

- a) **DOV/18/01084 Demolition of existing foodstore building, associated retail and residential units, and redevelopment of site to provide a new 1,739 sqm foodstore development with associated car parking and landscaping (resubmission)**

Co-op Foodstore, Park Street, Deal, CT14 6AG

Reason for report – Number of contrary views (21)

- b) **Summary of recommendation**

Planning Permission be Granted, subject to conditions.

- c) **Planning Policies and Guidance**

Core Strategy Policies (2010)

CP1 - Settlement Hierarchy
CP5 – Sustainable Construction Standards
CP6 – Infrastructure
DM1 - Settlement Boundaries
DM11 - Location of Development and Managing Travel Demand
DM12 – Road Hierarchy and Development
DM13 - Parking Provision
DM17 – Groundwater Source Protection
DM22 – Shopping Frontages

Land Allocations Local Plan (2015) (LALP)

National Planning Policy Framework (NPPF) (2018)

Paragraph 2 states that planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise.

Paragraph 8 - Identifies the three dimensions to sustainable development: economic, social and environmental. These dimensions give rise to the need for the planning system to perform a number of roles.

Paragraph 11 - Presumption in favour of sustainable development for decision-taking (known as the tilted balance)

Paragraph 12 states that development which accords with an up-to-date development plan should be approved and development which conflicts should be refused unless other material considerations indicate otherwise.

Paragraph 38 - Local planning authorities should approach decisions on proposed development in a positive and creative way. They should use the full range of planning tools available, including brownfield registers and permission in principle, and work proactively with applicants to secure developments that will improve the economic, social and environmental conditions of the area. Decision-makers at every level should seek to approve applications for sustainable development where possible.

Paragraph 47 - Planning law requires that applications for planning permission be determined in accordance with the development plan, unless material considerations indicate otherwise. Decisions on applications should be made as quickly as possible, and within statutory timescales unless a longer period has been agreed by the applicant in writing.

Paragraph 54 - Local planning authorities should consider whether otherwise unacceptable development could be made acceptable through the use of conditions or planning obligations. Planning obligations should only be used where it is not possible to address unacceptable impacts through a planning condition.

Paragraph 55 - Planning conditions should be kept to a minimum and only imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects. Agreeing conditions early is beneficial to all parties involved in the process and can speed up decision making. Conditions that are required to be discharged before development commences should be avoided, unless there is a clear justification.

Paragraph 85 - Planning policies and decisions should support the role that town centres play at the heart of local communities, by taking a positive approach to their growth, management and adaptation.

Paragraph 86 - Local planning authorities should apply a sequential test to planning applications for main town centre uses which are neither in an existing centre nor in accordance with an up-to-date plan. Main town centre uses should be located in town centres, then in edge of centre locations; and only if suitable sites are not available (or expected to become available within a reasonable period) should out of centre sites be considered.

Paragraph 106 - Maximum parking standards for residential and non-residential development should only be set where there is a clear and compelling justification that they are necessary for managing the local road network, or for optimising the density of development in city and town centres and other locations that are well served by public transport (in accordance with chapter 11 of this Framework). In town centres, local authorities should seek to improve the quality of parking so that it is convenient, safe and secure, alongside measures to promote accessibility for pedestrians and cyclists.

Paragraph 109 - Development should only be prevented or refused on highway grounds if there would be an unacceptable impact on highway safety, can be cost effectively mitigated to an acceptable degree, or the residual cumulative impacts on the road network would be severe.

Paragraph 124 - The Government attaches great importance to the design of the built environment. Good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people.

Paragraph 127 Planning policies and decisions should address the connections between people and places and the integration of new development into the natural, built and historic environment.

Paragraph 155 & 157 - When determining planning applications, local planning authorities should ensure flood risk is not increased elsewhere and only consider development appropriate in areas at risk of flooding where, informed by a site-specific flood risk assessment.

Paragraph 163 - When determining any planning applications, local planning authorities should ensure that flood risk is not increased elsewhere. Where appropriate, applications should be supported by a site-specific flood-risk assessment.

Paragraph 165 - Major developments should incorporate sustainable drainage systems unless there is clear evidence that this would be inappropriate. The systems used should: a) take account of advice from the lead local flood authority; b) have appropriate proposed minimum operational standards; c) have maintenance arrangements in place to ensure an acceptable standard of operation for the lifetime of the development; and d) where possible, provide multifunctional benefits.

Paragraph 170 - The planning system should protect and enhance valued landscapes, recognising the wider benefits of ecosystem services and minimise impacts on biodiversity and providing net gains in biodiversity. Preventing both new and existing development from contributing to or being put at unacceptable risk from, or being adversely affected by unacceptable levels of soil, air, water or noise pollution or land instability and remediating and mitigating despoiled, degraded, derelict, contaminated and unstable land, where appropriate.

Paragraph 175 - When determining planning applications, local planning authorities should apply 4 key principles: protection of biodiversity; development on land within or outside a Site of Special Scientific Interest, and which is likely to have an adverse effect on it should not normally be permitted; development resulting in the loss or deterioration of irreplaceable habitats (such as ancient woodland and ancient or veteran trees) should be refused, unless there are wholly exceptional reasons and a suitable compensation strategy exists; and development whose primary objective is to conserve or enhance biodiversity should be supported; while opportunities to incorporate biodiversity improvements in and around developments should be encouraged, especially where this can secure measurable net gains for biodiversity.

Paragraph 177 - The presumption in favour of sustainable development does not apply where development requiring appropriate assessment because of its potential impact on a habitats site is being planned or determined.

Paragraph 178 - To prevent unacceptable risks from pollution and land instability, planning policies and decisions should ensure that new development is appropriate for its location. The effects (including cumulative effects) of pollution on health, the natural environment or general amenity, and the potential sensitivity of the area or proposed development to adverse effects from pollution, should be taken into account. Where a site is affected by contamination or land stability issues, responsibility for securing a safe development rests with the developer and/or landowner.

Paragraph 180- Planning policies and decisions should ensure that new development is appropriate for its location taking into account the likely effects (inc. cumulative effects) of pollution on health, living conditions and the natural environment and aim to mitigate and reduce to a minimum and adverse impacts on health and quality of life arising from noise from new development; and identify and protect areas of tranquillity which have remained relatively undisturbed by noise and are prized for their recreational and amenity value for this reason; and limit the impact of light pollution from artificial light on local amenity, intrinsically dark landscapes and nature conservation.

Paragraph 189 - In determining applications, local planning authorities should require an applicant to describe the significance of any heritage assets affected, including any contribution made by their setting. The level of detail should be proportionate to

the assets' importance and no more than is sufficient to understand the potential impact of the proposal on their significance. As a minimum the relevant historic environment record should have been consulted and the heritage assets assessed using appropriate expertise where necessary. Where a site on which development is proposed includes, or has the potential to include, heritage assets with archaeological interest, local planning authorities should require developers to submit an appropriate desk-based assessment and, where necessary, a field evaluation.

Paragraph 190 - Local planning authorities should identify and assess the particular significance of any heritage asset that may be affected by a proposal (including by development affecting the setting of a heritage asset) taking account of the available evidence and any necessary expertise. They should take this into account when considering the impact of a proposal on a heritage asset, to avoid or minimise any conflict between the heritage asset's conservation and any aspect of the proposal.

Paragraph 193 - When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance.

National Planning Policy Guidance – Ensuring the vitality of town centre (2014)

LPA's should plan positively to support town centre to generate local employment, promote beneficial competition within and between town centres, and create attractive, diverse places where people want to live, visit and work.

Kent Design Guide (2005)

The guide provides criteria and advice on providing well designed development.

Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended)

Section 72(1) states that, 'In the exercise, with respect to any building or land in a conservation area, of any powers under any of the provisions mentioned in sub-section (2), **special attention** shall be paid to the desirability of preserving or enhancing the character or appearance of that area'.

d) Relevant Planning History

DOV/18/00535 - Demolition of existing foodstore building, associated retail and residential units, and redevelopment of site to provide a new 1,739 sqm foodstore development with associated car parking and landscaping - Refused

DOV/18/00728 – Screening opinion for proposed supermarket – EIA not req.

