

<u>No:</u>	BH2022/03483	<u>Ward:</u>	Hangleton & Knoll Ward
<u>App Type:</u>	Full Planning		
<u>Address:</u>	Court Farm King George VI Avenue Hove BN3 6XJ		
<u>Proposal:</u>	Demolition of existing buildings on site and erection of retail unit (Class E) with associated works including new access, car parking and landscaping. (For information: proposal is for 1880sqm of gross floorspace, with 1315sqm retail supermarket floorspace and 107 space car park). [April 2024: Updated Transport and Retail information]		
<u>Officer:</u>	Maria Seale, tel: 292175	<u>Valid Date:</u>	07.11.2022
<u>Con Area:</u>		<u>Expiry Date:</u>	06.02.2023
<u>Listed Building Grade:</u>		<u>EOT:</u>	04.10.2024
<u>Agent:</u>	Planning Potential Ltd Magdalen House 148 Tooley Street London SE1 2TU		
<u>Applicant:</u>	Aldi Stores Ltd C/o Planning Potential Ltd Magdalen House 148 Tooley Street London SE1 2TU		

1. RECOMMENDATION

- 1.1. That the Committee has taken into consideration and agrees with the reasons for the recommendation set out below and resolves to be **MINDED TO GRANT** planning permission subject to a s106 agreement and the following Conditions and Informatives, SAVE THAT should the s106 Planning Obligation not be completed on or before the 7th December 2024 the Head of Planning is hereby authorised to refuse planning permission for the reasons set out in the final section 12 of this report:

Section 106 Heads of Term:

Employment and Training

- Financial contribution of £17,390 to the Local Employment Scheme
- Submission of Employment and Training Strategies for the provision of local employment opportunities with 20% of any new roles created from the demolition and construction phases of development

Highways

- Financial contribution of £150,000 staggered over 2 years to enhance the service of no.21 bus route
- Financial contribution of £30,000 towards the future upgrade of A27/Devils Dyke interchange roundabout works
- Travel Plan for staff and customers to incentivise use of sustainable transport, and monitor impact of development

- Highway works (via linked s278/38/permissive path agreements where appropriate) including:
 - Upgrade of 3 nearby bus stops (to include real-time signs, shelters, raised kerbs and bus cages): no.27 Southbound on Dyke Road Avenue/Tongdean Lane, no.27 Northbound on Dyke Road Avenue/Tongdean Lane, and no.21 Woodland Avenue (including relocated stop on KGVI Drive as terminus)
 - main site access works off KGVI Avenue including pedestrian refuge island, tactile paving and signage
 - provision of footway/cycleway along (east) frontage of site (western edge of KGVI Ave) up to roundabout including tactile paving and measures to set aside/make safe until full THV link and crossing provided
 - enhancement of footway/cycleway on eastern side of KGVI Ave between Three Cornered Copse and KGVI Drive
 - provision of formalised footpath/cycleway through Three Cornered Copse (with lighting only if ecologically appropriate) and tie into KGVI Ave
 - provision of uncontrolled pedestrian (dormouse) crossing of KGVI Ave (south of site entrance) including central refuge, landscaping, dropped kerbs and tactile paving, and signage
 - widening and improvement to KGVI Drive footpath link to KGVI Avenue & associated dormouse crossing (make suitable for shared use cycles and pedestrians)
 - reduction in speed limit on KGVI Ave from 40mp to 30mph including gateway features/signage
 - alterations to KGVI Ave including widening to provide 2 lanes at approach to roundabout, new 'ghost island' right turn, new gateway feature/signage and markings
 - provision of any associated signage
 - cost of any required Traffic Regulation Orders

Ecological mitigation

- Scheme for translocation of reptiles off-site: including full details for the safe capture and translocation of the populations, details of the receptor site including surveys to ascertain that they do not currently support reptiles, and (if necessary) details of any management measures required to make them suitable for reptiles

Management and Monitoring

- Financial contributions towards general monitoring of S106, on-going monitoring (over a 30 year period) of Biodiversity Net Gain requirements, and monitoring of Travel plan requirements, based on the Council's most up to date version of the Developer Contributions Technical Guidance

Conditions:

1. The development hereby permitted shall be carried out in accordance with the approved drawings listed below.

Reason: For the avoidance of doubt and in the interests of proper planning.

