

WELWYN HATFIELD BOROUGH COUNCIL
DEVELOPMENT MANAGEMENT COMMITTEE – 15 SEPTEMBER 2016
REPORT OF THE DIRECTOR (GOVERNANCE)

6/2016/1058/FULL

LAND EAST OF BESSEMER ROAD, WELWYN GARDEN CITY, AL7 1HH

PROPOSED ALDI FOODSTORE (A1) WITH ASSOCIATED PARKING, SERVICING
AND LANDSCAPING

APPLICANT: ALDI Stores Ltd

(Peartree)

1 Site Description

- 1.1 The application site is located on the east side of Bessemer Road in Welwyn Garden City. To the south of the site is the recently constructed, and now operational, Marstons Bakehouse public house.
- 1.2 The site itself is broadly T-shaped, cleared and levelled with access taken from Bessemer Road, and shared with the new public house, before the site broadens out to the rear of the plot.
- 1.3 To the rear (east and south east) of the site are a range of industrial and commercial premises, as well as the, now disused, gas holders. To the west a range of new commercial premises are currently under construction. To the north is Magellan House which is occupied by John Jones framing and artwork business and Aquarias House which is occupied by Ocado.

2 The Proposal

- 2.1 This application is for full planning permission for the erection of an A1 foodstore with associated parking, servicing and landscaping. The proposed foodstore building would be located in the eastern half of the site, with the site access road and car parking areas located in the western portion of the site. A total of 106 customer car parking spaces are proposed including spaces for disabled persons as well as family parking spaces. An additional 7 spaces are allocated for staff vehicle parking.
- 2.2 The proposed building would be rectangular in shape with approximate dimensions of 61 metres in width, 36 metres in depth and 5.5 metres in height. The building would be of steel frame construction and would be finished with large areas of glazed curtain walling and sections of white painted smooth render. A glazed canopy above the entrance to the building is also proposed. Hard and soft landscaping would occupy much of the remainder of the site.
- 2.3 It should be noted that whilst in this case a proposed operator for the store is named, should planning permission be granted, the Council would be accepting a general A1 store

3 Reason for Committee Consideration

- 3.1 This application is presented to the Development Management Committee because it represents a departure from the development plan given the location of the site within a designated employment area.

4 Relevant Planning History

- 4.1 N/2016/0001/EIA – Screening opinion issued under the Environmental Impact Assessment (EIA) Regulations – EIA not required
- 4.2 N/2015/N023/PA – Application for pre-application advice in respect of the redevelopment of the site for a foodstore and ancillary works. The applicant was advised that the Council expected to have a shortfall of available employment land over the plan period, that the site was located outside the designated town centre and would have to be justified accordingly. Impact on the town's neighbourhood centres was also raised, along with highways impacts and SUDS. The applicant was not advised of a likely recommendation on an application at that stage due to a lack of information.
- 4.3 N/2013/2128/FP – Erection of public house and restaurant and associated access and parking. – Granted
- 4.4 N/2008/1947/OP – Outline planning permission (landscaping matters reserved for the erection of Class B1, B2 and B8 business park with ancillary trade counter and/or showroom, to include unit as class A1 unit. – Refused.
- 4.5 N6/2007/0391/OP – Proposed B1, B2 and B8 Business Park with ancillary trade counter use and/or showroom use. – Approved
- 4.6 N6/2006/0440/OP – Outline application for mixed use development, including employment (B1) and hotel and conference centre (C1). All matters reserved except access and siting. – Refused.
- 4.7 N6/2002/1066/FP – Demolition of existing warehouse buildings (bays 1-4) and erection of two B8 (warehouse and distribution) units comprising of 2415sq metres with ancillary offices and car parking. – Approved.

5 Planning Policy

- 5.1 National Planning Policy Framework – Sections 1, 2, 4 and 7.
- 5.2 Welwyn Hatfield District Plan 2005
- 5.3 Supplementary Design Guidance, February 2005
- 5.4 Supplementary Planning Guidance, Parking Standards, January 2004
- 5.5 Interim Policy for Car Parking Standards and Garage Sizes, August 2014

6 Site Designation

- 6.1 The site lies within Welwyn Garden City and within the Welwyn Garden City Industrial Area designated Employment area, as designated in the Welwyn Hatfield District Plan 2005.

7 Representations Received

7.1 A total of 44 representations have been received from local businesses and the general public. Of the comments from the general public 36 are in support of the proposal, four object and four offer neutral comments. These comments may be summarised as:

Support

- This will be a benefit to the town as it will offer much cheaper food than current options in town.
- Store will help support the residential growth in this part of the town.
- It will provide more variety and choice.
- This will be a valuable asset to the local community.
- The store will complement the new pub next door.
- Good to see this site come back into use.
- The store will offer employment opportunities.
- Excellent choice of continental foods.
- Good to have an Aldi in Welwyn Garden City as the Hatfield store is too far away.
- An improvement to the shopping options on the east side of the town.
- It will offer easy wheelchair access.

