making it a European Protected Species. Also of consideration is the presence of ash tree dieback.
- 9.40. It is considered that there are unlikely to be any material impacts on the nature conservation interests of the nearby LWSs or the SDNP subject to measures put in place to control dust and pollution as part of a Construction Environmental Management Plan (CEMP). This would also need to cover the proposed badger safeguards in paragraph 5.3.26 of the Ecological Assessment.
- 9.41. The site currently comprises broadleaved woodland, amenity grassland, species-poor native hedgerow, scrub, amenity planting, tall ruderal vegetation, recolonising ground, buildings and hardstanding. The retention and enhancement of the hedgerow, woodlands and scrub is supported, as is the replacement of the species poor grassland with species rich wildflower grassland and the proposed extensive biodiverse green roof (which is should be chalk grassland).
- 9.42. The proposal would result in a biodiversity net gain of approximately 4%, which is welcomed, but it is considered that more could be achieved on this site to deliver the minimum uplift of 10% that will be required by Part 6 of the Environment Act. Although a minimum 10% BNG will not be mandatory until November 2023, given that BHCC has declared a Biodiversity Emergency, it is reasonable to expect developments in the City to deliver the minimum level that the UK Government has set to reverse environmental decline. Also the net gain percentage should be improved to ensure the development is a sustainable exemplar, as aimed for in policy DA7. Measures to improve the ecology outcomes on the site in accordance with Policy CP10 and SPD11 could include replacing habitats lost with habitats of higher distinctiveness, improving and enhancing the intrinsic biodiversity value of the woodland and converting the flowering lawn grassland to chalk grassland with native scrub. The metric calculations submitted with the application show that the proposals are to replace habitats lost with habitats of lesser value.
- 9.43. Whilst the Ecological Assessment makes some reference to the adjacent THV development, the cumulative and in combination effects of the proposal on biodiversity have not been fully considered. This is of particular relevance for protected species, most notably dormice and reptiles. Further information would have been sought had the application been otherwise acceptable.
- 9.44. In terms of the potential impact on badgers, bats, birds and hedgehogs, it is considered this could potentially be mitigated against, subject to the implementation of the mitigation measures in the Ecological Assessment and the installation of bat and swift boxes.

- 9.45. Hazel Dormice, slow worms and common lizard have been confirmed on site. A receptor site for the reptiles' relocation is necessary, but the THV LWS cannot be used as proposed because it is already a receptor site for the THV development and it will have limited carrying capacity. Given that additional reptiles cannot therefore be moved into that site, one or more alternative receptor sites are required, and would have been sought had the application been otherwise acceptable.
- 9.46. Given the extent of suitable dormice habitat proposed for clearance, the persuasion approach during winter time is considered appropriate. However, it is unclear how the proposed landscaping ties in with the proposed dormouse mitigation strategy for the adjacent THV site and how the on-site population remains connected to the existing wider population off-site. Instead, a dormouse crossing should have been explored and included to connect the site with Three Cornered Copse.
- 9.47. The proposal therefore currently fails to adequately demonstrate that dormice and reptiles will not be compromised, which is a significant concern. The County Ecologist confirms that the proposal should be refused as insufficient information has been provided at this stage to assess the potential impacts on biodiversity and to inform appropriate mitigation, compensation and enhancement.
- 9.48. In terms of the proposed landscaping, the detailing is sufficient, but the ratio of hard to soft is significantly in favour of the former, which is considered unacceptable even taking into account of an appropriate amount of car parking provision. Additionally, the proposed landscaping / planting has not been informed by local guidance for this site (SPD15), which encourages development to incorporate green / blue infrastructure features e.g. natural sustainable drainage systems such as ponds, swales or rain gardens, and the proposed crate soakaway and permeable paving system would not protect ground water sources from pollutants. SPD15 requires "*landscape-led, natural ways of preventing flooding and contamination of the aquifer*", which is not evident in the planned layout and drainage strategy, thereby failing to take the opportunity to create green / blue infrastructure. Since this is a constraint for the design of this development, it is not considered to condition a surface water drainage scheme for this site.
- 9.42 It is worth noting that the proposed landscaping would not successfully link in with that proposed on the adjacent THV site, which incorporates green / blue infrastructure (i.e. nature-based SuDS) as a primary design driver. Furthermore, SDP16 requires proposals to ensure that appropriate treatment measures have been incorporated to protect groundwater quality where surface water drainage systems include infiltration to ground, which is in line with NPPF paragraph 174 and emerging Policies DM42 and DM43. The crate storage soakaways have not been sized appropriately and therefore are unlikely to outlive the lifetime of the development. Additionally, the soil beneath the permeable paving does not have good contaminant attenuation potential with the areas of permeable paving being too small to provide sufficient water quality treatment for the whole car park as a ratio of the total drained area. The

