COMMITTEE DATE: 24/02/2016

APPLICATION No. 15/02760/MJR APPLICATION DATE: 13/11/2015

ED: SPLOTT

APP: TYPE: Full Planning Permission

APPLICANT: Lidl UK GmbH

LOCATION: LIDL, EAST TYNDALL STREET, SPLOTT, CARDIFF, CF24

5EH

PROPOSAL: DEMOLITION OF THE EXISTING FOODSTORE AND

CONSTRUCTION OF A NEW LIDL FOODSTORE WITH

ASSOCIATED PARKING AND SERVICING

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**RECOMMENDATION 1**: That, subject to relevant parties entering into a binding planning obligation, in agreement with the Council under **SECTION 106** of the Town and Country Planning Act 1990, within 6 months of the date of this resolution unless otherwise agreed by the Council in writing, in respect of matters detailed in paragraph 8.7 of this report, planning permission be **GRANTED** subject to the following conditions:

- 1. C01 Statutory Time Limit
- 2. The consent relates to the application as amended by the revised plans numbered 15036-3020 revision T4 attached to and forming part of this planning application.

Reason: The plans amend and form part of the application.

- 3. C3S Cycle Parking
- 4. The parking spaces and other hard surface details shown on plan number 15036-3020 rev. T4 shall be implemented prior to the beneficial use of the development and shall thereafter be retained and maintained. Reason: To ensure an orderly form of development and to ensure the safe movement of vehicles and pedestrians.
- 5. Details of a lighting scheme to the parking and other external areas shall be submitted to and approved in writing by the local planning authority. The scheme shall allow for (but not be limited to) focused, low intensity lighting that does not result in light pollution into the adjacent dwellings. The approved lighting shall be implemented prior to the beneficial use of the development and shall thereafter be retained and maintained. Reason: To ensure appropriate lighting for the safe movement of traffic and pedestrians within and adjacent to the site.
- 6. A scheme of construction management to include (but not be limited to) any; site hoardings, site access, management of all activities impinging on the highway, diversion of the existing footway during the construction

period/traffic management measures/ re-instatement of the footway as a consequence of damage to it during construction etc. shall be submitted to and approved in writing by the Local Planning Authority. The development shall be implemented in accordance with the approved scheme.

Reason: In the interests of highway safety and public amenity.

7. Details of a scheme to reinstate the footway to the existing redundant crossover, and construct the new vehicle crossover shall be submitted to and approved in writing by the local planning authority. The approved scheme shall be implemented prior to the beneficial occupation of the development.

Reason: In the interests of visual amenity and to secure the safe movement of pedestrians.

8. Customers shall only be admitted to or allowed to remain on the premises between the hours of 08:00 to 22:00 Mondays to Saturdays and 10:00 to 16:00 on Sundays.

Reason: To protect the amenity of adjacent residential occupiers.

- There shall be no arrival, departure, loading or unloading of delivery vehicles between the hours of 07:00 and 21:00.
   Reason: To ensure the amenities of occupiers of other premises in the vicinity are protected.
- 10. The net sales floorspace shall not exceed 1,432 sq m either by internal or external alteration and shall only be used for the sale of convenience goods, except for a maximum of 286 sq m (net) which may be used for the sale of non-convenience goods, and for no other purpose including those set out in Class A1 of the Schedule to the Town and Country Planning (Use Classes) Order 1987, or in any provision equivalent to that Class in any statutory instrument revoking, amending or re-enacting that Order with or without notification. (For the avoidance of doubt convenience goods shall be taken to mean: Food, drink, tobacco, household cleaning products, newspapers and magazines). None of this floorspace shall be subdivided.

Reason: To ensure that changes to the type, format and scale of development do not compromise the retail strategy of the development plan and/or national planning guidance.

11. The refuse storage and disposal details hereby approved shall be implemented prior to the beneficial use of the development and shall thereafter be retained and maintained unless otherwise agreed in writing by the Local Planning Authority.

Reason: To ensure an orderly form of development and to protect the amenities of the area.