Objection

- No provision for electric vehicle charging points
- Increase in traffic
- Too many out of centre retail outlets and consequent negative impact on the town centre and operators already located there.
- The proposal should be located in the town centre.

Comments

- Additional trees should be planted
- Delivery vehicles should have to follow the Bessemer Road route
- They should upgrade the Broadwater Road/Bridge Road/ Bessemer Road junction.

7.2 Representations have also been received from Ocado and Waitrose

7.3 Ocado occupy the premises known as Aquarius House, to the north of the application site. Ocado have written to state that whilst they have no objections to the proposed development and, in fact, they are in favour of the proposal, they do wish to ensure that it does not have any impact on their operations from the nearby premises. In particular they raise issues around the backing up of traffic onto Bessemer Road, segregation and safety between sites and the movement of heavy goods vehicles. In addition they have raised concerns regarding the construction period.

7.4 Waitrose have objected to the proposed store. They consider that the Council's own evidence for the local plan demonstrates that there is no need for the store and that the nearby Waitrose is under-trading and that there is potentially a negative impact on that store that could occur. They also suggest that Aldi has

not provided enough evidence to take into account the Council's own retail assessment.

- 7.5 Welwyn Hatfield Access Group has made comments on the application raising questions about the proposed access arrangements and the number of disabled parking spaces. They have also commented on the possible impact of the store on the trading conditions of other supermarkets in the town, the surrounding highway and pedestrian footpath network and whether any mother and baby facilities will be provided in the store car park.

8 Consultations Received

- 8.1 **Hertfordshire County Council Transport Programmes and Strategy (HCCTPS)** – No objection subject to recommended conditions.
- 8.2 **Welwyn Hatfield Borough Council Environmental Health Department (EH)** – No objection subject to recommended conditions
- 8.3 **Hertfordshire County Council Planning Obligations** – Require the provision of fire hydrants at the site.
- 8.4 **Lead Local Flood Authority** – Initial objections to the scheme have been addressed and no objection is now raised subject to a recommended condition requiring the implementation of the agreed drainage strategy.
- 8.5 **Welwyn Hatfield Borough Council Landscaping and Ecology Department** – No objection subject to implementation of submitted landscaping strategy.
- 8.6 **Health and Safety Executive (HSE)** – Consultation with the Health and Safety Executive takes place using their online consultation software. This software has raised an objection on the basis that this is considered a sensitive use within a designated safety zone associated with the nearby gas holders. The HSE has recommended the use of a Grampian style planning condition, which would allow planning permission to be granted, subject to the revocation of the Hazardous Substances Consent Order on the adjacent site. More detail is set out later in this report.
- 8.7 **Hertfordshire County Council Spatial and Land Use Planning Minerals and Waste (M&W)** – No response received.

9 Analysis

- 9.1 The main planning issues to be considered are:

- 1. The principle of retail development within a designated employment area and the associated loss of employment land (Policies EMP1, EMP2 and NPPF)**
- 2. Retail impact assessment (Policies TCR3 and NPPF)**
- 3. Impact on the highway network and Car Parking (Policies M1, M14)**
- 4. Whether the proposals demonstrate high quality design which incorporates the design principles of the plan and Supplementary Design Guidance and relate to the character and context of the area (Policies GBSP1, GBSP2, D1, D2)**
- 5. Other considerations including the Hazardous Substances Consent Order and noise.**

1. The principle of retail development within a designated employment area and the associated loss of employment land.

- 9.2 Saved Policy EMP1: 'Employment Areas' designates various employment areas across Welwyn Hatfield Borough, of which this site falls within the Welwyn Garden City Industrial Area. Saved Policy EMP2: 'Acceptable Uses in Employment Areas' states that, in designated employment areas, proposals for uses other than Classes B1(Business), B2 (general Industrial) and B8 (Storage and Distribution) should generally be resisted and will only be permitted where it can be clearly demonstrated that the existing land or premises are no longer required to meet future employment requirements and business and community needs. This policy position should be considered alongside the advice set out in paragraphs 20-22 of the National Planning Policy Framework (NPPF) in respect of protecting employment land. In particular, paragraph 22 states that *"planning policies should avoid the long term protection of sites allocated for employment use where there is no reasonable prospect of a site being used for that purpose..... where there is no reasonable prospect of a site being used for the allocated employment use, applications for alternative uses of land or buildings should be treated on their merits having regard to market signals and the relative need for different land uses to support sustainable communities"*.
- 9.3 As was the case with the planning application for the recently opened public house, The Bakehouse, on the site next door to the application site, the applicant has submitted evidence to support their case that this site is no longer required for traditional employment uses. In particular they rely on a report which was submitted in December 2013, as well as an update to that report, which together set out a review of the prevailing market conditions for a site such as this as well as the marketing activities which had been undertaken for the site up to that point.
- 9.4 In particular it is highlighted that the amount of vacant designated employment land within the area has increased since 2013, and of the most proximate sites identified at that time, none has been developed other than the neighbouring site for the new public house. Specifically in relation to the application site, this site has been cleared of buildings and unused since 1997, this in spite of a planning permission being granted for the redevelopment of the site in 2007. The site has been marketed since that time and no firm interest has emerged.
- 9.5 The information submitted, both from 2013 and more recently, demonstrates that any demand for employment floor space which is returning to the market is likely to be directed to those sites which already have useable buildings in situ. Further, it is likely that potential occupiers for these buildings will offer incentives in order to secure new tenants. None of these opportunities exist on this currently vacant site making it less attractive to potential tenants. Having regard to these factors it appears that there is little reasonable prospect of the site being used for employment purposes of the type envisaged by the land allocation which exists for this site.
- 9.6 Turning to the criteria set out in policy EMP2 at points i-v. Firstly, it is considered that the proposal would not be of such a scale that it would impact on the demand for housing in the area. The proposed store is predicted to employ up to 50 people. Secondly, the proposal is not expected to have an unacceptable impact on local or strategic transport infrastructure, and this will be covered in