drainage for the access road and HGV area would be straight into crate soakaways in the chalk, which is considered unacceptable. Again, all these matters need to be factored into the proposed design and cannot be conditioned. All of the above are missed opportunities to utilise adjacent landscaping areas as multifunctional sustainable drainage. The council's Flood Risk Manager confirms that the proposed scheme does not comply with national and local sustainable drainage policy and raises an objection.

- 9.49. The extent of open hard surface in the form of the car park is very impactful, not aided by the relatively minor amount of ground and tree planting proposed, which is largely contained to the edges of the site. The siting of the proposed building very close to the north east corner of the site boundary does not allow for any tree planting to screen the facade of the building from the wider landscape. The off-site planting on the highway verge cannot be relied upon to screen the development since it is affected by ash dieback, which will reduce the screening over time. Therefore, large specimen tree planting and evergreen screening e.g. pine trees should have been proposed to the north (plus north west between the development and the A27) and east boundaries as well as at the entrance to the site as a gateway feature. This planting is considered to be of greater importance than to provide natural surveillance in views into the site from outside and vice-versa, as highlighted by the Designing Out Crime Officer. There would be sufficient natural surveillance within the site / across the car park and public areas through the use of ground planting of no higher than 1 metre.
- 9.50. As such, the proposed tree planting and landscaping would fail to enhance the verdant character of the area for the benefit of the landscape character within and outside the site, including the setting of the SDNP.
- 9.51. As set out above, insufficient information has been provided to demonstrate that the proposal would not have a harmful impact on Hazel Dormice and reptiles, and it would not protect ground water sources from pollutants, it would not incorporate green / blue infrastructure, it would fail to link in with the THV site and the site would not incorporate sufficient planting, including tree planting. It is therefore contrary to City Plan Part One Policies DA7, CP10, SA5, CP12 and CP13, Local Plan Policies SU3, SU5, SU9, QD15, QD16 and QD18, emerging Policies DM18, DM22, DM37, DM40, DM42 and DM43 of City Plan Part Two, SPD11, SPD15, SPD16 and SPD17 and paragraphs 130b and c, 131, 134, 154a, 168 and 174e of the NPPF. NPPF paragraph 182 is worth noting given that where the project is likely to have a significant effect on a habitats site, the presumption in favour of sustainable development does not apply.

**Impact on Neighbouring Amenity:**

- 9.52. Paragraph 130 of the NPPF outlines that planning decisions should ensure that developments create places that promote health and well-being, with a high standard of amenity for existing and future users.
- 9.53. The nearest residential property to the site is 187 Woodland Avenue at approximately 25m away, although the building-to-building distance would be

at least 134m. As such, it is considered that this property and all of the others would not be materially affected in respect of daylight, sunlight, overshadowing, overlooking, outlook or sense of enclosure.

- 9.54. Given the scale and nature of the proposal, there would be an increase in noise and disturbance from the use of the discount foodstore, particularly from vehicular traffic, both customers and deliveries. The applicant has submitted an Environmental Noise Report to address this impact, and which covers noise from the fixed mechanical plant, car park and service yard. The Environmental Health Officer agrees with the conclusion that the noise from the plant and car parking activity would be below the relevant daytime and night-time guidelines and that the food store could receive deliveries at any time without causing adverse impact to existing or future residents, and Officers have no reason to disagree. Therefore, the proposal for 24/7 servicing and delivery hours is considered acceptable, subject to a Delivery Management Plan (DMP) being conditioned in the event of an approval. In addition, a Construction Environmental Management Plan secured by condition could satisfactorily control impacts during construction.
- 9.55. As such, the overall impact on neighbouring amenity would be considered acceptable subject to conditions and compliant with Local Plan Policies SU10 and QD27 and emerging CPP2 Policy DM20 (which can be given significant weight).