- 12. F7Y Ground Gas Protection
- 13. C7Za CONTAMINATED LAND MEASURES ASSESSMENT

- 14. C7Zb CLM REMEDIATION & VERIFICATION PLAN
- 15. C7Zc CLM REMEDIATION & VERIFICATION
- 16. C7Zd CLM UNFORESEEN CONTAMINATION
- 17. D7Z Contaminated materials
- 18. E7Z Imported Aggregates
- 19. Any site won material including soils, aggregates, recycled materials shall be assessed for chemical or other potential contaminants in accordance with a sampling scheme which shall be submitted to and approved in writing by the Local Planning Authority in advance of the reuse of site won materials. Only material that meets site specific target values approved by the local planning authority shall be reused. Reason: To ensure that the safety of future occupiers is not prejudiced in accordance with policy 2.63 of the Cardiff Unitary Development Plan.
- 20. C2N Drainage details
- 21. D4A Landscape Scheme
- 22. C4R Landscaping Implementation
- 23. H7G Plant Noise

**RECOMMENDATION 2**: To protect the amenities of occupiers of other premises in the vicinity attention is drawn to the provisions of Section 60 of the Control of Pollution Act 1974 in relation to the control of noise from demolition and construction activities. Further to this the applicant is advised that no noise audible outside the site boundary adjacent to the curtilage of residential property shall be created by construction activities in respect of the implementation of this consent outside the hours of 0800-1800 hours Mondays to Fridays and 0800 - 1300 hours on Saturdays or at any time on Sunday or public holidays. The applicant is also advised to seek approval for any proposed piling operations.

**RECOMMENDATION 3**: The contamination assessments and the effects of unstable land are considered on the basis of the best information available to the Planning Authority and are not necessarily exhaustive. The Authority takes due diligence when assessing these impacts, however you are minded that the responsibility for

- (i) determining the extent and effects of such constraints and;
- (ii) ensuring that any imported materials (including, topsoils, subsoils, aggregates and recycled or manufactured aggregates / soils) are chemically suitable for the proposed end use. Under no circumstances should controlled waste be imported. It is an offence under section 33

of the environmental Protection Act 1990 to deposit controlled waste on a site which does not benefit from an appropriate waste management license. The following must not be imported to a development site:

- Unprocessed / unsorted demolition wastes.
- Any materials originating from a site confirmed as being contaminated or potentially contaminated by chemical or radioactive substances.
- Japanese Knotweed stems, leaves and rhizome infested soils.
  In addition to section 33 above, it is also an offence under the Wildlife and Countryside Act 1981 to spread this invasive weed; and
- (iii) the safe development and secure occupancy of the site rests with the developer.

Proposals for areas of possible land instability should take due account of the physical and chemical constraints and may include action on land reclamation or other remedial action to enable beneficial use of unstable land.

The Local Planning Authority has determined the application on the basis of the information available to it, but this does not mean that the land can be considered free from contamination.

**RECOMMENDATION 4**: That the applicant be advised that the required highways improvement works (reinstatement of redundant crossover and construction of new crossover) are to be subject to an agreement under Section 278 of the Highways Act 1980.

**RECOMMENDATION 5**: Bats often roost in houses, buildings and trees, and work on these buildings and trees may disturb a bat roost. All bats and their roosts are protected against disturbance under UK and European legislation. If works are planned on buildings or trees in which bats are known to be roosting, Natural Resources Wales must be contacted for advice.

If work has already commenced and bats are found, or if any evidence that bats are using the site as a roost is found, work should cease and NRW should be contacted immediately.

Where bats or their roosts are present, no works of site clearance, demolition or construction should take place unless a licence to disturb these species and/or their roosts has been granted in accordance with the relevant legislation.

NRW can be contacted at:-Natural Resources Wales Ty Cambria 29 Newport Road Cardiff CF24 0TP

Tel: 0300 065 3000

For further advice on bats please contact:

The Bat Conservation Trust 5th Floor Quadrant House 250 Kennington Lane London SE11 5DR