more detail later in this report. Thirdly, the proposal is not predicted to harm the amenity of nearby residential properties, the closest of which would be the living accommodation above the Bakehouse public house. Fourthly, the proposal would provide sufficient allocated parking, and this will also be addressed later in the report.

- 9.7 The fifth and final criterion of the policy is that any retail element of the development should be ancillary to the main use. Clearly in this case, the use that is proposed for the site is for retail and therefore, on the face of it, the proposal would fail to accord with this element of the policy. However, as has been set out above, the site is vacant and has been for some time with little prospect of being occupied by a traditional employment user. Further, government advice in the NPPF requires local planning authorities not to protect allocated sites for the long term if there is no reasonable prospect of it being utilised for its allocated use, and to consider alternative uses on their merits, having regard to market signals and the need to support sustainable communities. In this case, the site is located in an area where an increasing number of residential properties are being created under the office to residential prior approval process. It could be argued that the proposed retail use for this site, alongside the public house next door, could provide important facilities for these new residents, thus helping to foster the creation of a sustainable community in this part of the town. Further to this, the proposed store is expected to provide up to 50 new jobs for the local area at an employment density which is likely to be greater than would be generated by many traditional B class employment uses.. Having regard to all of this, it is considered that the fifth criterion of policy EMP2 is outweighed by other factors.
- 9.8 The final requirement of policy EMP2 is that the proposed development must comply with the design policies of the plan, and this will be considered elsewhere in the report.
- 9.9 It is true to say that in the newly emerging Local Plan, out for consultation at the end of August 2016, the Council is identifying a shortfall of both employment land and employment floor space over the plan period and, as such, this weighs against the proposed development. However, this should be considered against other factors such as the outcome of the sequential test, which will be considered later in this report, as well as the long term vacant nature of the site, the fact that that site is now a small and unusual shape, partly cut off by the now operational public house next door and that there are now some more environmentally sensitive uses nearby which may prohibit certain traditional employment uses.
- 9.10 Having regard to all of the factors set out above, the applicant is considered to have adequately addressed the issue of the loss of employment land which would result from the proposed development. The combination of site specific characteristics as well as the long term vacancy of the land has been clearly identified as an impediment to its attractiveness as a site for traditional employment uses. In all the circumstances considered, the proposal is considered to be largely in compliance with policy EMP2 of the Local Plan and the NPPF as far as it relates to this issue.

2a. Sequential Test and Retail Impact Assessment

- 9.11 The application site is neither within the designated town centre of Welwyn Garden City, nor is it considered to be edge of centre. Policy TCR3 'Out of

Centre Retail Development' of the Local Plan, and the NPPF both require that, when considering applications for main town centre uses that are not in the town centre, or on the edge, then a sequential site selection test should be undertaken. Officers advised the applicant at the pre-application advice stage to consider any available, suitable or viable development sites within Welwyn Garden City town centre, or any of the defined neighbourhood centres within the urban area. The applicant has done this and, in conjunction with the Council, has identified seven sites within and on the edge of the existing town centre. All of the sites that have been identified are considered to be unavailable due either to existing uses or viability concerns. Whilst the applicant has set out quite specific site criteria to meet their needs, the conclusions of the sequential assessment are not disputed.