**Impact on Highways:**

- 9.56. National and local transport planning policies seek to promote sustainable modes of transport and reduce reliance on the private car, and seek to ensure safe highway development.
- 9.57. The aims of policy DA7 and SPD15 are for the site to assist in meeting the development and infrastructure requirements of the city; to benefit residents in terms of road safety improvements; to improve sustainable public transport, walking and cycling links within and to the area and the new THV neighbourhood; to create new links with the SDNP; and reduce or minimise traffic-related light, air and noise pollution and carbon emissions. SPD15 seeks to ensure development at THV and Court Farm contain measures which help reduce the severance caused by King George VI Avenue and surrounding roads.
- 9.58. Policy DA7 and SPD15 have not been mentioned in the submitted Transport Assessment (TA), and it is considered that the proposals fail to adequately meet their requirements. The Local Highway Authority (LHA) raise significant concerns regarding the submitted TA, which is not considered robust, as do National Highways, who recommend non-approval due to insufficient information, and it is considered that it has not been demonstrated that the proposal complies with local or national policy and guidance.
- 9.59. The site currently suffers from having relatively limited public transport provision and no formal, direct walking or cycling connections, illustrated by King George VI Avenue not having any footway to its northern end east of the

subject site or a cycle lane. The proposal includes a footway on the southern side of the site to provide pedestrian access to King George VI Avenue and the adjacent THV site from the store entrance. Also proposed is a new footway to the eastern side of the King George VI Avenue linked by a new pedestrian refuge crossing point to the residential properties on Woodland Avenue and beyond.

- 9.60. The walking catchment of the area fails to take into account the area's topography, with King George VI Avenue being on a steep hill, and some of the roads not having footpaths, such as Devil's Dyke Road, some of which are unsurfaced and unlit. KGVl Avenue is a significant barrier and SPD15 encourages measures to reduce its degree of severance, and these are not included.
- 9.61. In terms of the wider catchment area, the applicant sets out that the proposed discount foodstore would be a "main food destination" and therefore it would be more likely to attract customers from further away, not just from the more localised north Hove catchment area.
- 9.62. Officers do not agree with the assertion that the proposal would facilitate a significant reduction in unsustainable travel patterns given those living to the north of Hove who wish to visit a discount store could visit Lidl in Goldstone Retail Park or Aldi's other nearest store at Carlton Terrace in Portslade, which is less than a 10 minute drive from the subject site. Additionally, since Aldi's other current stores are drawing trade from northern catchment areas (such as Hassocks and Burgess Hill), then there is no reason why the proposed store would not do so, particularly as it is closer than, for example, the Portslade store. Introducing further traffic into the city is a significant concern, especially given this is an already busy area close to strategic junction.
- 9.63. The proposal fails to link in with the new THV neighbourhood and wider area including the SDNP, evidenced by a lack of compliance with the emerging highways design plans in regards to the lack of a continuation of the proposed pedestrian / cycleway up to the roundabout and whether the pedestrian pathway to the south does link into THV, and this should also cater for cyclists. This lack of compliance has been clearly demonstrated in point 8 of the LHA's consultation response and is a significant concern as such crucial strategic linkages are necessary for any development coming forward across both sites. To achieve this the layout of the proposal would need to be significantly amended to leave sufficient space along its road frontage, and also incorporate appropriate landscaping.
- 9.64. The proposal fails to improve links with the existing residential neighbourhood, particularly in respect to nearby bus stops, and does not address additional bus frequency, both of which are considered fundamental to successful development of this site, particularly for a large-scale retail use. Brighton and Hove Bus Company and the LHA confirm that enhancements to bus services should be sought.