- A number of previous planning applications relating to the existing building including new shopfronts, change of use applications, plant and associated minor applications.
- Various Advertisement Consent applications for signage and a number of applications in relation to works to trees on the site.

e) Consultee and Third Party Representations

DDC Heritage – No Objection - The site is partly within the Deal Middle Street Conservation area. The elevations of principle concern are that to Park and West Street.

- Demolition of the existing building is acceptable. It is of limited to no value to the conservation area, although has some features which are sympathetic to the area.
- To Park Street, the design of the unit seeks to reflect the grain of the area through the use of a series of columns which with the variation of materials and louvres help to visually break-up the massing of the unit.
- The materials reflect those within the conservation area.
- The reuse of the arched windows in the design is a positive reflection of the heritage of the site. By removing the existing colonnade structure these architectural features are more visible within the street.
- The view into the conservation area from West Street is strongly residential in character and the existing unit is essentially hidden by the large tree (which is covered by a TPO) and the landscaping to West Street which sits outside the conservation area. The tree is to be retained and the boundary landscaping replaced and reinforced.

In my view the proposed development has been designed with consideration to the character and appearance of the conservation area, and consequently causes no significant harm.

DDC Policy and Regeneration - From a policy perspective, the starting point is that the site is located within Deal Town centre; the Park Street frontage is located within a Secondary Shopping Frontage. Policy DM22 in the Adopted CS supports A1 uses on the ground floor which means that the proposal would be consistent with Policy DM22. Owing to the fact that it is located in the town centre, the proposal does not need to undertake a site sequential test as it would be in accordance with NPPF which directs this type of development to town centre locations as it would facilitate and support linked town centre shopping trips.

The 'Dover District Council Retail and Town Centre Needs Assessment, 2018', identifies that there was a Deal & Sandwich combined need for 500 sqm and 1,000 sqm by 2037. Whilst this Assessment does not break down the need for convenience floorspace between Deal and Sandwich, this forecast need for additional floorspace has taken into account the existing Co-op foodstore. This means that if the existing building was lost to alternative use, the need for new convenience floorspace in the Deal & Sandwich area would need to be added to the forecast need. From a planning policy perspective, the proposed use is a main town centre use and would, therefore, be in accordance with the NPPF and NPPG.

DDC Head of Inward Investment - The District Council's Corporate Plan for the period 2016-2020 has an overarching vision of securing a prosperous future for Dover district, which will be a place where people, want to live, work, invest and visit. Priority One, being a Thriving Economy, includes the need to focus, among other matters on:

- Enabling and supporting growth of the economy and opportunity for investment and jobs;

- Attracting new businesses and jobs, and supporting existing businesses in the district; and
- Promoting the district as an area to invest in as well as a tourism destination.

In setting out the Council's Corporate foundation, it is appropriate to consider the history and context of retail in Deal, the implications of the application, the importance of the underlying inward investment and planning context.

Planning Committee may recall that earlier applications for major out of town retail supermarket expansion were submitted for sites at Sholden and Walmer. The resultant refusals of the applications ultimately led to the development of the Sainsbury store in West Street, which has acted as focal point and enabled, supported and facilitated linked trips with the existing High Street. This has resulted in and maintained the attractiveness of the High Street to a range of national retailers and local independents, leading to a recent "High Street of the Year" accolade. Notwithstanding this, the High Street, along with many other adjacent areas, is not immune from decisions which impact at a local level. For example, this can be evidenced by the recent decision by New Look to close their outlet in Deal, Nasons in Canterbury and several outlets at Westwood Cross.

Having engaged in multiple retailer based discussions over the past 15 years, it is evident that that footfall, customer spending power and potential draw is vital in supporting investment decisions. The application by Aldi, represents a multi-million expression of confidence in Deal, coming at a time where confidence in the retail sector in the High Street is, perhaps, as challenged as it has been for many years. If approved, the application will bring circa fifty jobs to the locality, along with a successful, modern retail model that is much demand in many other localities in Kent situated in immediate proximity to the High Street with even greater capability for linked-trips. It will also present a powerful message that Dover is open for business, as envisaged through the Corporate Plan.

The importance of this approach, can best be expressed by a recent comment from Eamonn Boylan, Chief Executive of the Greater Manchester Mayoral Combined Authority who said ".....Developers are like sheep. Where one goes, others follow. ..." To refuse the application would, in my submission, have the opposite effect, sending out an entirely wrong message at a time when the High Street and locality needs maximum support through the confidence that an Aldi retail use would bring.

With regard to Planning Policy, the National Planning Policy Framework, July 2018, articulates the importance of achieving sustainable development and ensuring the vitality of town centres. I do not repeat the underpinning policy expectations as these will no doubt need to be outlined in the wider body of the report and weighed in the balance. In conclusion though, I fully support the application in question.

DDC Tree and Horticultural Officer – Objection – Comments submitted in relation to the previous application relating to the same development expressed concerns over the loss of mature trees. It was recommended that trees T5, T7, T8 and T11 be retained due to their significant combined amenity value. Plans submitted as part of this re-submission show the retention of T11 which is welcomed but still show the loss of T5, T7 and T8. It is accepted that the retention of the trees T5, T7 and T8 is not without issue whereby the poplars are likely to decline or cause concerns in an urban environment in the relatively near future. Additionally, both T5 and T7 have grown in very close proximity and as a result have unbalanced crowns when viewed as individual specimens. Removal of either of these trees would leave the other

exposed to mechanical forces that they are not adapted to, making them vulnerable to failure. This therefore rules out the possibility of removing the more problematic poplar growing adjacent to the oak. Despite the above, the short term impact on the area through the removal of all trees will be of significant detriment and on balance I object to the scheme in its current form.

Should the application be approved, for those trees currently proposed for retention, the tree protection measures are deemed adequate on the basis that existing hard surfacing will be retained as part of the new scheme. This will provide sufficient protection in combination with the protective fencing as shown on amended tree protection plan (1117-001 & 1117-CHE Rev B). Details of the proposed fencing should be secured through condition to be submitted for approval.

With regard the landscaping scheme proposed, details of the planting systems relating to all trees as shown on the drawing V1117-CHE-L01 Rev B will need to be submitted for approval if the scheme is approved. The suitability of Tilia for the proposed tree planting along the front boundary is questionable in view of the epicormic growth associated with this species and also the potential for honeydew to adversely impact on cars parked below. More suitable species to be considered are cultivars of Acer campestre or Corylus colurna.

It is understood that a sum of £15k has been offered by the developer to be spent on tree planting elsewhere within the confines of Deal Town Centre, should consent be granted. Opportunities for tree planting on council owned land in this location are currently limited to a small number of sites (currently St George's Garden of Rest and two replacement trees for Middle Street car park). In order that this money can be utilised fully, it is requested that consideration is given by the developer to the possibility of having this money transferred to DDC without the imposition of any clause restricting the amount of time in which it can be spent.

DDC Ecologist – No comment

DDC Environmental Health – No Objection – (As per previous application) The noise assessment considers the impact of the development using BS:4142:2014 and assesses the impact of fixed mechanical plant, car park noise, service yard noise (deliveries) and any changes in road traffic noise. The conclusions of the report are accepted in respect of car park noise and changes in road traffic. No precise details of mechanical plant (refrigeration, chillers etc.) are known at present and control of noise breakout from these can be dealt with by condition.

In respect of deliveries the report indicates that deliveries between 23:00 – 06:00am may potentially cause some disturbance to local residents. It is therefore recommended that a suitable condition limiting deliveries to the store to: 06:00 – 23:00 Mon – Sat and 08:00 – 18:00 Sundays. It has subsequently been confirmed that 21:00 hours on Sunday would be acceptable for this location.

No details have been submitted in respect of Construction/Demolition Management and I would therefore recommend that a suitable condition for a Construction Management Plan.

The Brownfield Solutions Desk Study and Geoenvironmental Assessment Report submitted with this application have been reviewed. In terms of human health protection, the requirement for radon protection measures at the site is noted, and the potential for localised contamination. I do not consider that the proposed development could be potentially unviable in terms of human health, and recommend

that any planning approval be subject to the standard contaminated land conditions to align with the EA's suggested conditions.