Tel: 0845 1300228

# 1. <u>DESCRIPTION OF PROPOSED DEVELOPMENT</u>

- 1.1 An application for the demolition of an existing LIDL foodstore, to be replaced by a newly constructed, larger LIDL foodstore, with associated a new parking and external area.
- 1.2 The application indicates that the new store would increase the floorspace from approx. 1044sqm to approx. 2448sqm (+1404sqm). The new building increases the existing footprint in an easterly and southerly direction, towards the adjacent industrial estate and East Tyndall Street respectively. The adjacent vacant premises (formerly a café/restaurant, more recently a car wash) is also to be demolished to cater for the new parking surface. The increased footprint results in a relocation of the existing access off East Tyndall Street further eastward, and makes the existing crossover redundant.
- 1.3 The new building has a 'wedge' design, with the lowest point being adjacent to the western boundary (and the dwellings fronting Sapele Drive) measuring approx. 4.5m high, increasing to approx. 7.9m high to the car park frontage. The entrance foyer is to the south-east corner (similar to existing), with a glazed wall running the length of the East Tyndall Street frontage. The remainder of the building is finished in white render, with 'White Aluminium' (light grey) cladding above and to the roof.
- 1.4 The proposed delivery area is to the north of the new building, adjacent to the boundary with the dwellings on Neilson Close (as existing). A HGV tracking plan has been submitted that indicates how delivery vehicles would utilise the expanded parking area to manoeuvre into the delivery bay in reverse gear.
- 1.5 Access to the proposed store remains similar to existing, with a relocated vehicle and pedestrian access off East Tyndall Street, and a pedestrian path off Sanquhar Street. The existing footpath access that continues through the site to East Tyndall Street is to be retained, with that area crossing the parking surface highlighted by Zebra Crossing markings, with the amended layout plan also providing for a guard rail to the sides of the path that lie adjacent to the parking bays.
- 1.6 The application forms indicate store opening times of 08:00 to 22:00 Monday to Saturday and 10:00 to 16:00 on Sundays.

#### 2. **DESCRIPTION OF SITE**

2.1 The site is approx. 6337sqm in area, formed by the existing store land and

adjacent vacant commercial premises.

2.2 The adjacent properties on City Road are in mixed commercial/residential use with both having restaurant uses to their ground floors.

The areas to the north and west of the site are predominantly residential in nature, with commercial and some residential uses to the east and south.

# 3. SITE HISTORY

3.1 94/1678R - Proposed retail unit - Approved

94/1787R - residential development for 31 flats & houses - Approved

06/2693E – Enclosure of loading bay, creation of entrance foyer and external works – Approved

11/2097DCI - Renewal of pp 06/2693E - Approved

15/280MJR - Demolish existing foodstore and construct new foodstore - Withdrawn

15/1446MJR – Demolish existing foodstore and construct new foodstore - Withdrawn

# 4. **POLICY FRAMEWORK**

4.2 The relevant Local Development Plan Policies are:

Policy KP5 (Good Quality and Sustainable Design)

Policy EN14 (Flood Risk)

Policy T1 (Walking and Cycling)

Policy T5 (Managing Transport Impacts)

Policy W2 (Provision for Waste Management Facilities in Development)

### 5. INTERNAL CONSULTEE RESPONSES

5.1 The Transportation Manager has no objection. The amended layout plan satisfies concerns over a possible conflict between pedestrians, manoeuvring delivery vehicles and parking/parked cars within the new parking area of the site. Guard rails are proposed that segregate the pedestrian path and vehicle bays.

Notwithstanding the amended layout plan, details of cycle parking provision are required and the parking provision as indicated on the approved plans should be implemented prior to beneficial use.

The development requires the reinstatement of the footpath to East Tyndall Street where the existing crossover is made redundant, and the construction of a new crossover. These works are to be undertaken by the developer and will be subject to an agreement under Section 278 of the Highways Act 1980.

The developer has agreed to make a contribution of £20,000 towards the provision of a raised Zebra Crossing on East Tyndall Street.

- 5.2 The Waste Manager considers the specified refuse management plan of storing waste 'in-store' before transporting to Regional Distribution Centres for sorting is acceptable.
- 5.3 The Pollution Control Manager (Contaminated Land) has no objection, subject to conditions in respect of contamination, along with contaminated land advice.
- 5.4 The Pollution Control Manager (Noise & Air) has been consulted and any comments will be reported to Committee.

### 6. **EXTERNAL CONSULTEE RESPONSES**

- 6.1 Dwr Cymru/Welsh Water have no objection subject to conditions in respect of site drainage.
- 6.2 South Wales Police offer comments in respect of crime prevention matters. Their correspondence has been forwarded to the agent for consideration.
- 6.3 Natural Resources Wales have no objection

### 7. **REPRESENTATIONS**

- 7.1 Adjacent occupiers have been consulted and the application has been advertised on site and in the press in accordance with adopted procedures. The occupier of 14 Wilkinson Close objects to the proposals on the following grounds:
  - Late night deliveries (already taking place several times a week), cause disturbance and concern to an awakened child. As the plans show deliveries being closer to their dwelling. In this case, and with the opening hours being longer, the noise will get worse;
  - Moving the store to within a few metres of the house will increase noise disturbance;
  - Privacy and light will be harmed due to new store;
  - Bats may be present in the vacant 'Bayside House'
- 7.2 Local Members have been consulted and any comments will be reported to Committee.
- 7.3 The application has been advertised on site and in the press in accordance with procedures. No comments have been received.