- 9.65. The site is not served directly by bus with the nearest bus stop located on Woodland Drive approximately 150m away on foot and served by two services (21 and 21A) that run once an hour on weekdays and Saturdays, but only between 08:30 and 19:30. Bus stops for services 27 and 77 are also relatively nearby but the latter only operates once every 1 hour 15 minutes on Saturdays and Sundays between 09:00 and 18:00 and are located on Dyke Road Avenue approximately 600m from the site access. However, these are located across very busy roads and there is no formal footway to these stops and in any case it is not considered an accessible and inclusive route due to being muddy during the winter months, thereby unsuitable for wheelchairs or prams, unlit and unsafe. Given the frequency of service 27 (every 15 minutes Monday-Saturday and 30 minutes on Sundays), there is likely to be an increased demand for staff and customers to use the Dyke Road Avenue stops. As such, a pedestrian route should have been proposed, as well as an investigation undertaken as to whether new bus stops could be provided closer to the site.
- 9.66. Furthermore, it is considered that improvements should be sought to bus services in respect of increasing the frequency of service 21; providing a bus shelter and live bus times display at the top of Woodland Avenue; live bus times displays at both the Tongdean Lane stops on Dyke Road and a shelter at the northbound stop; live bus times displays in the proposed foodstore and free trial bus passes to new staff for a year.
- 9.67. The lack of provision of all these matters is of significant concern such that it warrants a refusal of this proposal.
- 9.68. Had this application been found to be otherwise acceptable, a financial contribution towards a mobility hub to include a bike share scheme and e-bikes at the Hilltop Café at the top of Dyke Road Avenue would have been secured via a legal agreement. The previously mentioned pedestrian improvements would also have needed to connect with this. Whilst mention has been made of National Cycle Network Routes 20 and 22 (actually 82), the former has no connection with the subject site and the condition of much of the latter is poor. As such, no improved links to designated national cycle routes, or the SDNP have been proposed, as required by Policy DA7.
- 9.69. The relatively poor public transport accessibility would mean that staff and customers of the discount foodstore would be heavily dependent on accessing the site by private car, contrary to national guidance and Policies DA7 and CP9, as well as SPD15. As set out in paragraph 2.19 of the supporting text to Policy SS1, it is considered that DA7 is one of the specific development areas where accessibility needs to be significantly improved, but this proposal fails to achieve that objective. In addition, the proposal fails to enable and support healthy lifestyles through the provision of safe and accessible green infrastructure and layouts that encourage walking and cycling, contrary to policies DA7, CP18 and SPD15.
- 9.70. There are also highways safety issues with the proposal, which are yet to be satisfactorily addressed.



- 9.71. It is proposed to form a new junction on the west side of King George VI Avenue giving priority to those vehicles entering the site from the north in the form of a right turn 'ghost island lane' over those vehicles who wish to exit the site to the south, and who would not be able to do so under the current proposal without causing significant highway safety concerns. As such, details of how the 'ghost island lane' would be blocked should have been provided. Additionally, any large delivery vehicle exiting and turning left out of the proposed access would cross the centreline and may collide with oncoming vehicles turning to enter the site. It is unclear if a 'Left-In, Left-Out' (LILO) access arrangement has been considered, which would alleviate those issues, albeit vehicles entering the site would have to arrive from the south. It is also considered that a slip lane would be of benefit for slow / heavy vehicles given that the site is at the top of a steep hill. The scheme also does not take account of emerging highway designs for the THV site and thus could compromise delivery of this strategic development allocation. The proposal would therefore be contrary to paragraph 3.95 of the supporting text to Policy DA7, Policy TR7 and SPD15.
- 9.72. In terms of on-site issues, any large delivery vehicle reversing into the loading bay at the rear of the store would need to manoeuvre within a significant area of the main car park, which is dangerous given the potential for pedestrians crossing the car park to be hit by the delivery vehicle. As such, the car park layout and / or the proposed delivery location needs to be changed.
- 9.73. The Stage 1 Road Safety Audit (RSA) submitted in connection with the highway designs is not accepted by officers given that the audit team and brief plus proposed s278 works were not agreed with the LHA (or National Highways) in advance (evidenced by the highways safety issues not being eliminated).
- 9.74. In respect of travel forecasts / trip generation / cumulative impact, several important gaps in the information provided have been identified and are listed below:
- Exploration of whether there is any survey data from existing Aldi stores that can be used for more robust trip rates and parking evidence.
  - The inclusion of a Saturday peak hour traffic assessment in addition to weekday AM and PM peaks.
  - Clarification on predicted traffic numbers shown in Table 4.6 of the TA.
  - The inclusion of 8% traffic growth factor and set of committed developments in and for any transport assessments.
  - The cumulative impact of this scheme, committed developments, 8% traffic growth and Toad's Hole Valley scheme needs to be assessed.
  - Network diagrams to include the actual change and percentage change in trips between the 'With' and 'Without' scheme situations so that any additional junctions that need to be modelled can be.
- 9.75. The emerging highway designs and transport proposals for THV application cannot be fully relied upon to mitigate the impact from the Aldi scheme as that is not an extant permission, and in any event the Court Farm proposal must meet the demand it creates for travel in its own right.