KCC Highways – No Objection - I am satisfied that the proposals are unlikely to generate a significant increase in peak hour vehicle trips compared to the existing foodstore, retail units and residential units which are to be removed.

The amount of car parking proposed is acceptable with the management strategy identified, ensuring that the car park is not free and is therefore unlikely to result in a significant increase in demand for spaces and associated vehicle trips, even with the additional 13 parking spaces proposed compared to the existing number.

The access arrangements to/from the highway remain the same as for the existing store and the revised internal servicing/delivery arrangements still provide adequate access and turning facilities for delivery vehicles.

The proposed trees along the West Street boundary will need to be maintained clear stemmed to a minimum height of 2.1 metres above the adjacent footway level, and planted with root guards to prevent root encroachment under the highway.

Whilst not currently a policy requirement, paragraph 105 of the NPPF refers to the need to ensure an adequate provision of spaces for charging plug-in and ultra-low emission vehicles. I would therefore request that 10% of the parking spaces are fitted out with appropriate charging facilities and a further 10% are fitted with ducting, etc. to allow conversion in the future as demand increases.

The following should be secured by condition: Construction Management Plan, measures to prevent the discharge of surface water onto the highway, provision and retention of the vehicle parking spaces and in accordance with the parking management strategy submitted, prior to the use of the site commencing, provision and retention of the vehicle loading/unloading and turning, provision and retention of the cycle parking facilities and proposed trees on the West Street boundary to be maintained clear stemmed to a minimum height of 2.1 metres above footway level and planted with root guards to prevent root encroachment under the highway.

Whilst not highway issues I would also point out the following:

- ☐ The width of footpath along the western side of the proposed building may be restricted by parked cycles.
- ☐ The landscaping proposals appear to remove the unmade but well-worn path between Park Street and the existing pay-and-display parking spaces at the eastern end of the site.

KCC SuDS – No objection - The drainage strategy proposed within the Flood Risk Assessment (September 2018) is acceptable. The proposal for a 50% reduction in runoff rates compared to the current site is a significant improvement, however this should be considered a maximum allowable discharge rate and we would expect every effort to be made to achieve closer to greenfield run-off rates in the final design due to flood risks elsewhere in this surface water and sewer catchment.

As part of the detailed design stage, we would expect to see updated drainage calculations submitted that show the proposed drainage scheme is capable of managing surface water up to and including the 1 in 100 year storm event plus an additional 20% climate change allowance.

As this is a full application, we request pre-commencement conditions are attached to this application because further details of the proposed drainage system are

necessary before any work on site can take place. This ensures the proposed drainage strategy is suitable to manage surface water for the site and to not increase the risk of surface water flooding. Conditions in relation to the submission of a suitable suds scheme on site and its maintenance.

KCC Archaeology – No objection - The application is accompanied by an Archaeological Desk-Based Assessment prepared on behalf of the applicant by Cotswold Archaeology. The desk-based assessment provides a reasonable account of the archaeological background of the area. The assessment does however perhaps somewhat underplay the site's potential for containing archaeological remains of Romano-British and early medieval date, given the past finds made at the nearby Odeon Cinema site (the Ocean Rooms). During the construction of the cinema a Roman patera (shallow bowl) along with another vessel of possible Romano-British or early medieval date. The nature of the finds suggests they may come from a burial context.

The submitted desk based assessment notes that the groundworks arising from the development proposals “*could result in disturbance to, or loss of, any buried archaeological features that may be present*”. I therefore suggest that provision be made in any forthcoming planning consent with a condition for a programme of archaeological works.

Highways England – No objection - Highways England has been appointed by the Secretary of State for Transport as strategic highway company under the provisions of the Infrastructure Act 2015 and is the highway authority, traffic authority and street authority for the strategic road network (SRN). The SRN is a critical national asset and, as such, Highways England works to ensure that it operates and is managed in the public interest, both in respect of current activities and needs, as well as in providing effective stewardship of its long-term operation and integrity. We will therefore be concerned with proposals that have the potential to impact the safe and efficient operation of the SRN, in this case, particularly the A2.

We note that the application is a resubmission of application reference DOV/18/00535. Our previous response to DOV/18/00535 (dated 20 August 2018), indicated that whilst we did not agree with aspects of the Transport Statement, we were satisfied that the proposals would not materially affect the safety, reliability and/or operation of the existing SRN. We therefore offered no objections or requirements relating to the proposal. We note that the scheme has not changed, and the updated Transport Statement contains only minor amendments to the impact assessment. Our previous conclusions therefore remain the same.

On this basis, whilst we do not agree with aspects of the trip generation methodology and that the proposed development will result in a “*marked reduction in net trip attraction as a result of the proposed development*”, we are nonetheless satisfied that any additional traffic associated with the new Foodstore will not materially affect the safety, reliability and/or operation of the SRN (the tests set out in DfT C2/13 para 10 and DCLG NPPF para 32). We therefore offer no objection to the proposals.

Environment Agency – No objection to the proposal provided conditions are imposed on any permission granted relating to contamination assessment, and verification, safeguarding contamination condition and no infiltration or piling without approval.

Groundwater The submitted documents show that there is a low risk from contamination present at the site. However controlled waters are particularly

sensitive in this location because the proposed development site is located upon a Principal aquifer.

The Geo-Environmental Assessment Report has made a number of recommendations for further work that are deemed necessary to progress the site to construction phase. These recommendations include completion of gas monitoring programme and further investigation in previously inaccessible areas. We now look forward to receiving an updated report with this information included.

The Site Investigation by Brownfield Solutions Ltd has found that the ground conditions beneath the site are not conducive for infiltration drainage. An alternative means of surface water disposal will have to be adopted at this site.

With respect to any proposals for piling through made ground, we would refer you to the EA guidance document "Piling and Penetrative Ground Improvement Methods on Land Affected By Contamination: Guidance on Pollution Prevention". NGWCL Centre Project NC/99/73. We suggest that approval of piling methodology is further discussed with the EA when the guidance has been utilised to design appropriate piling regimes at the site. The guidance should be available on www.gov.uk.

Flood risk Provided the finished floor level of the proposed retail development is set at 5.61maODN (as per the recommendations of the accompanying Flood Risk Assessment), we have no objection to this development. Whilst the site lies within a defended Flood Zone 3, this 'less vulnerable' development is appropriate for the area, and the raised floor level should be adequate mitigation for the residual risk.

We would recommend that the management of the store registers for our Flood Warning service, and that an up-to-date and readily available flood warning and evacuation plan is prepared. Further consideration should also be given to the utilisation of appropriate flood resilient construction techniques (for example, the use of non-return valves on the foul/surface water drainage system to prevent off-site flooding affecting the site).

Southern Water – No objection - Southern Water requires a formal application for a connection to the public sewer to be made by the applicant or developer. We request that should this application receive planning approval an informative to this effect is attached to the consent. Southern Water now supports this stance and seeks through appropriate Planning Conditions (further details of means of foul and surface water disposal) to ensure that appropriate means of surface water disposal are proposed for each development.

The amended drainage strategy provides sufficient evidence of compliance with Part H3 of Building Regulations relating to hierarchy for surface water run off disposal. Also the provided information proves the levels of existing surface water flows contributing to the public foul sewerage network. Southern Water will allow the communication with public foul sewerage network of surface water run off flows at levels no greater than existing; the discharge of run off shall not exceed existing rates and shall be secured by the use of flow restriction devices.

The applicant's drainage layout proposals indicate that the diversion is proposed of a sewer that is deemed to be public due to changes in legislation that came in to force on 1st October 2011 regarding the ownership of sewers. Any diversion proposals of public sewers shall be approved and agreed by Southern Water under Section 185 of the Water Industry Act before proceeding on site.

Deal Town Council - No objections raised and fully support the contribution of £15,000 offered towards the replanting of trees.