2b. Retail Impact

- 9.12 The NPPF states that in some circumstances it will be appropriate for a retail impact test to be undertaken in order to assess applications for retail development which are not in accordance with an up to date Local Plan. The NPPF goes on to set a threshold of 2,500sqm, above which a retail impact test would be required. The NPPF and the National Planning Practice Guidance (NPPG) both encourage local planning authorities to consider setting a locally derived threshold for retail impact assessment in new Local Plans, where the evidence suggests that this would be appropriate and required to protect local town centres.
- 9.13 The Council's new draft Local Plan, which will be out to consultation at the end of August, sets two relevant local thresholds which could be considered in this case. Emerging policy SP5 sets a threshold of 500sqm when considering impact on town centres and 300sqm for considering impact on neighbourhood centres. However, given the stage of preparedness of the new Local Plan, and that consultation on this draft has only just begun, these thresholds can only be afforded limited weight.
- 9.14 A representation on this planning application has been received from planning consultants acting on behalf of Waitrose, who operate a store in the town centre. In that representation concerns are raised regarding the proposed out of centre location of the ALDI store and the impact that it may have on the turnover of the Waitrose store and consequently the health of Welwyn Garden City town centre. It is also suggested that the existing Waitrose store is under-trading by approximately 10% when compared to the company benchmark, a point which is supported by the evidence contained in the Council's recent Retail and Town Centre Needs Assessment (RTCNA) Update 2016. Waitrose have not confirmed in their representation whether they consider their store to be under-trading to this degree or not.
- 9.15 Although the application only proposes 1,038 sqm of net sales area, and this is under the national threshold set in the NPPF, it is considered appropriate to assess the likely impact of the proposal on both Welwyn Garden City town centre, the neighbourhood centres and other comparison retailers in the town centre. In this regard, the Council has sought advice, on the evidence presented by the applicant, from Carter Jonas planning consultants, who also undertook the RTCNA for the Local Plan.

- 9.16 The evidence submitted by the applicant has been considered in terms of forecast convenience capacity, whether or not existing stores are over-trading and the likely impact of the proposed store.
- 9.17 In terms of the forecast capacity for convenience floorspace the applicant has noted that the RTCNA identifies a need for 463sqm of local supermarket/deep discounter format floorspace in the year 2021. This increases to 1,111sqm net by 2026. These figures are based on forecast capacity derived using a sales density of £6,000 per sqm in 2016 and this is based on a combined average sales density for local supermarket operators such as a Budgens or Co-op, as well as 'Limited Assortment Discounters' (LAD) such as ALDI and LIDL. Carter Jonas advise that when considering capacity to support a specific retailer, the resulting forecast floorspace will be influenced by the sales density achieved by that operator.
- 9.18 The applicant has stated that the sales density for ALDI is £8,100. When this is applied the forecast capacity reduces to 343sqm net and 823sqm net in 2021 and 2026 respectively. The applicant has stated that the proposed store would have a net convenience floor space of 830sqm, which compares with the ten year forecast.
- 9.19 Whilst the RTCNA does advise caution in using projections beyond five years, it does appear that the proposed store would fall within existing convenience floor space capacity in the period up to 2026.
- 9.20 Turning to the issue of overtrading, Carter Jonas have critiqued the quality of the data used by the applicant to identify surplus expenditure and thus the amount of new retail floor space that could be supported. It is suggested that the data is limited in its quality and that a number of additional factors would also need to be taken into account in order to establish a more accurate picture of the trading position of other stores in the locality.
- 9.21 The RTCNA sets out what is considered to be the current trading position of various other stores in the town, as of May 2016. This is based on specific store figures measured against their own stated company benchmarks. It is noted that the Waitrose store in particular is considered to be undertrading by approximately 10%, as noted in the representation from that company, although Waitrose have not confirmed this. By comparison, the Sainsburys in the town centre is considered to be overtrading by approximately 10%.
- 9.22 As is set out in the advice from Carter Jonas, and as suggested by the applicant, the main competition for an ALDI store is likely to be other discount stores such as LIDL or other nearby ALDI stores. Having regard to this, the trading position of Waitrose or Sainsburys in the town centre is considered to be less likely effected by the proposed new ALDI store, and in any event any impact is considered unlikely to be a significant adverse one.
- 9.23 Insofar as retail impact is concerned, it is noted that new stores can often benefit from an enhanced trading position when they first open and that, in the case of ALDI, this is likely to be the case given the growing strength of the brand and the support identified in their own public consultation.
- 9.24 The applicant has set out trade diversion estimates, i.e. the amount of trade they expect to draw away from existing stores in the town. However Carter Jonas do

question the proportion of this which is expected to be drawn from out of town operators which is considered high.

- 9.25 Carter Jonas advise that the ALDI store's primary competition is with other LADs and in this case the proposed ALDI is more likely to compete and draw trade from nearby stores providing a similar offer such as LIDL in Moors Walk neighbourhood centre. Carter Jonas also expect that the trade diversion from foodstores in the town centre is also likely to be higher than advanced by the applicant, given their proximity, although it is noted that there may be wider benefits associated with linked trips. It is agreed that trade diversion from the existing ALDI at Parkhouse Court in Hatfield (25%) is likely to be accurate.
- 9.26 To conclude on retail impact, Carter Jonas has advised the Council that the impact on stores in Welwyn Garden City, Moors Walk and Parkhouse Court neighbourhood centres is likely to be higher than estimated by the applicant. However, a key consideration is whether the impact of the proposed store will have a significant adverse impact in the absence of sufficient forecast capacity to support the proposed quantum of LAD floorspace by the time it is trading in 2018.
- 9.27 It is acknowledged that there is strong market demand for LADs and there are many examples of where competing LADs successfully trade within the same catchment area.
- 9.28 The likely impact on the Moors Walk neighbourhood centre is expected to be greater than the applicant has suggested, both in terms of trade diversion and impact from a shortfall of forecast capacity between 2018 and 2021. However, the level of impact is considered unlikely to lead to store closure or to lead to significant adverse impact on the wider neighbourhood centre.
- 9.29 It is also likely that trade diversion from existing foodstores in Welwyn Garden City town centre has been under-estimated. However, the application site is well located geographically to potentially support linked trips to the town centre. This judgement is made on the basis that the ALDI offer is not directly comparable to town centre operators such as Waitrose or Sainsburys.
- 9.30 The test set out in paragraph 27 of the NPPF is that if a proposal would lead to a significant adverse impact, it should be refused. Having regard to all of the analysis above, and the advice set out to the Council by Carter Jonas, it is considered that the proposed ALDI store would not have a significant adverse impact on the Welwyn Garden City town centre or the relevant neighbourhood centres.