- 9.76. The site is not considered to be in a particularly sustainable location within the city given that future customers and staff would mainly be reliant on private transport to reach the site. This is illustrated by it being in an 'Outer Area' of the city as set out in SPD14. In addition, there are poor pedestrian and cycle linkages, and bus routes are not immediately close by. In these outer areas, SPD14 permits a maximum of one car parking space per 15m<sup>2</sup> of floorspace, totalling 126 spaces. 120 spaces are proposed, which is therefore compliant in principle.
- 9.77. However, insufficient evidence has yet to be provided to demonstrate that there is actually sufficient parking within the site to meet the demand it creates and avoid queues of cars on the A2038 and strategic road network, impacting on buses on Dyke Road Avenue, or resulting in overspill parking on the surrounding roads that are not in a Controlled Parking Zone (CPZ). As discussed in more detail further on in this section, the site is not considered to be accessible and users are expected to be heavily reliant on the use of private cars. It is considered that the application does not contain sufficient information to satisfactorily demonstrate that the proposal complies with Policies TR7, DA7 and CP9, SPD14, SPD15 and NPPF paragraph 111 in this respect.
- 9.78. The nature of a large scale retail use, the proposed access arrangements and its location on a steep hill with a 40mph speed limit and close to a busy roundabout with six entry / exit points, plus lack of good quality sustainable alternatives, would not reduce traffic congestion or vehicle emissions as suggested by the applicant. The site's relatively unsustainable location and uptake of nearly all of the spaces in the maximum car parking standards indicates the opposite.
- 9.79. Given the amount of floorspace proposed, 10% of the 120 car parking spaces are required to have electric charging points and 10% are required to have 'passive' provision to allow conversion at a later date, as per SPD14. 12 would be 'active' and 12 would be 'passive' in line with SPD14, but the number should be increased due to the expected rise in electric vehicles usage and the requirement in DA7 for the proposed development to be of an exemplary standard in terms of sustainability..
- 9.80. As regards disabled car parking spaces, seven are proposed, which is 6% of the total capacity as required by SPD14. Seven 'parent and child spaces' are also proposed, which is welcomed. Three motorcycle spaces are provided, which is short of the minimum 5% (or six) of the maximum total car parking standard (126) required by SPD14. The additional spaces would have been requested had the proposal been found to be otherwise acceptable.
- 9.81. In terms of cycle parking spaces, SPD14 provides minimum standards. 14 short stay (customer) spaces and 10 long stay (staff) spaces are required with a total of 26 being proposed; 16 short stay and 10 long stay. These numbers are therefore considered compliant. The long stay spaces would be located internally near to the staff areas, which is accessible without wheeling bicycles

through the store. Details of both stands could have been secured by a pre-occupation condition.

- 9.82. A bin store has been proposed within the delivery bay, but this location is not convenient for collection, and it is not clear whether a waste collection vehicle would enter the site to collect the bins, or whether the space is sufficient to accommodate sufficient bins of an appropriate size. Amendments and further details would have been sought in the event of an approval.
- 9.83. Given the scale of the proposal and the proximity to an extremely busy junction, it is recommended that the CEMP previously referred to would also be required for highways-related reasons. This would address concerns about safety, amenity, noise and construction traffic.
- 9.84. As such, there is insufficient information to definitively determine the likely impact of the development in accordance with NPPF paragraph 113. Whilst 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 as per NPPF paragraph 111, it has not been demonstrated that this is not the case. The concerns raised are therefore considered sufficient to warrant a recommendation for refusal on highways grounds.