Plan Type	Reference	Version	Date Received
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Location Plan	17092_101	C	7 November 2022
Proposed Drawing	17092_210	K	15 April 2024
Proposed Drawing	17092_211	K	15 April 2024
Proposed Drawing	17092_212	K	15 April 2024
Proposed Drawing	17092_213	K	15 April 2024
Proposed Drawing	17092_214	K	15 April 2022
Proposed Drawing	17092_216		7 November 2022
Proposed Drawing	17092_217		7 November 2022
Proposed Drawing	17092_218		7 November 2022
Proposed Drawing	17092_219		7 November 2022
Proposed Drawing	17092_220	A	7 November 2022
Proposed Drawing	202233-6		7 November 2022
Proposed Drawing	17092_314	wider site layout	15 April 2024
Proposed Drawing	17092-310	OPT B	15 April 2024
Proposed Drawing	17092-311	OPT B	15 April 2024
Proposed Drawing	17092-312	OPT B	15 April 2024
Proposed Drawing	17092-313	OPT B	15 April 2024
Proposed Drawing	17092-314	OPT B	15 April 2024
Proposed Drawing	17092-VL-L01R	Landscape plan	1 March 2024
Report/Statement	Delivery management plan	February 2024	15 February 2024
Arboricultural Report	20233-AA7-PB	October 2022	7 November 2022
Proposed Drawing	Tree Protection Plan	20233-6	7 November 2022
Arboricultural Report	Tree Management Manual	Barrell v3.0 2020	7 November 2022

2. The development hereby permitted shall be commenced before the expiration of three years from the date of this permission.

Reason: To ensure that the Local Planning Authority retains the right to review unimplemented permissions.

- 3.
- a) No development, including demolition, excavation or any enabling works, shall commence until a Site Waste Management Plan (construction phase) has been submitted to and approved in writing by the Local Planning Authority.
 - b) The development shall not be first occupied until a Site Waste Management Plan (including food waste) for the operational phase setting out mechanisms to minimise waste to landfill has been submitted to and approved in writing by the Local Planning Authority.

The development shall be carried out in accordance with the details approved.

Reason: To maximise the sustainable management of waste and to minimise the need for landfill capacity and to comply with policy WMP3d of the East Sussex, South Downs and Brighton & Hove Waste and Minerals Local Plan and CP8 and CP18 of the Brighton and Hove City Plan Part One.

4. No development, including demolition, enabling or site clearance works, shall take place until a Demolition and Construction Environmental Management Plan (DEMP/CEMP) has been submitted to and approved in writing by the Local Planning Authority. This shall include:
- (i) The phases of the Proposed Development, what these include and the forecasted completion date(s)
 - (ii) A scheme of how the contractors will liaise with local residents to ensure that residents are kept aware of site progress and how any complaints will be dealt with reviewed and recorded (including details of any considerate constructor or similar scheme)
 - (iii) A scheme of how the contractors will minimise disturbance to neighbours regarding issues such as noise and dust management vibration site traffic and deliveries to and from the site
 - (iv) Details of hours of construction including all associated vehicular movements, and type and number of vehicles expected
 - (v) Details of the construction compound
 - (vi) A plan showing construction traffic routes
 - (vii) Details of proposed site accesses and any pit/lanes or loading/unloading areas within the highway, sufficient to allow all vehicles to enter and exit these in forward gear without reversing on the highway
 - (viii) A detailed scheme of any temporary traffic management and signage along the construction routes, at site access, and elsewhere in the vicinity of the site, supported by vehicle swept path analysis where appropriate. This must include and be demonstrably compatible with that for any other separate S278 or S38 highway works (or similar) associated with the site that are being carried out at the same time in the vicinity.
 - (ix) A detailed scheme to actively manage construction traffic to avoid congestion, delays and idling at and outside the site and elsewhere on the network and to maintain safety for other road users.