3. Impact on the Highway Network and Car Parking

- 9.31 The highway impact of the proposed development, particularly relating to the distribution of traffic coming to and from the site, along with the highway safety and access into and out of the site have been considered in some detail by Hertfordshire County Council as highway authority. An objection to the scheme was originally received from the highway authority on the basis of some of the data which had been used to consider traffic movements to and from the site. However, the applicant has been able to address these points to the satisfaction of the highway authority.

- 9.32 Some concern has been expressed by residents in respect of the proposed access from Bessemer Road and in particular the existing traffic island located in the middle of Bessemer Road close to the entrance to the site and associated congestion around that point. The applicant has agreed to undertake works to the highway in order to remove this island. This is expected to have two effects, firstly it will allow vehicles to make a right turn into and out of the access road which leads to the public house and the proposed development. Secondly, it is expected to result in a more free flow of traffic as it heads from Mundells towards the traffic light controlled junction at Bessemer Road, Bridge Road and Broadwater Road. This is expected to be a positive benefit from the scheme.
- 9.33 Access for delivery vehicles to and from the site is proposed to be taken from an existing shared access further along Bessemer Road to the north. This is shared with Ocado and would facilitate more direct access to the delivery area at the rear of the store, thus avoiding conflict with customers in the main store car park area. The proposed improvements to Bessemer Road, go some way to addressing the concerns raised by Ocado, who operate a delivery hub using the same access from Bessemer Road as is proposed to be used for deliveries to the ALDI store, in particular concerns about congestion and easy access.
- 9.34 Turning to the issue of car parking, the proposal would provide 106 on site car parking spaces, of which 6 would be allocated for disabled users, 10 for parent with child use and a further 7 for staff use.
- 9.35 The Council's car parking standards are maximums and, as agreed in 2014, are now to be used for guidance purposes only. The proposed level of car parking provision is in excess of that which would be required by the Council's supplementary planning document. However, given the location of the site, and following discussions with the highway authority, the level of provision proposed is considered acceptable.
- 9.36 A number of members of the public who have commented on the application have raised the issue of electric vehicle charging points. Paragraph 35 of the NPPF states that developments should be located and designed where practical to, amongst other things, incorporate facilities for charging plug-in and other ultra low emission vehicles. The proposed development does not make such a provision and, following discussions with the applicant, they have expressed the view that they would not want to incorporate such facilities. The reason for this is that they have trialled this at a number of their stores and observed that they are used so infrequently that they do not cover their installation and running costs. Further, as it is standard ALDI practice to limit customer car parking to 1.5 hours to ensure turnover of car parking spaces, this does not allow for a full charge of vehicles. Whilst an argument could be advanced to say that if such facilities are not installed, public habits and preferences will not change, the NPPF does use the words, where practical, these facilities should be installed. The applicant has set out reasons why they do not consider it to be practical in this case, and these arguments are understood.
- 9.37 Provision is made, close to the store entrance, for 8 covered cycle spaces, thus according with Local Plan policy M14. In terms of other transport opportunities, the site is located on two bus routes (no.6 and no.401) both of which connect with the town centre and there are bus stops within approximately 200m of the site, both to the north and the south. Further, the site is within a reasonable walking distance of many of the residential areas of Welwyn Garden City and the

town centre. These factors contribute to the locational sustainability of the proposal.

- 9.38 The highway authority has recommended a number of conditions which are considered necessary in order to control the delivery and operation of the proposed development. These include construction management, servicing and delivery and swept path analysis, all of which are considered appropriate.