**Sustainability:**

- 9.85. City Plan Part One Policy CP8 requires major new non-residential development to incorporate significant sustainable measures and achieve a BREEAM standard of 'Excellent'. Emerging City Plan Part Two Policy DM43 requires new build non-residential development to achieve a minimum Energy Performance Certificate (EPC) rating of 'B'.
- 9.86. One of the priorities of policy DA7 is to ensure development is of an exemplary standard in terms of environmental, social and economic sustainability, achieves a One Planet approach and promotes the city's UNESCO Biosphere objectives.
- 9.87. A pre-assessment BREEAM report shows that the proposed building is likely to achieve an 'Excellent' rating with a score of 73%. Whilst this is welcomed, given that the bracket for 'Excellent' is 70% - 85%, ideally a higher score should be targeted at this stage to allow for potential slippage during construction and ensure that this rating is delivered. this would also help demonstrate it is exemplary, as per Policy DA7.
- 9.88. Policy CP8 requires a 19% carbon reduction improvement against Part L of Building Regulations (albeit for residential development) and the proposed building is predicted to result in a 28% reduction, which is therefore supported. It is noted that the building fabric and M&E services alone would save 22% carbon emissions and the refrigeration heat recovery system will reduce carbon emissions further. Heating is by an Air Source Heat Pump (ASHP) which provides additional energy savings by drawing in heat recovered from the store's refrigerated storage units.

- 9.89. High efficiency water saving fittings are proposed and for a retail development, the water use is expected to be relatively low.
- 9.90. The office, WCs and other staff facilities would have mechanical extract ventilation system compliant with Building Regulations Part L2A 2013. Active cooling has been specified for the manager's office only. Internal site layout is optimised to minimise heating requirements, and take advantage of solar gain, although this will be reduced to the south elevation by coating the large glazing. Passive shading features such as canopies, brise soleil or climbing plants located to shade the glazed frontage in summer (high sun) but also to allow solar gain in the winter (low sun) could be considered in conjunction with passive ventilation features such as roof vents for cooling in the summer.
- 9.91. It is also the case a Site Waste Management Plan (SWMP) would have been conditioned had this proposal been found to be otherwise acceptable.
- 9.92. All the above sustainable measures are welcomed and could be conditioned, however, no mention is made of the projected embodied carbon of materials, or of the construction methods, which can also contribute to low embodied carbons. A whole-life carbon assessment is the best way to assess this holistically and would have been secured by condition in the event of an approval to satisfy section 3.1 of SPD17.
- 9.93. In addition, as outlined previously, there are questions raised with regard to the wider sustainability of the proposal in terms of location, sustainable transport, sustainable drainage systems, landscaping and ecology, which need to be addressed. There are therefore concerns that the proposal falls short of the requirements of Policies CP8 and DA7.

**Heritage and Archaeology:**

- 9.94. The proposed development is of archaeological interest due to its scale and location in close proximity to a number of prehistoric and Romano-British sites, including human burial sites, which have the potential to survive given that it has not been subject to recent ground reduction or significant disturbance.
- 9.95. Given the potential for impacts to heritage assets with archaeological interest, it would be considered necessary to impose a pre-commencement condition requiring a programme of archaeological works had the application been otherwise acceptable. This would enable any archaeological deposits and features that would be disturbed by the proposed works to be either preserved in situ or, where this cannot be achieved, adequately recorded in advance of their loss. This would thus comply with Policy HE12.
- 9.96. When considering whether to grant planning permission for development in a conservation area or within its setting the Council has a statutory duty to pay special attention to the desirability of preserving or enhancing the character or appearance of the area. Case law has held that the desirability of preserving or enhancing the character or appearance of a conservation area must be given considerable importance and weight.

9.97. There is very little inter-visibility between the site and the Woodland Drive Conservation Area. This would not change with the development except where the development would be visible from the upper part of Three Cornered Copse. The Copse provides an important green space to the houses of the conservation area and this would not change with the development. The conservation area is part of a much wider suburban area and contains a busy vehicular route. The way in which the conservation area is experienced would not change with this development in place. Its setting would therefore be preserved.