Third Party Representations: To date 396 letters of representation have been received; 21 objecting to the proposed development and 369 letters of support. The objections have been made on the following grounds:

- Loss of 11 trees and greenery in Deal
- Loss of existing shops and café
- Loss of Co-op which will be missed by residents
- The design of the new building is not appropriate for this site or Deal
- The store design is generic and could be anywhere
- The store will ruin this small town
- Replacement by a huge ugly building
- Loss and impact of wildlife esp. birds
- Aldi will employ less staff than Co-op
- Mature healthy trees should be kept
- Trees are good for the environment and health
- Replacement will not address the loss
- Loss of trees will be a loss to Deal and its charm, they are part of the character and have high visual and environmental value to the local community
- The trees are covered by a TPO (1981) so should be protected
- The trees deal with pollution
- Any new building should be to high environmental standards and be sustainable
- Loss of mature trees is not sustainable
- Cause major disruption to local residents
- Why do all 11 trees need to be removed, there should be a compromise
- The ecological loss of the trees should be fully considered
- The trees play a vital function on this site
- There should be an entrance from the village square for those on foot
- Bland frontage to Park Street and no smaller units to link with the High Street
- Not in scale with Park Street
- The back of Queen Street properties will be more visible, a brick wall could reduce this impact
- No housing proposed to replace the units lost
- Red brickwork isn't suitable in this location
- Retention of the existing trees does not make the site unviable

Letters of support raise the following points:

- Support for Aldi coming to Deal and providing more choice
- The new store will bring more people into the town
- Support for this type of store in Deal and its residents
- The existing building is outdated and needs replacing
- Appropriate modern development for Deal
- More people will stay in Deal to shop and benefits local businesses
- Will replace run down and empty units
- New jobs and redevelopment of the area
- Provides an alternative and competition to Sainsbury's
- The existing trees are damaging the surfaces and causing accidents, this will only get worse if retained
- The trees are being replaced in more suitable positions

- Will improve facilities in Deal
- Will stop the need to shop out of town
- The Co-op building is ugly
- The new housing justifies another supermarket in Deal
- Existing units have been relocated

f) The Site

- 1.1 The application site is situated in Deal town centre to the north of the High Street and is situated off Park Street. It is therefore a central location for a supermarket. The site is bounded to the east by Park Street and to the north by West Street. To the south and west are the rear of buildings in the High Street and Queen Street. Most of these have been extended and altered over the years, including some rear sitting out areas at various levels. Access including servicing and parking to a number of these properties is through the existing car parking area. To the north on the opposite side of West Street is Sainsbury's supermarket and associated car parking. To the west on Queen Street is an old cinema building now used as a club. On the opposite side of Park Street are a row of terrace Victorian residential properties although some have been converted to commercial uses.
- 1.2 The site itself is occupied by the Co-op building fronting Park Street that includes a Co-op that is planned to close, four individual units including a shop, café and dry cleaners fronting Park Street and nine residential units at an upper level. These are accessed via an external staircase to the south of the building. The rest of the site is occupied by surface car parking and vehicular access from Park Street and West Street. The building is two storeys in height, dating back to the 1980's and is a bulky building of a poor quality design. The Park Street elevation has colonnade/arches at ground level and projecting bay windows at second floor level. Two of the individual retail units have a projecting canopy roof over the footpath.
- 1.3 There are 15 mature trees on the site situated at the boundaries of the site and within the existing car parking area. These comprise Beech, Sycamores, Oak and Lime trees and six of these trees are covered by a Tree Preservation Order (TPO) No. 11, 1981. The trees covered by the TPO are two Lime trees adjacent to Park Street, two Sycamores adjacent to the western boundary, a Beech tree adjacent to the footpath and an Oak tree in the centre of the existing car park. There is also a public footpath close to the north western corner of the site connecting the site with Queen Street. This is at a higher level than the rest of the site and drops in level along the site boundary.
- 1.4 The site is partly sited in the Deal Middle Street Conservation Area, which is also covered by an Article 4 Direction removing the right for residential properties to make some external changes. The Park Street frontage also forms part of the secondary retail frontage in Deal. The site is also partly within an Archaeological site and Flood Zones 2 and 3.

The Proposal

- 1.5 The application is a re-submission of the proposal for a replacement foodstore on the site to be occupied by Aldi. The existing building is to be demolished and the whole site redeveloped to form an Aldi foodstore with associated car parking, servicing, access and new tree planting and landscaping. The retail unit would be sited in a similar position to the existing building with a retail floor area of 1,254sqm. The building would be of a two storey scale although accommodation would largely be at ground level only.

The dimensions of the building would be 61m long by 31m wide with a maximum height of 8.5m.

- 1.6 The elevations and design of the building would comprise a double mono-pitched roof with the second roof slope off-set and projecting beyond the main roof and sloping in the opposite direction. This would be finished with composite roof panels (anthracite grey) with aluminium coping detail. The elevations are largely to be white render or anthracite grey cladding panels and a black engineering brick plinth. All glazing, which includes full height glazing to the northern elevation, will also be anthracite grey with an aluminium canopy to this elevation and wrapping around the western elevation. High level windows are proposed to the east and western elevations. Plant will be at roof level in a recessed section of the roof. The building will be constructed to be BREEAM 'very good' standard.
- 1.7 The design of the building is bespoke for the site and context with the eastern Park Street elevation more sympathetically treated to reflect the former chapel on the site and incorporates the original stone arched windows that are also incorporated in the existing building. This elevation also seeks to replicate the existing form of the terrace on Park Street with a brick elevation and inset arches to create a façade and a rhythm to the building. This elevation also incorporates louvres at the eaves height of the adjacent terrace to reduce the scale and appearance of the building and simple steel columns. The louvres also reduce the potential for overlooking from staff areas.
- 1.8 The entrance elevation will have full height glazing wrapping around the western corner and creating an active frontage to the northern elevation, facing West Street and the adjoining car park. Adjacent to the northern elevation will be a small 'village square' including some informal seating centred around the two existing and retained trees adjacent to Park Street.
- 1.7 The external works would involve a redesign and layout of the existing car park area including the removal of trees. The existing vehicular access from West Street will be retained to provide a one-way car parking layout and an ANPR camera at the entrance will manage the car park. 104 car parking spaces are proposed, including five disabled spaces and 8 parent and child spaces. Adjacent to the western elevation will be a covered trolley park area. It is proposed to remove 10 trees from the site, including three Sycamore (T2), Beech (T4) and Oak (T5)) covered by the TPO. Six trees are to be retained (including three TPO trees) and 12 replacement semi-mature trees will be planted along the West Street boundary and across the car parking areas. Further low level planting is also proposed with a red brick boundary wall surrounding the car park. The hard surfacing material is largely proposed to be tarmac with paving adjacent to the entrance.
- 1.8 The existing access from Park Street would be retained along with the existing rights of access to properties backing onto the site. This includes space for servicing. 19 existing car parking spaces would be retained and five additional spaces created. This access would also be retained for servicing of the foodstore with a service ramp and retaining wall. This area and the proposed car parking would be separated by a 1.8m high close boarded fence.
- 1.9 The following documents have been submitted in support of this application:
 - Planning and Heritage Statement
 - Design & Access Statement

- Transport Statement
 - Landscaping Scheme
 - Arboricultural Assessment and Method Statement
 - Tree Protection Plan
 - Flood Risk Assessment and Drainage Strategy
 - Environmental Noise Report
 - Statement of Community Involvement
 - Archaeological Assessment
 - Geoenvironmental Assessment Report
 - Desk Top Study and Risk Assessment Report (contamination)
 - Draft Unilateral Undertaking for a £15,000 contribution towards the provision of street trees in Deal town centre.
- 1.10 Further to the refusal of the initial application (DOV/18/00535) additional supporting information has been submitted in respect of the regeneration and economic benefits of the proposal; that there is no local or national planning policy support for mixed use developments that justifies the retention of the existing residential units and the loss of the trees to enable the development is off-set by a legal agreement to provide a £15,000 contribution for new and replacement trees in Deal town centre.
- 1.11 All proposed signage would need to be the subject of a separate Advertisement Consent application.