#### 8. **ANALYSIS**

- 8.1 An application for the demolition of an existing foodstore and vacant commercial premises, with the construction of a new larger foodstore with expanded parking facilities.
- 8.2 In terms of Land Use Policy, the application proposes the demolition and reconstruction of a Lidl foodstore. The existing Lidl store is a first generation

store with a sales area of less than 1,000 sq m (857 sq m) and as a result is unable to be stocked and serviced efficiently.

The existing store has a net sales area of 857 sq m (686 sq m for convenience goods sales and 171 sq m comparison goods floorspace). This current proposal will result in a total net sales area of 1,432 sq m (1146 sq m for the sale of convenience goods and 286 sq m for the sale of comparison goods) i.e. a total increase in the net sales area of 575 sq m.

### **Retail Development**

The application site is in an out-of-centre location in terms of retail policy. Planning Policy Wales Edition 8 (July 2016) is clear that planning applications for retail developments, including redevelopment and extensions in out-of-centre locations should be assessed against the following tests:-

- (i) Compatibility with a Community or up-to-date Development Plan Strategy;
- (ii) Consideration of need;
- (iii) The sequential approach to site selection; and
- (iv) The impact on existing centres.

Policy R6 of the Adopted Cardiff Local Development Plan 2006-2026 provides the development plan policy framework.

Policy R6 only allows for retail development outside the Central Shopping Area, District and Local Centres identified on the Proposals Map if:

- (i) There is a need for the proposed floorspace (with precedence accorded to establishing quantitative need);
- (ii) That need cannot satisfactorily be accommodated within or adjacent to the Central Shopping Area, within a District or Local Centre;
- (iii) The proposal would not cause unacceptable harm to the vitality, attractiveness or viability of the Central Shopping Area, a District or Local centre or a proposal or strategy including the Community Strategy, for the protection or enhancement of these centres;
- (iv) The site is accessible by a choice of means of transport; and
- (v) The proposal is not on land allocated for other uses. This especially applies to land designated for employment and housing, where retail development can be shown to limit the range and quality of sites for such use.

In order to support the application agents for the applicants have provided a retail statement which provides an assessment of the proposal against the above policy framework, relating to retail need, the sequential approach to site selection and the potential impact of the proposal on the vitality and viability of nearby centres.

The agents findings are summarised below :-

### Retail Need and Impact

The proposed additional Lidl retail floorspace will generate an annual turnover of £1.10m by 2020. The total expenditure retained within the study area will be £229.08m by 2020. The identified benchmark turnover of all convenience goods retail facilities within the study area is £224.89m. If this is deducted from the available expenditure, along with the additional Lidl turnover (£1.10m), this would leave a residual capacity of £3.10m. This is sufficient to enable the development of additional convenience goods retail floorspace within existing centres whilst ensuring that there is sufficient expenditure to support the replacement Lidl store.

The level of trade diversion to the proposed store will be negligible and as such it is not considered that the level of trade diversion will harm the ability of local, district and/or city centre business owners to invest in their premises. The majority of trade diversion will come from other out of centre stores, notably Asda in Cardiff Bay. This has regard to its significant market share of convenience goods spend generated by residents in Zone 5 of the study area and the stores large number of value range products comparable with those sold by Lidl. It is estimated that the replacement Lidl store will divert £0.38m of convenience goods turnover from the Asda store. Only a small proportion of the net additional convenience goods turnover generated by the replacement Lidl store will be diverted from designated centres.

# Sequential Approach

In relation to the sequential test the retail statement concludes that the proposal is to redevelop an existing store on the same site. There is nothing to prevent the existing store from continuing to trade but the objective is to deliver operational and customer benefits and as such the net increase in floorpsace could not be provided remote from the existing store. The need that is to be accommodated is therefore considered 'site specific'. Nonetheless, the applicants have considered whether there are any more centrally located opportunities that could accommodate the development that is proposed. No suitable units of the required size in any centre could be found within the standard five minute off-peak drive time catchment area of the existing foodstore.