## **10. CONCLUSIONS**

- 10.1. For the reasons set out above, there are significant concerns regarding the proposal. The proposal fails to address the requirements of national and local policy, and falls some way short of site-specific Policy DA7 and SPD15 requirements in particular.
- 10.2. There are fundamental concerns regarding the principle of developing the site for a large-scale retail use, given such a use does not accord with the strategic allocation of the site as set out in Policy DA7. This policy only allows for small-scale 'supporting ancillary' retail uses. The proposal would compromise the site's ability to accommodate further much needed housing (including affordable housing) for the city.
- 10.3. Notwithstanding the above, there are significant concerns that the proposal cannot be considered a sustainable exemplar, and it is thus contrary to Policy DA7 which seeks this. In particular, there is substantial concern regarding the lack of sustainable transport provision, which is contrary to local and national policy and SPD15. The submitted Transport Assessment is not deemed to be robust and does not fully assess the potential impacts of the proposal. The proposal would not be socially sustainable as it would not enable and support healthy lifestyles through the provision of safe and accessible infrastructure and layouts that encourage walking and cycling, or be environmentally sustainable because it would attract a high proportion of trips by private car. In addition, the proposal fails to adequately protect ground water sources from pollutants, fails to incorporate green / blue natural drainage infrastructure and would fail to provide sufficient on-site planting. Furthermore, there are significant concerns about integration with and connectivity to the adjacent THV site and wider area, the design and layout, extent and location of landscaping, impact to ecology and highway safety.
- 10.4. Whilst some of the above concerns may be able to be addressed through amendments and submission of further information, the changes needed are significant and are not pursued as part of this application, and in any event do not address the concern regarding the principle of the development.
- 10.5. Whilst there are economic benefits to the proposal, such as job creation, and there is the benefit of bringing forward a vacant site, it is considered that these do not outweigh the adopted policy conflict, particularly in light of the Council's

housing land supply position of 2.2 years, or outweigh the issues outlined above. There are considered to be no exceptional circumstances to depart from adopted policy. The proposal is therefore recommended for refusal.

## **11. ENVIRONMENTAL IMPACT ASSESSMENT**

- 11.1. The development does not fall within Part 10 (b) of Schedule 2 to the Town and Country Planning (Environmental Impact Assessment Regulations 2017) as an 'urban development project' as it has a development area of less than 1ha and is of limited floorspace. However, given the nature of the development, the site's location, the potential cumulative impact with the proposed THV development and allocation of that site, the proposal was formally 'screened' by the LPA under the EIA Regulations. It was determined that the proposal did not constitute EIA development as it was not close to further thresholds in government guidance and it would not give rise to significant environmental effects (in terms of the EIA Regulations).

## **12. COMMUNITY INFRASTRUCTURE LEVY**

- 12.1. Under the Regulations of the Community Infrastructure Levy (CIL) 2010 (as amended), Brighton & Hove City Council adopted its CIL on 23 July 2020 and began charging on all CIL liable planning applications on and from the 5 October 2020. The amount of CIL liability for Larger Format Retail / Supermarkets is £100 per m<sup>2</sup>. The exact amount will be confirmed in the CIL liability notice which will be issued as soon as it practicable if planning permission is granted.

## **13. EQUALITIES**

- 13.1. The plans provide level access to the site despite its topography, with the disabled car parking spaces being directly in front of the store and of an acceptable size. It is anticipated that the entrance and exit doors would be sufficiently wide to allow access in by wheelchair users and that they would be automatically operated, but these details are unclear at this stage. However, pedestrian access routes are not proposed, or clearly marked, through the entire car park, leading to highways safety concerns.

## **14. CLIMATE CHANGE / BIODIVERSITY**

- 14.1. The site is not considered to be in a particularly sustainable location and therefore there are serious concerns about the climate change implications from additional carbon emissions from all the journeys made by private motor vehicles. However, the proposal does provide an appropriate number of and location for the cycle parking spaces, and it also makes a more efficient use of brownfield land with the proposed building being well orientated thereby

providing ample daylight and sunlight to the new foodstore. It is considered that the net gain in biodiversity of approximately 4% can be increased.