4. Design, Character and Context

- 9.39 Policies D1 and D2 of the Local Plan require all new development to be of high quality and to respect the character and context of the area in which it is proposed. As well as this, the design principles of the Supplementary Design Guidance should be incorporated.
- 9.40 As has been acknowledged by the applicant in their Design and Access Statement (DAS), the site is constrained by both its size and its unusual shape, being wider at the rear than the front of the site. These factors have resulted in the layout that has been proposed with the proposed store located towards the back of the site and the car parking area to the front. It is understood that the applicant did consider whether these two elements of the scheme could be swapped around, however this would not have been practical having regard to the access road which is shared with the Bakehouse next door.
- 9.41 In terms of the proposed store building, the applicant describes this as combining contemporary high quality materials and features with elements derived contextually. This will include white rendered walls and large anthracite framed double glazed shop windows to the elevation facing Bessemer Road. The applicant states that the white render is chosen to provide a crisp contemporary finish and to uplift the area.
- 9.42 It is not clear which elements of the proposal have been derived contextually, as stated in the DAS, however no objection is raised to the proposed design and appearance of the building. There can be little doubt that, alongside the recently completed public house, the two buildings together will provide a very positive, if contrasting, uplift in the appearance of the locality. Having said that, the proposed building would be of the expected format and appearance which is often found with this type of retailer, and indeed is replicated in many towns and cities. This is understandable as it gives brand recognition to the retailer and works to a well understood format for that company.
- 9.43 The building will sit amongst a range of medium and large format industrial buildings, particularly to the north and east. Having regard to this, the proposal would respect the character and context of the locality and would enhance the appearance of the existing area.
- 9.44 The development itself, as well as the operation of the building, will feature a number of sustainability measures. This includes heat loss recovery from the chillers employed within the shop, low energy/emission boilers, water saving sanitary devices and energy saving lights.
- 9.45 The applicant has submitted a landscaping plan which details proposed soft landscaping to the front of the site as well as tree and shrub planting in the car park area. A low timber knee rail is proposed around the edge of the car park and

a close boarded fence around the rear of the building. The landscaping plan has been considered by the Council's Landscaping officer who agrees that, whilst limited in scope by the nature of the site, the proposals will be of benefit to the appearance of the locality.

- 9.46 In conclusion, the proposal is considered to be of a good standard of design and to relate well to the character and context of the surrounding area. The proposals are therefore considered to comply with both local and national planning policy in respect of appearance.

5. Other Considerations

- 9.47 Other considerations relevant to the determination of this planning application include the presence of a hazardous substances consent to the rear of the site and the noise environment created by the proposal.

Hazardous Substances Consent

- 9.48 The application site is currently located partly within the inner and middle zones of a defined consultation zone associated with a major hazard site, as defined by the Health and Safety Executive (HSE).
- 9.49 The major hazard site in question is that of the gasholders immediately to the north east of the application site and accessed from Tewin Road.
- 9.50 Welwyn Hatfield Borough Council is a Hazardous Substances Consent Authority, as set out in Section 1 of The Planning (Hazardous Substances) Act 1990. The previous item on the agenda for this Development Management Committee (DMC) was a notification item advising the committee that the Council, as that authority, has been requested to seek the revocation of the Hazardous Substances Consent currently in place on the Tewin Road site.
- 9.51 The process of revoking a Hazardous Substances Consent requires confirmation from the Secretary of State, following a consultation process, as set out in the previous item.
- 9.52 Until such time as the revocation is confirmed, the site remains within the defined consultation zone. Normally in such circumstances the HSE would recommend that planning permission is not granted for safety sensitive development such as this. However, in the circumstances where there is an intention to revoke the Hazardous Substances Consent Order, a situation which is becoming more and more common around the country as gasholders become a redundant technology. The HSE is satisfied that a Grampian style planning condition can be used to satisfactorily control this matter. The proposed condition would set out that the development could not be occupied and operated until such time as the Hazardous Substances Revocation order has been confirmed by the Secretary of State.
- 9.53 This is considered to be a pragmatic way forward in dealing with this issue and one which will continue to ensure public safety at the same time as serving to facilitate new development in the borough.

Noise

- 9.54 Advice in respect of the consideration of noise impact from the proposed development has focussed on potential noise from construction and noise from the ongoing operation of plant once the development is completed.
- 9.55 Following extensive correspondence between the applicant and the Council's Environmental Health officers, the applicant undertook a further noise survey to supplement that which they originally submitted with their application. This second survey specifically considered the nearest noise sensitive property, during the quietest time of the day. The purpose of this was to establish design criteria for the proposed plant to be used in the development and to ensure that the noise levels from the plant would be 10db below existing background noise levels, as is required by the Council's Environmental Health team.
- 9.56 The plant design criteria that have been derived from this survey work have resulted in a recommended condition that the council's environmental health officers support and which, if implemented, would result in an acceptable noise environment around the site.
- 9.57 With regard to other environmental health matters, the applicant has submitted a lighting plan, which is considered to be acceptable. As well as this, a condition is recommended to require the submission and agreement of a construction management plan dealing with hours of construction work, storage of materials, deliveries to site and other matters.

6. Conditions

- 9.58 The National Planning Practice Guidance (NPPG) advises on the use of conditions in planning and the power to impose conditions when granting planning permission is very wide. If used properly, conditions can enhance the quality of development and enable many development proposals to proceed where it would otherwise have been necessary to refuse planning permission. The objectives of planning, however, are best served when that power is exercised in such a way that conditions are clearly seen to be fair, reasonable and practicable. Conditions should only be imposed where they are both necessary and reasonable, as well as enforceable, precise and relevant both to planning and to the development to be permitted. In considering whether a particular condition is necessary, both officers and members should ask themselves whether planning permission would have to be refused if that condition were not to be imposed. If it would not, then the condition needs special and precise justification.
- 9.59 Attention is drawn to one specific condition, recommended condition 11 which sets a limit on the amount of net floor space which can be used for convenience retail. The threshold is set at 823sqm, the level identified in the Council's recent Retail and Town Centre Needs Assessment. This is considered to be justified in order to protect the longer term health of Welwyn Garden City town centre.