2. Main Issues

Introduction

- 2.1 This application is a resubmission of a previous planning application ref: DOV/18/00535 that was resolved to be refused by Planning Committee on 20th September 2018 on the following grounds:
1. *The proposed loss of trees on site will result in harm to the visual amenities of the street scene and the town centre, with a respective loss of green infrastructure contrary to paragraphs 127 and 170 of the NPPF.*
 2. *The loss of residential units will result in the loss of dwellings within Deal town centre contrary to national planning policy and guidance which seeks to encourage mixed use developments and urban living in particular Paragraph 85 of the NPPF.*
- 2.2 Since this decision, issued on 26th September 2018 it was therefore agreed with the applicant that the application would be resubmitted in the same form but with additional information to address the grounds of refusal and on this basis the application would be reported back to Planning Committee for determination as soon as practical. On this basis the applicant indicated that it was not proposed at this time to appeal against the refusal.
- 2.3 A Unilateral Undertaking was also submitted with the application for the payment of £15,000 towards new and replacement trees in Deal town centre. The contents of this undertaking have been agreed in principle and at the time of writing the Unilateral Undertaking is in the process of being signed and completed. The applicants have also agreed to the pre-commencement

conditions being proposed as required under the Town and Country Planning (Pre-commencement Conditions) Regulations 2018.

2.4 The main issues to consider are:

- Principle of Development
- Existing Residential Accommodation
- Impact on the Conservation Area and Street scene
- Trees and Landscaping
- Drainage and Flooding
- Highway Considerations
- Archaeology
- Noise and Pollution Considerations
- Impact on Residential Amenities

Assessment

Principle of Development

- 2.5 Section 38 of Town and Country Planning Act requires applications for planning permission to be determined in accordance with the development plan, unless material considerations indicate otherwise.
- 2.6 The application site lies within the urban settlement confines of Deal identified in Policy CP1 of the Core Strategy, to be appropriate for development and development that reinforces its role as a provider of local services. The proposal is therefore considered to be in accordance with Policies CP1 and DM1 of the Core Strategy, as it is considered appropriate, in principle, for new development.
- 2.7 The site is also situated within Deal Town Centre, being just to the north of the High Street, with the Park Street frontage also identified as a Secondary Shopping Area under Core Strategy Policy DM22. Policy DM22 identifies that ground floor uses in the secondary shopping area should only be allowed for A1 – A5 uses. The proposal is for an A1 use and therefore complies with policy DM22.
- 2.8 Furthermore, the Dover District Council Retail and Town Centre Assessment 2018 has forecast a combined current need in Deal and Sandwich for 500-1000sqm of retail floorspace by 2037. This forecast has included the existing floorspace at the Co-op, therefore any loss of this existing floorspace would further add to the proposed retail need in the local area that would need to be addressed on alternative sites that may not be centrally located.
- 2.8 Being situated in a central town centre location and the replacement of an existing foodstore, the proposed retail development would also not required to undertake a sequential test as referred to in paragraph 86 of the NPPF. The retail impact of such a proposal does not therefore require assessment and the central location for a town centre use is acceptable in principle and in line with the NPPF and the NPPG (Ensuring the vitality of town centres). The NPPG also refers to the need to promote beneficial competition and create vibrant and viable town centres where development should encourage vitality and provide a positive approach to the quality of car parking provision. The proposed retail development would therefore be in line with the NPPG.
- 2.9 In the absence of an up to date development plan policy for convenience floorspace paragraph 11 of the NPPF states that planning permission should

be granted without delay unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits. The NPPF seeks sustainable development which is identified in paragraph 8 as having three dimensions being economic, social and environmental. The applicants have put forward a case that the proposed development fulfils all these roles by providing a sustainable, positive and high quality regeneration scheme for central Deal. In addition paragraph 11 states decisions should apply a presumption in favour of sustainable development.

2.10 The applicant's case identifies that the proposed development would provide the following:

- Multi-million pound investment and wider economic benefits;
- Retail job retention, with up to 50 new ALDI job opportunities;
- Positive regeneration and delivery of a high quality and sustainable development within Deal Town centre;
- Improved retail choice in Deal through the provision of a new discount foodstore, significantly increasing footfall within the town centre;
- Enhancement of the Conservation Area setting and local street scene;
- Increased on site car parking which would allow linked trips with the town centre;
- Net increase in trees across the site, in addition to enhanced landscaping;
- Enhanced pedestrian link through the site.

2.11 The Council's Head of Inward Investment has further identified the economic benefits of the proposal which are in line with the Corporate Plan (2016-2020) which has an overarching vision of securing a prosperous future for Dover with the first priority being a thriving economy that includes the need to focus on enabling and supporting growth and opportunities for investment and jobs; attracting new businesses and jobs and promoting the district as an area to invest. It has been highlighted that Sainsbury's in West Street has assisted and facilitated linked trips with the High Street and this has resulted in and maintained the attractiveness of the High Street leading to the recent "High Street of the Year" award. However footfall, customer spending and potential draws are vital in supporting investment decisions. He has stated;

"The application by Aldi represents a multi-million expression of confidence in Deal, coming at a time where confidence in the retail sector in the High Street is, perhaps, as challenged as it has been for many years. If approved, the application will bring circa fifty jobs to the locality, along with a successful, modern retail model that is much demand in many other localities in Kent situated in immediate proximity to the High Street with even greater capability for linked trips. It will also present a powerful message that Dover is open for business, as envisaged in the Corporate Plan."

It is concluded that to refuse the application would have the opposite effect on the local economy.

2.12 It is therefore established that the principle of retail development on this site is accepted and strongly accords with both national and local planning policies, particularly where the regeneration and economic benefits of the proposal are significant and are a strong factor to weigh in the planning balance, however, other material considerations need to be taken into account in the assessment of the proposal and are discussed further below.

Existing residential accommodation

- 2.13 In terms of the loss of the nine existing residential units and the second reason for refusal of the previous application, there is no national or local policy requirement for their retention on site or for residential mixed use sites in central locations. Whilst there is an overall net reduction of nine units, these could be provided elsewhere within the town centre and it would be unlikely that their loss (and in the context of the wider benefits of the scheme) could be successfully defended as a reason for refusal at a planning appeal.
- 2.14 The applicants have also put forward that it is well established that residential properties above foodstore developments conflict between the amenity of residents and operational requirements of the retailer. *“Whilst paragraph 85 of the NPPF states that ‘residential development plays an important role in ensuring the vitality of town centres’ and encourages residential development on appropriate sites in the town centre, this encouragement places no policy requirement for mixed use development to be delivered on all sites. It is a case of encouraging mixed use where appropriate and when it can be accommodated on a site, whilst taking account of the overall planning balance.”*
- 2.15 *“Consideration also needs to be given to the requirements of the retailer and the requirement of retail policy to consider a town centre first approach to identifying opportunities. Aldi have been particularly flexible in terms of progressing with a constrained town centre opportunity as opposed to progressing with an out of centre alternative which could have better met their requirements.”*
- 2.16 *“The benefits of Aldi locating at this central location as set out elsewhere in this statement therefore need to be balanced against the loss of nine residential units. With reference to paragraph 11 of the NPPF, there is a presumption in favour of the proposed development, and any adverse impact associated with the loss of dwellings would not ‘significantly and demonstrably outweigh the benefits’.”*
- 2.17 The loss of the nine residential units, although regrettable, is not supported by planning policy. In addition, although residential accommodation is encouraged in paragraph 85 of the NPPF in central locations, the same paragraph also refers to the need to promote the vitality and viability of town centres by allowing them to grow and diversify in a way that responds to rapid changes in retail and other sectors as well as retain and enhance existing markets and, where appropriate, re-introduce or create new ones. The loss of the existing residential units when taking into account the planning balance is therefore of limited weight with limited policy support.

Impact on the Conservation Area and Street scene

- 2.18 The site is mostly situated within the conservation area, which is a designated heritage asset, with the line of the conservation area cutting across the site along the northern elevation of the existing building. Therefore all land north of the northern building line is outside of the conservation area. This includes all the trees in the car park except 2 (both of these are covered by the TPO and one is to be retained and one is to be removed due to disease and replaced with a semi-mature tree nearby). The site therefore either affects the character and appearance of the conservation area or affects its setting.

Paragraphs 189,190 & 193 of the NPPF deal with the impact of development on a heritage asset and the significance of any impact.