#### **Policy Conclusions**

The agent has satisfactorily assessed the proposal against the retail tests of need, impact and the sequential approach to site selection. The retail statement has demonstrated there is sufficient capacity to support the redeveloped store and a residual capacity of £3.10m which is considered sufficient to enable the development of additional convenience goods retail floorspace within existing centres whilst ensuring that there is sufficient expenditure to support the replacement Lidl store. The additional retail floorspace is modest in size and the majority of trade diversion has been demonstrated to come from other out-of-centre stores, most notably Asda at Cardiff Bay. The trade diversion from in centre stores will be negligible and cancelled out within just a few months of

expenditure growth. It is also considered that the retail statement has demonstrated that there are no sequentially preferable sites that could accommodate the proposal.

In conclusion the application raises no retail policy concerns. However, a condition is recommended above (condition 10) which seeks to prevent future change to the scale and nature of the foodstore which may adversely impact on the retail strategy of the development plan.

8.3 The design and finish of the store is consistent with the majority of the existing (redeveloped) stores of this brand throughout the City.

The street elevation comprises a mainly glazed wall, with the main entrance to one corner. This offers an active frontage to the street, with light and movement into the hours of darkness during the winter months. The remainder of the elevations are largely utilitarian, with render and cladding finishes that present as being clean & tidy.

The site has a historical commercial context, being the former Splott Market, with the current store being built in the mid 1990's. Whilst parts of the previously commercial areas have been developed as housing, there remains a strong commercial context (retained warehousing to the east). As such, the scale and design of the building raises no concerns in respect of its visual impact on the street scene.

8.4 Whilst the scale of the store has been considerably enlarged, the increase is minimal to the boundary with the dwellings on Sapele Drive, with the height of the new building increased by approx. 0.9m along this elevation. Whilst the maximum height exceeds the existing by approx. 1.1m, this increase is set approx. 36m off the boundary to the Sapele Drive dwellings.

The proposed foodstore building extends closer to the street and therefore introduces a built form to the side boundary and side elevation of the dwelling, no. 55 East Tyndall Street. However, as with the dwellings to Sapele Drive, the height of the new structure in context of the existing boundary wall enclosure is such that the increased height would not result in such significant harm that would generate concern.

There are windows to the side elevations of no. 7 & 8 Neilson Close to the north. However, the windows at first floor would appear to be non-habitable room windows and any ground floor windows would have views obscured by the existing (retained) high boundary wall.

There are no windows to the side elevation of the dwelling at no. 16 Wilkinson Close and views into the site from no's 6-8 would be from approx. 55m.

In light of the above, it is considered that the proposed new foodstore building would have no adverse impact on the privacy or amenity of adjacent residential occupiers.

- 8.5 The amended layout plan, which indicates barrier protection between pedestrians using the retained through footpath and vehicles, alleviates the original concerns of the Transportation Manager. While questions remain regarding the manoeuvring of HGV delivery vehicles within the site, the Transportation Manager acknowledges that this is a matter of management by the store, on their land. As such, there would be no grounds to sustain refusal of consent.
- 8.6 With regard to the objections raised by the occupier of no. 14 Wilkinson Close:
  - Delivery times are conditioned (as existing) to no later than 21:00. The same delivery times are recommended above. The delivery bay for the new foodstore building is in the same position as existing. It is no closer to no. 14 than at present. There are no recorded complaints regarding any breach of this condition and the delivery timeframe is considered to be reasonable given the context of the existing and proposed use;
  - The proposed new foodstore building is undoubtedly closer to no. 14 than at present. However, at an acute angle, the side (car park) elevation of the new store is approx. 47m from the middle of the rear elevation of no. 14. It would therefore be very difficult to sustain refusal of consent on these grounds;
  - As discussed in para. 8.4 above, the impact of the store on the adjacent residents is considered to be acceptable. The setting of the new foodstore building to the west of no. 14 by some 47m would not result in any significant loss of light or privacy to those occupiers;
  - As a result of this representation, the Council's Ecologist has advised verbally that recommendation 5 above is sufficient to advise developers of the consequences of bats being detected during development. In this case, a Bat Survey is not required.
- 8.7 S106 matters The following contribution requests have been made, with reference made to the Community Infrastructure Levy tests:
  - Transportation £20,000 Contribution towards the provision of a raised Zebra Crossing to East Tyndall Street.
  - In addition, further highways works are to be the subject of an agreement under Section 278 of the Highways Act 1980.
- 8.8 In light of the above, and having regard for adopted planning policy guidance it is recommended that planning permission be granted, subject to a legal agreement and conditions.