The demolition and construction shall be carried out in accordance with the approved DEMP/CEMP.

Reason: As this matter is fundamental to the protection of amenity, highway safety and managing waste throughout development works and to comply with policies DM20, DM33, DM35 and DM40 of Brighton & Hove City Plan Part 2, policy CP8 of the Brighton & Hove City Plan Part One, and WMP3d of the East Sussex, South Downs and Brighton & Hove Waste and Minerals Local Plan 2013 and Supplementary Planning Document 03 Construction and Demolition Waste.

5. No development including any site clearance shall take place until the applicant has secured the implementation of a programme of archaeological works in accordance with a written scheme of investigation which has been submitted to and approved in writing by the Local Planning Authority.

Reason: To ensure that the archaeological and historical interest of the site is safeguarded and recorded to comply with policies DM31 of Brighton & Hove City Plan Part 2, and CP15 of the Brighton & Hove City Plan Part One.

6. No phase of the development hereby permitted shall be brought into use until the archaeological site investigation and post-investigation assessment (including provision for analysis, publication and dissemination of results and archive deposition) for that phase has been completed and written details submitted to and approved in writing by the Local Planning Authority. The archaeological site investigation and post-investigation assessment will be undertaken in accordance with the programme set out in the written scheme of investigation approved under the condition above.

Reason: To ensure that the archaeological and historical interest of the site is safeguarded and recorded to comply with policies DM31 of Brighton & Hove City Plan Part 2, and CP15 of the Brighton & Hove City Plan Part One.

7. The development hereby permitted shall not commence (except demolition) until full details of existing and proposed ground levels (referenced as Above Ordnance Datum) within the site and on land and buildings adjoining the site by means of spot heights and cross-sections, proposed siting and finished floor levels of all buildings and structures, have been submitted to and approved by the Local Planning Authority. The development shall then be implemented in accordance with the approved level details.

Reason: As this matter is fundamental to the acceptable delivery of the permission to safeguard the character and appearance of the area and setting of the nearby South Downs National Park, in addition to comply with Policies DM18 of Brighton & Hove City Plan Part 2 and CP12 and SA5 of the Brighton & Hove City Plan Part One.

8.

1. No works pursuant to this permission (including demolition and site clearance) shall commence until there has been submitted to and approved in writing by the local planning authority:

(a) A desk top study documenting all the previous and existing land uses of the site and adjacent land in accordance with industry best practice guidance such as BS 10175:2011+A2:2017 - Investigation of Potentially Contaminated Sites - Code of Practice and BS 5930 Code of Practice for Ground Investigations;

And if notified in writing by the local planning authority that the desk top study identifies potentially contaminant linkages that require further investigation then,

(b) a site investigation report documenting the ground conditions of the site and incorporating chemical and gas analysis identified as appropriate by the desk top study in accordance with BS 10175:2011+A2:2017;

And if notified in writing by the local planning authority that the results of the site investigation are such that site remediation is required then,

(c) a detailed scheme for remedial works and measures to be undertaken to avoid risk from contaminants and/or gases when the

site is developed and proposals for future maintenance and monitoring. Such a scheme shall include nomination of a competent person to oversee the implementation of the works.

2. The development hereby permitted shall not be occupied or brought into use until there has been submitted to, and approved in writing by, the local planning authority a written verification report by a competent person approved under the provisions of condition (1)c above that any remediation scheme required and approved under the provisions of condition (1)c has been implemented fully in accordance with the approved details (unless varied with the written agreement of the local planning authority in advance of implementation). Unless otherwise agreed in writing by the local planning authority the verification report shall comprise:
 - a) built drawings of the implemented scheme;
 - b) photographs of the remediation works in progress;
 - c) certificates demonstrating that imported and/or material left in situ is suitable for use.