10 Conclusion

- 10.1 The proposed development would result in the loss of designated employment land contrary to Policy EMP2 of the Local Plan. There would also be some limited impact on the trading of other convenience food stores in both the town

centre and neighbourhood centres. However, there is no sequentially more preferable site either within the town centre or in an edge of centre location. The site has been marketed for some time with no interest shown and is now of a format which is unlikely to be attractive to employment land developers. It is also considered that the likely impact on the town centre and neighbourhood centres would be less than significant adverse impact. These factors are weighed with the creation of new jobs, good quality design and improvements to the local highway network as well as the representations received from members of the public and other organisations. Having regard to all of this it is considered that planning permission should be approved for the proposed development.

11 Recommendation

11.1 It is recommended that planning permission be approved subject to the following conditions:

1. The development/works shall not be started and completed other than in accordance with the approved plans and details:

1268-CHE 100 Rev C & 101 Rev A (Received 21 July 2016) & CHE 102 & 103 Rev N (Received 10 August 2016) & 104 Rev D & 105 Rev B & 106 Rev A & 107 & V103A & CG102 & CG104 & 11828UG-01 Rev B & V1268_L01 & V1268-DO1 & MJA-P105-4254 & IG12/212/250 P6 & 3787/148/100 & 3787/148/300 & 3787/148/302 & 3787/148/303 & 3787/148/304 & T278_08a-A3 (Received 10 August 2016) & T278_09-A3 (Received 30 August 2016)

REASON: To ensure that the development is carried out in accordance with the approved plans and details.

2. The level of noise from all mechanical services plant shall, when measured or calculated at first floor level of the Bakehouse Public House, not exceed 41 dB LAeq1hr between 0700 and 2300 hours and 32 dB LAeq15min between 2300 and 0700 hrs. All measurements and calculations should be carried out in accordance with BS 4142:2014

REASON: To protect the residential amenity of adjoining occupiers in accordance with Policy R19 & D1 of the Welwyn Hatfield District Plan 2005.

3. The development hereby shall not be occupied or used until the Hazardous Substances Consent for the Welwyn Garden City Gas Holder Station, Tewin Road, Welwyn Garden City, for the storage and distribution of natural gas has been revoked in its entirety under the provisions of the Planning (Hazardous Substances) Act 1990 as amended and written confirmation of the revocation has been issued by the Hazardous Substances Authority to the Health and Safety Executive.

REASON: In the interests of public safety.

4. The development permitted by in full by this planning permission shall be carried out in accordance with drawings 3787/148/300 Rev A dated 18th of January 2016, 3787/148/302 dated 29th of January 2016, 3787/148/303 dated 1st of February 2016 and 3787/148/304 dated 1st of February 2016

and the following mitigation measures as detailed within the drainage scheme.

A) The surface water run-off generated by the development discharged into the ordinary watercourse must not exceed of 15 l/s during the 1 in 100 year + climate change event.

B) A minimum attenuation volume of 112.5 m³ must be provided for in the development to ensure that there is no increase in surface water run-off volumes for all rainfall events up to and including the 1 in 100 year event plus an allowance for climate change. Attenuation to be provided by underground attenuation tanks; as shown in drawing 3787/148/300.

The mitigation measures shall be fully implemented prior to occupation and subsequently in accordance with the timing/phasing arrangements embodied within the scheme, or within any other period as may subsequently be agreed, in writing, by the Local Planning Authority (LPA).

If after further detailed design and calculations the applicant proposes a reduction in the attenuation volumes to be provided in each catchment, such changes will need to be agreed with the LPA.

REASON: To prevent flooding by ensuring the satisfactory disposal of surface water from the site

5. No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to, and approved in writing by, the Local Planning Authority. The approved Statement shall be adhered to throughout the construction period. The Statement shall provide for:
 - (a) the parking of vehicles of site operatives and visitors
 - (b) loading and unloading of plant and materials, including vehicle numbers, type and routing
 - (c) storage of plant and materials used in constructing the development
 - (d) the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate
 - (e) wheel washing facilities
 - (f) measures to control the emission of dust and dirt during construction
 - (g) a scheme for recycling/disposing of waste resulting from demolition and construction works.
 - (h) Traffic management requirements
 - (i) Post construction restoration/reinstatement of the working areas and temporary access to the public highway.

REASON: To ensure satisfactory provision to protect the residential amenity of adjoining occupiers and highway safety in accordance with Policy D1 of the Welwyn Hatfield District Plan 2005.

6. Prior to first occupation, the access arrangements onto Bessemer Road from the proposed development shall be implemented as shown in principle on Drawing T278-08a and site plan 1268-CHE 103 Rev N. The works will be subject to S278 Agreements and technical approval procedures.