- 2.19 The Heritage Officer has advised that the loss of the existing building is acceptable as it was of limited value to the conservation area and the key elevations are those to Park and West Street being the proposed eastern and northern elevations respectively. It is commented that the proposed Park Street elevation seeks to reflect the grain of the area and the terrace of Victorian properties opposite, through the use of a series of columns which with the variation of materials and louvres visually break up the mass of the proposed elevation. Furthermore the use of the arched windows in the Park Street elevation is considered to be a positive reflection of the heritage of the site and the removal of the existing colonnade structure will allow these to be more visible in the street. Overall the materials are considered to reflect those found in the conservation area and are acceptable.
- 2.20 From West Street, the conservation area is viewed as residential in character as the existing Co-op building is largely obscured by the mature Lime trees which are covered by a TPO and are to be retained, along with the landscaping within the car park which is to be replaced and reinforced. As a result the impact on the character and appearance of the conservation area causes no significant harm and overall the proposed development has been designed with consideration for the character of the conservation area.
- 2.21 The proposed development is therefore not considered to have a significant impact on the significance of the conservation area as a heritage asset or its setting and conflict has been minimised through the design of the proposed building. The proposal therefore accords with paragraphs 189,190 & 193 of the NPPF and results in less than substantial harm to the heritage asset and the overall public benefit outweighs any potential harm.
- 2.22 It should be noted that there is a listed building fronting Queen Street and adjacent to the old cinema building. This building is however a reasonable distance from the application boundary and its setting has already been compromised through existing development, in particular the old cinema building. It is not therefore considered relevant in respect of this application to consider the impact on the setting of this listed building any further.
- 2.23 In terms of the design of the building Aldi have advised that a bespoke design has been put forward for this site, due to being sited within the conservation area. As discussed above the impact on the conservation area and its setting are considered appropriate for this site's context. The overall design is modern but considered to be of a high quality for this type of retail development. The use of a varied roof form, a variety of materials, aluminium detailing and joinery and the different elements of the Park Street elevation, discussed above, are all considered to complement the site's context and will improve the design quality above the existing 1980's building which has a limited contribution to the character of the area or the street scene.
- 2.24 The proposed red bricks for the Park Street elevation and also the boundary wall to the car park have been identified as perhaps not the most appropriate colour for Deal and it may be that yellow stock bricks are more appropriate within the context of the site. However, it is recommended that material samples and details are submitted for all the proposed external materials on the building including the bricks. Further consideration of the most appropriate brick colour can therefore be considered further at this stage in consultation with the Heritage Officer.

- 2.25 The proposed building is also proposed to achieve a very good BREEAM standard, which would accord with policy CP5 of the Core Strategy and national standards for sustainable non-residential buildings. The building would therefore be more energy efficient and more sustainable than the existing building on-site and a significant improvement to the standard of the building on site.
- 2.26 The proposed design and its impact on the street scene and character of the area is therefore appropriate in this sensitive location and is considered to accord with paragraphs 124 & 127 of the NPPF. It would therefore result in a sustainable form of development in the town centre that would overall and on balance have a positive impact on the street scene, town centre and the character and appearance of the conservation area. This would also accord with the legal requirements set out in Section 72(1) of the Planning (Listed Building and Conservation Areas) Act 1990 (as amended).

Trees and Landscaping

- 2.27 In terms of the existing trees on site there are 15 mature trees on the site situated at the boundaries of the site and within the existing car parking area. Six of these trees that are covered by the No. 11 1981 Tree Preservation Order (TPO) which are two Lime trees adjacent to Park Street, two Sycamores adjacent to the western boundary, a Beech tree adjacent to the footpath and an Oak tree in the centre of the existing car park. The other 9 trees on site are not covered by the TPO but are all fairly mature and comprise Poplar, Birch, Ash, Plum and Sycamore.
- 2.28 The proposal includes the retention of three of these TPO trees and the removal of a Sycamore (T2), a Beech (T4) and an Oak tree (T5). In addition a further seven trees are proposed to be removed with a total of 10 trees to be removed and five to be retained including 3 covered by the TPO. All of the trees including those covered by the TPO are category B or C trees, 4 category B trees are proposed to be removed. It should be noted that only the trees adjacent to Park Street, being the two mature Lime trees that are to be retained as part of the proposal, are considered to affect the setting of the Conservation Area. Replacement tree planting is sufficient to overcome the loss of the trees along the West Street boundary, which is outside of the conservation area. The loss of these trees does not therefore affect the setting of the conservation area.
- 2.29 The removal of 10 existing trees has caused a significant level of local opposition to the loss of these trees on the site with a number of objections and significant media coverage. The objections predominantly refer to the loss of the trees, their significance to the visual amenities and character of the site and the wider character of Deal and the benefit the trees have in terms of controlling pollution, mental wellbeing and the need to protect ecology and biodiversity.
- 2.30 The Council's Tree Officer has raised an objection to the loss of so many of the trees on the site and the short term detrimental impact this will have on the visual amenities of the immediate area as a result. However, he is in agreement with the tree survey and need for some of the trees to be removed due to their poor form or showing the signs of dieback, this includes two of the trees covered by the TPO, being T4 - the Beech tree adjacent to the footpath and T2 – a Sycamore adjacent to the western boundary. However it is considered that 3 trees including 1 tree covered by the TPO should be retained, these are T5 – Oak, T7 – Poplar and T8 Poplar. He states:

"It is accepted that the retention of the trees T5, T7 and T8 is not without issue whereby the poplars are likely to decline or cause concerns in an urban environment in the relatively near future. Additionally, both T5 and T7 have grown in very close proximity and as a result have unbalanced crowns when viewed as individual specimens. Removal of either of these trees would leave the other exposed to mechanical forces that they are not adapted to, making them vulnerable to failure. This therefore rules out the possibility of removing the more problematic poplar growing adjacent to the oak."

- 2.31 It is therefore accepted by the Tree Officer that 7 of the proposed trees to be removed would be acceptable on this site. This is a different view from those expressed locally by residents which does not distinguish between the condition of the trees, rather the visual impact of their removal, as a whole. It should also be highlighted that five key trees on the site are proposed to be retained and incorporated into the redevelopment proposal which would minimise the visual impact of those to be removed.
- 2.32 The 3 trees that the Tree Officer considers should be retained are all situated within the existing car parking area and are sited with proposed car parking spaces or the one-way system through the proposed car park layout. Their retention would therefore result in a complete redesign of the whole site and the loss of car parking spaces. To retain T8 – Poplar would require a full redesign, including the siting of the building and although a large and important tree it is not covered by a TPO and would cause significant problems regarding the redevelopment of the site if retained. On this basis it is unlikely this could be retained under the current plans. The retention of Trees T5 and T7 (Oak and Poplar) would result in the potential loss of 2 car parking spaces and therefore could potentially be retained.
- 2.33 During the course of the initial application, discussions were ongoing with the applicants in respect of the concerns regarding the loss of the trees on site and the harm this causes to the visual amenities of the local area. Consequently, the applicants revised their Arboricultural Report to address the views of the Tree Officer and also redesigned a section to the car park to retain T11, a Silver Birch that was also identified initially by the Tree Officer as necessary for retention. This resulted in the loss of some car parking spaces. The applicants are aware of the high level of concern regarding the loss of the trees on the site and continued discussions have been unable to secure the retention of any more of the trees identified by the Tree Officer. It is on this basis that the application needs to be considered.
- 2.34 The applicants have put forward supporting justification for the loss of the identified trees and previously stated that:
- "...our team has considered whether it would be possible to retain further existing trees. The scheme simply would not be viable for Aldi if T5, T7 and T8 were retained, as they occupy central positions in the site, and would not allow a satisfactory level of car parking which is key to Aldi being competitive in the food market..."..it was however, "determined that through minor revisions the layout, it is possible for T11 (Silver Birch) on the West Street and Park Street corner to be retained."*
- 2.35 The applicants have therefore clearly identified that it is not possible to retain those trees and also highlighted the proposal includes the proposed planting of 12 new semi-mature trees on site to off-set the loss proposed which will also be supported by appropriate infrastructure to enable them to establish

and grow to mature trees. The applicants have highlighted that this represents a comprehensive and costly new planting scheme on the site.

- 2.36 The applicants have also proposed a contribution through a Unilateral Undertaking of £15,000 towards the provision of off-site tree planting in Deal town centre to off-set the loss on site, which they have advised would equate to the planting of 3 semi-mature trees. Whilst such a contribution could be of benefit to the town, any contributions in respect of development proposals need to comply with the legal tests set out in The Planning Act 2008 and the Community Infrastructure Levy Regulations 2010 (the CIL Regulations). These require that development contributions must comply with three specific legal tests, being necessary, related to the development, and reasonably related in scale and kind. Notwithstanding the views expressed in the last committee report (DOV/18/00535), it is the view that the £15,000 contribution towards off-site tree planting would comply with the required legal tests. This is following further consideration that the impact of the loss of the trees is of such a significant material consideration in the assessment of the application that any measures to minimise the visual harm to the wider town centre area are also a material consideration in relation to this application. On this basis, the offer of a contribution to off-set the loss of the trees on site would be reasonably related to the proposed development and any visual harm to the Deal town centre as a result of their loss. The figure also relates in scale to the replacement of three trees, as there are three TPO trees that would be lost on site. In addition, being specifically related to Deal town centre ensures the scope of the proposed new trees are within a relatively close position in relation to the site. As a result the proposed contribution is considered to comply with the three legal tests identified above and therefore the CIL Regulations.
- 2.37 The proposed contribution also highlights the level of concern that has been expressed in relation to the existing trees and their significance to the area, along with the commitment of Aldi to take this site forward, whilst addressing, where possible, measures to overcome the impact of the loss of the trees on the site and the impact on the visual amenities of the town centre.
- 2.38 Furthermore discussions with DDC Property Services and the Tree Officer have identified two sites on Council owned land and in close proximity to the application site where trees could be planted. These are St George's Garden of Rest (on West Street) and two replacement trees at Middle Street car park (to the east). It has also been requested that the contribution is ring fenced and also to be used for the maintenance of trees in the town centre. This has been accepted by Aldi and this contribution will therefore be put towards off-site replacement trees in the two identified areas and the maintenance of trees within Deal town centre which will ensure tree coverage across the town centre and their long term protection. This money therefore enables the protection of the trees and visual amenities of the town centre to off-set the loss of trees on the application site which is a significant material consideration in the determination of this application.
- 2.39 It has been highlighted in the media that some of the existing trees were possibly planted in memory of 3 school boys that were killed on the site in the Second World War. Unfortunately there appears to be no definitive record of where or which trees they are and no record of this currently on site. It would appear from the age of the trees that this is likely to include the two Lime trees on Park Street, which are to be retained. Ongoing discussions with the applicants have identified that Aldi would be prepared to include a plaque of some form to recognise the importance of the trees; however without any

definitive information or record of the trees it is not possible at this stage to require this as part of any approval.

- 2.40 The purpose of the planning system is to weigh up sometimes competing issues in respect of development proposals in line with development plan policies and the NPPF. The NPPF at paragraph 11 also makes it clear that any adverse impact should significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole. Whilst the proposal would result in a short-term adverse impact through the loss of locally significant trees and an impact on visual amenity, this would not significantly and demonstrably outweigh the benefits of the proposal to Deal in terms of the other positive sustainable factors discussed in this report, the contribution towards off-site tree planting and maintenance and the regeneration of this site, which would also result in economic benefits and environmental benefits in terms of the design of the building and the enhancement of this part of the conservation area. All these factors therefore need to be taken into account in weighing up the proposal and the overall planning balance.
- 2.41 In view of the above and the replacement tree planting being proposed, along with a contribution towards off-site tree planting, it is on balance, accepted that there is sufficient justification for the removal of these trees to enable the redevelopment of the site and although not an ideal outcome and one which is regretful, due to the importance of the trees in this context, the overall benefits of the proposal outweigh their loss.
- 2.42 Notwithstanding the above, the proposed tree protection measures and the detailed elements of the proposed landscaping scheme including the proposed tree species need further consideration and these aspects can all be address by suitable conditions. These will ensure the long term protection of the retained trees and that the proposed landscaping is appropriate and fully maintained on site, to ensure the replacement planting adequately overcomes and mitigates, as far as possible, the loss of the trees being proposed to minimise the impact on the visual amenities of the local area.

Drainage and Flood Risk

- 2.43 The site is situated in Flood Risk Zone's 2 & 3 and it is appropriate to consider whether the development would be likely to lead to localised on or off-site flooding. The NPPF paragraph 163 states that local planning authorities should ensure that flooding is not increased elsewhere and priority should be given to the use of sustainable drainage systems.
- 2.44 A Flood Risk Assessment (FRA) and an Outline Drainage Strategy have been submitted in support of the application. The FRA demonstrates that the proposal will be safe in terms of flood risk for its life and will not increase the flood risk elsewhere. This is due to the limited change between the existing site and the proposal in terms of its built form and therefore accords with the requirements of the NPPF. The EA have however suggested that the occupier signs up to the Flood Warning Service and that an evacuation plan is prepared along with the need to design in flood resilient construction techniques and the use of non-return valves on the drainage system to prevent off-site flooding affecting the site. This can be addressed with an appropriate informative.
- 2.45 The Drainage Strategy was originally proposed to be soakaways but it was identified that infiltration drainage of surface water at the site is not feasible

due to the ground conditions and the only option to deal with surface water run-off flows is by discharging into the public foul sewer network. Therefore all water from the site will discharge into the combined foul sewer system as surveys of the current site and car parking area have identified the surface water from the site already discharges surface water into the sewer system without any attenuation. Consequently, there is unlikely to be a significant change to the existing flow rates. Southern Water has therefore confirmed that there is sufficient capacity in the sewer system to accommodate the flows from this development and such a system is acceptable on this site.

- 2.46 Nevertheless, there is a need to control the flow rates and to minimise the impact of using the existing sewer discharge. KCC SuDS have therefore been in discussion with the applicants in respect of the expected peak flow rates and the need to take into account climate change for the lifetime of the development (this is to be finalised through a condition). An attenuation tank will therefore be used and shall be sited to the rear of the building/in the car park to control surface water flow rates, which will result in a reduction of the current flows rates and discharge from the site, and an improvement on the existing drainage system.
- 2.47 The proposed system, although not a sustainable drainage system, will ensure there will be no increase in run-off from the site as a result of the proposed development as all water will be diverted to the existing sewer system. In terms of planning policy, the NPPF paragraph 165, although making it clear that major developments should incorporate SUDS system does clearly state that such a system is acceptable if there is sufficient justification and clear evidence that a sustainable drainage system would not be appropriate. This has clearly been evidenced for this proposal and the development therefore accords with paragraph 165 of the NPPF. KCC SuDs, the EA and Southern Water have all therefore accepted this approach in principle subject to some detailed design requirements that can be controlled through conditions and form part of the recommendation.

Highway Considerations

- 2.48 The relevant Core Strategy policies are DM11 and DM13. DM11 requires planning applications for development that increases travel demand to be supported by an assessment to quantify the amount and type of travel likely to be generated and should include measures that satisfy demand to maximize walking, cycling and the use of public transport. Whilst DM13 requires that development provides a level of car and cycle parking which balances the characteristics of the site, the locality, the nature of the proposed development and design objectives. A transport statement was provided with the application which sets out traffic and trip generation figures, operational characteristics and link capacities.
- 2.49 The site is an existing retail site and car park with similar patterns of travel and use, the site is also situated in the town centre where such travel movements are to be expected and accounted for in the road network, as such Highways England and KCC Highways have not raised an objection in principle and there is not considered to be a significant increase in traffic on the strategic highway network. Although there is a small disagreement over the conclusions, overall KCC Highways are satisfied that the proposal is unlikely to generate a significant increase in peak hour vehicle trips compared to the existing foodstore, retail and residential units.