REASON: In order to protect highway safety and the amenity of other users of the public highway and rights of way.

7. Prior to the first occupation of the development, the applicant shall submit to, and have approved in writing by the Local Planning Authority, a service yard management plan. The service yard management plan shall include details of safety measures to be used during the course of deliveries to the store. The approved details shall be implemented on site in perpetuity.

REASON: In order to protect customer safety.

8. No part of the development hereby permitted shall be occupied prior to the submission and approval in writing by the Local Planning Authority, in consultation with the Highway Authority, of an Overarching Travel Plan. The approved travel plan shall then be implemented thereafter in accordance with its recommendations

REASON: To ensure the delivery of a sustainable development.

9. Prior to the commencement of the development hereby permitted, a fire hydrant scheme to service the development shall be submitted to and approved in writing by the Local Planning Authority. The works shall thereafter be undertaken in accordance with the approved details or particulars and be operational prior to the first occupation of the development.

REASON: In order to ensure that the development is adequately served by fire hydrants in the event of a fire.

10. No more than 830sqm of the net retail floor area as shown on drawing number 1268-CHE 103 Rev N, shall be used for the sale of convenience goods.

REASON: In order to protect the long term vitality and viability of Welwyn Garden City town centre.

11. No development other than that required to be carried out as part of an approved scheme of remediation shall commence until conditions A to D have been complied with. If unexpected contamination is found after development has begun, development must be halted on that part of the site affected by the unexpected contamination to the extent specified by the Local Planning Authority in writing until condition D has been complied with in relation to that contamination.

(a) Site Characterisation

An investigation and risk assessment, in addition to any assessment provided with the planning application, must be completed in accordance with a scheme to assess the nature and extent of any contamination on the site, whether or not it originates on the site. The investigation and risk assessment must be undertaken by competent persons and a written report of the findings must be produced. The contents of the scheme and the written report are subject to the approval in writing of the Local Planning Authority. The report of the findings must include:

- (i) a survey of the extent, scale and nature of contamination
- (ii) an assessment of the potential risks to:
 - human health
 - property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes
 - adjoining land
 - groundwaters and surface waters
 - ecological systems
 - archaeological sites and ancient monuments
- (iii) an appraisal of remedial options, and proposal of the preferred option(s).

This must be conducted in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11'.

(b) Submission of Remediation Scheme

A detailed remediation scheme to bring the site to a condition suitable for the intended use by removing unacceptable risks to human health, buildings and other property and the natural and historical environment must be prepared, and is subject to the approval in writing of the Local Planning Authority. The scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures. The scheme must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.

(c) Implementation of Approved Remediation Scheme

The approved remediation scheme must be carried out in accordance with its terms prior to the commencement of development other than that required to carry out remediation. The Local Planning Authority must be given two weeks written notification of commencement of the remediation scheme works.

Following completion of measures identified in the approved remediation scheme, a verification report that demonstrates the effectiveness of the remediation carried out must be produced, and is subject to the approval in writing of the Local Planning Authority.

(d) Reporting of Unexpected Contamination

In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken in accordance with the requirements of condition 1, and where remediation is necessary a remediation scheme must be prepared in accordance with the requirements of condition 2, which is subject to the approval in writing of the Local Planning Authority.

Following completion of measures identified in the approved remediation scheme a verification report must be prepared, which is subject to the approval in writing of the Local Planning Authority in accordance with condition C.

(e) Long Term Monitoring and Maintenance

Where indicated in the approved remediation scheme, a monitoring and maintenance scheme to include, monitoring the long-term effectiveness of the proposed remediation over the agreed period of years, and the provision of reports on the same must be prepared, both of which are subject to the approval in writing of the Local Planning Authority.

Following completion of the measures identified in that scheme and when the remediation objectives have been achieved, reports that demonstrate the effectiveness of the monitoring and maintenance carried out must be produced, and submitted to the Local Planning Authority. This must be conducted in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11'.

REASON: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and others offsite in accordance with Policies R2 and R7 of the Welwyn Hatfield District Plan 2005.¹² Prior to the commencement of the development hereby permitted, details of the proposed maintenance regimes, and end of life replacement strategy, for each of the SuDS elements must be submitted to and approved in writing by the Local Planning Authority. The approved regime and strategy shall then be implemented on site.

12 Prior to the commencement of the development hereby permitted, details of the proposed maintenance regimes, and end of life replacement strategy, for each of the SuDS elements must be submitted to and approved in writing by the Local Planning Authority. The approved regime and strategy shall then be implemented on site.

REASON: To ensure the drainage system is maintained throughout the lifetime of the development to an acceptable standard.

Summary of reasons for grant of permission

The decision has also been made taking into account, where practicable and appropriate the requirements of paragraphs 186-187 of the National Planning Policy Framework and material planning considerations do not justify a decision contrary to the development plan (see Officer's report which can be inspected at these offices).

Chris Carter, (Strategy and Development)

Date: 30 August 2016

Expiry Date: 16 September 2016

Background Papers:

Hazardous Substances Consent Revocation Report (previous agenda item)