- 2.50 KCC Highways have also confirmed that the level of proposed car parking is acceptable and will provide 13 additional spaces. The use of an AMPR camera to control and manage the car park ensures the car park is not free to use and therefore unlikely to result in a significant increase in demand for spaces and associated vehicle trips. DDC Parking Services have also confirmed that the management of the car parking proposed is acceptable in principle and a AMPR system has recently been introduced at the Sainsbury's car park opposite the site. The two existing access points to the highway have not been amended and are therefore acceptable along with the revised servicing and delivery arrangements.
- 2.51 KCC have raised some concerns regarding the position and height of the proposed trees adjacent to the public highway and the potential for overhanging of the highway and the need to remain clear stemmed for 2.1m above the adjacent footpath. The site clearly has a number of existing trees, many of which are in close proximity to the public footpath and many overhang to a certain degree which adds to the character of the area. The applicants have also commented that the public footpath is between 3.6m to 4.5m along West Street, the existing trees overhang and there is a need to maintain the character of the street scene. This aspect therefore needs to be addressed further by condition taking into account the existing site arrangements. KCC have also identified a number of other conditions including root protection measures to prevent encroachment onto the highway, along with the protection of car parking, cycle parking facilities and delivery facilities including the need to submit for approval a Parking Management Strategy. These conditions have all been included in the recommendation.
- 2.52 With the imposition of these conditions no highways objection is raised and the proposed development is therefore acceptable in terms of the impact on the local highway and there would be no severe highway impact. The proposal therefore accords with policies DM11 and DM13 of the CS and paragraphs 106 and 109 of the NPPF.

Archaeology

- 2.53 The application site lies partly within an archaeological site arising from the Romano-British and early medieval periods. Groundworks associated with the proposed development therefore have the potential to cause disturbance to, or loss of buried remains of archaeological interest. An Archaeological desk-based assessment was submitted with the application. Consequently, KCC Archaeology has recommended that a further programme of archaeological works on site can be dealt with by condition. This addresses any potential archaeology on site and accords with paragraphs 193 and 199 of the NPPF.

Noise and Pollution Considerations

- 2.54 Noise: In terms of the impact of noise from the site and use, this has not been specifically raised by nearby local residents who already experience a certain level of noise from the existing commercial uses on the site. However, it is necessary to control noise as far as possible from such a use, even where it is a replacement of a very similar use. This has been addressed by the applicants with the submission of an Environmental Noise Report, which has been expertly assessed by DDC Environmental Health Officers. In terms of planning policy, noise is addressed in paragraph 180 of the NPPF and

requires that noise impact from development should mitigate and reduce potential adverse impacts and avoid noise giving rise to significant adverse impacts on health and quality of life. The National Policy Statement for England (NPSE) is also relevant when considering the impacts of noise from development.

- 2.55 The submitted report considers the impact of the development using BS 4142:2014 and assesses the impact of fixed mechanical plant, car park noise, service yard noise and any changes to road traffic noise. The conclusions of the report are accepted in respect of car park noise and changes in road traffic. No details have at this stage been provided of the design of the mechanical plant (refrigeration, chillers, air conditioning etc.), although the siting of all plant has been identified, but this can be controlled by a condition in terms of noise levels. In addition it is suggested that conditions to control the hours of delivery between 06:00 to 23:00 Monday to Saturday and 08:00 to 21:00 on Sundays and an Environment Construction Management Plan to be submitted for approval are required. DDC Environmental Health has therefore raised no objection following consideration of this report subject to the above conditions. This approach also accords with paragraph 180 of the NPPF and the proposed development subject to the above is therefore acceptable in this regard and appropriately addresses any potential impact on residential amenities.
- 2.56 It should be noted that the existing uses do not have a condition controlling hours of operation and therefore it is not considered necessary in this central location to impose such a restriction. The proposed development and suggested conditions would already result in a betterment of the control of noise from the existing store, however if Members were inclined to include such a condition it is suggested that hours of opening to the public should be 08:00 to 22:00 Monday to Saturday and 11:00 to 17:00 on Sunday.
- 2.57 Ground: In terms of ground contamination it has been identified that the site is subject to some contamination although there is considered to be a low risk and information was submitted with the application to clarify this position. The EA have identified that the submitted report has made a number of recommendations for further work to progress the site to construction phase. This includes completion of a gas monitoring programme and further investigation in previously inaccessible areas. The additional requirements including a remediation strategy and verification report can be addressed by suitable contamination conditions which have all been included in the recommendation. DDC Environmental Health are also in agreement that such conditions are necessary in relation to the development. With the imposition of such conditions the proposed development therefore accords with paragraph 178 of the NPPF and this aspect has been suitably addressed for this site.

Impact on Residential Amenities

- 2.58 For the reasons already discussed, it is considered that any impact on residential amenities has been addressed through the design of the development and the significant visual improvement in respect of the existing building, particularly along the Park Street elevation where there are a number of residential properties on the opposite side of the road. Furthermore, a number of conditions are proposed to control potential noise from the use which go beyond the controls on the existing building and associated uses. Being that this is a town centre location and an existing

retail site it is considered that the impact on the residential amenities of nearby properties is acceptable and accords with paragraph 127 of the NPPF.

Conclusion

- 2.59 The proposal is for the redevelopment of the existing Co-op site and the overall regeneration of the site to provide an Aldi foodstore. It is clear that there are many benefits to the proposal overall which largely accord with planning policies at a local level and those of the NPPF. Specific detailed consideration of the various elements of the proposed development have been discussed above and the proposal is considered to be appropriate for the site including its design and resulting in a less than substantial harm impact on the character and appearance of the conservation area. The proposal is also considered to be a benefit to the town centre of Deal and its continued vitality and enhancement.
- 2.60 Nevertheless, the visual impact in respect of the loss of mature trees on site has raised a considerable level of local objection and concern, even though the Aldi store has largely been supported within Deal. Discussions with the applicants to attempt to retain more trees on site which would be the most beneficial outcome, to minimise the detrimental impact on visual amenity, have confirmed that as many trees as possible have been retained in the proposal. A number of the trees on site (including 2 TPO trees) are in decline and would need to be removed at some point and the retention of further trees and in particular the 3 trees identified by the Tree Officer would bring into question the viability of the site for the applicant or would result in a complete redesign of the layout. Therefore although it is regretful that mature trees are being lost, this has been considered in detail and 12 replacement semi-mature trees are proposed to minimise the visual impact along with a contribution of £15,000 towards off-site tree planting and maintenance.
- 2.61 As discussed above, applications need to be considered in terms of the presumption in favour of sustainable development. It has been identified that the proposed development largely complies with the social, economic and environmental aspects of sustainable development, albeit, results in the loss of 10 mature trees. Applications also need to be considered in the planning balance and the loss of the mature trees would not significantly or demonstrably outweigh the benefits of the proposal when assessed against the policies of the NPPF when taken as a whole. For these reasons the application is recommended, on balance, for approval as it complies with the development plan policies and NPPF policies identified above and would bring a high quality and positive regeneration on the existing site. This would therefore enhance the vitality and viability of Deal town centre for the future.

3.

Recommendation

- I. PLANNING PERMISSION BE GRANTED subject to a Unilateral Undertaking to secure £15,000 towards tree planting and maintenance in Deal town centre and subject to the following conditions to include:
- 1) Standard Time
 - 2) Approved Plans list
 - 3) Details of external materials
 - 4) Programme of archaeological works
 - 5) Scheme of sustainable urban drainage
 - 6) Maintenance of sustainable urban drainage system
 - 7) Remediation strategy

- 8) Contamination verification report
- 9) Contamination safeguarding
- 10) No infiltration drainage
- 11) No piling without consent
- 12) Construction Management Plan
- 13) Construction Environmental Management Plan
- 14) Control of noise from plant equipment
- 15) Details of foul and surface water disposal
- 16) Provision and retention of car parking spaces and submission of a parking management strategy
- 17) Vehicle loading and unloading and turning facilities
- 18) Provision and retention of cycle parking
- 19) Details of external lighting and street furniture including seating
- 20) Retention of trees
- 21) Detailed hard and soft landscaping scheme to be submitted for approval including root guards to prevent encroachment under the highway, planting systems and boundary treatments
- 22) BREEAM 'very good' standard
- 23) A1 Use Class only
- 24) Control of delivery hours 06:00 : 23:00 Mon – Sat & 08:00 : 21:00 Sun
- 25) Tree protection measures/fencing
- 26) Landscape maintenance and management plans including measures to provide clear stems of 2.1m

Informatives: In relation to highways, southern water connections and the use of flood resilient construction methods and the use of the Flood Warning Service.

- II. Powers to be delegated to the Head of Regeneration and Development to settle any necessary planning conditions in line with the issues set out in the recommendation and as resolved by Planning Committee.

Case Officer: Lucinda Roach