Reason: To safeguard the health of future residents or occupiers of the site and to comply with policy DM20 and DM41 of City Plan Part 2.

9. No piling shall take place unless details are submitted to and approved in writing by the local planning authority to demonstrate that any piling can be satisfactorily carried out with measures to ensure the protection of groundwater and the aquifer. The development shall be carried out in strict accordance with the approved details.

Reason: To safeguard the fresh and foul water infrastructure in the vicinity of the site, in accordance with Policy DM42 of Brighton & Hove City Plan Part 2.

10. No tree shown as retained on the approved drawings shall be cut down, uprooted, destroyed, pruned, cut or damaged in any manner during the development phase and thereafter within 5 years from the date of occupation of the building for its permitted use, other than in accordance with the approved plans and particulars or as may be permitted by prior approval in writing from the local planning authority. Any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.

Reason: To enhance the appearance of the development in the interest of the visual amenities of the area, to provide ecological, environmental and biodiversity benefits and to maximise the quality and usability of open spaces within the development in compliance with policies DM22 and DM37 of Brighton & Hove City Plan Part 2, and CP8, CP10, CP12, SA5 and CP13 of the Brighton & Hove City Plan Part One.

11. Prior to occupation of the development hereby permitted, a scheme for landscaping based on the submitted Landscape Plan 7092-VL-L01 R received 1/3/24 shall be submitted to and approved in writing by the Local Planning Authority. The approved landscaping shall be implemented in accordance with the approved details in the first planting season after completion or first occupation of the development, whichever is the sooner. The scheme shall include the following:

- a. details of all hard and soft surfacing to include the type, position, design, dimensions and materials and any sustainable drainage system used;
- b. a schedule detailing sizes and numbers/densities of all proposed trees/plants including food-bearing plants, and details of tree pit design, use of guards or other protective measures and confirmation of location, species and sizes, nursery stock type, supplier and defect period;
- c. details of all boundary treatments to include type, position, design, dimensions and materials including type and construction method (including of any mechanisms that might make them temporary and movable);
- d. details of a planting/boundary plan to provide a visibility splay for both the northern and southern sides of the main site vehicular access. It should include details of the maintenance schedule and management plan to ensure the visibility splay is permanently maintained;

Any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.

Reason: To enhance the appearance of the development in the interest of the visual amenities of the area and to provide ecological and sustainability benefits, and for highway safety, to comply with policies DM22, DM33 and DM37 of Brighton & Hove City Plan Part 2, and SA5, CP8, CP10, CP12 and CP13 of the Brighton & Hove City Plan Part One.

12. The landscaping scheme detailed and agreed under the condition above shall be carried out in the first planting and seeding season following the first occupation of the building/use hereby permitted or the completion of the development, whichever is the sooner. Any trees or plants which within a period of 5 years from the completion of the development die, are removed or become, in the opinion of the Local Planning Authority, seriously damaged or diseased, shall be replaced with others of similar size and species, unless the Local Planning Authority gives written consent to any variation.

Reason: To enhance the appearance of the development in the interest of the visual amenities of the area and to provide ecological and sustainability benefits, to comply with policies DM22 and DM37 of Brighton & Hove City Plan Part 2, and SA5, CP8, CP10, CP12 and CP13 of the Brighton & Hove City Plan Part One.

13. Prior to the commencement of the development hereby approved (including before any demolition and all preparatory work), the scheme for the protection of the retained trees, in accordance with BS 5837:2012, as shown on drawing 20233-6 and within the submitted 'Arboricultural assessment and method statement - Barrell October 2022' and the submitted 'Manual for managing trees on development sites (Barrell v3.0)' received on 7/11/22 shall be implemented, and shall thereafter be retained during the construction period.

Reason: As this matter is fundamental to protecting the trees which are to be retained on the site during construction works in the interest of the visual amenities of the area and for biodiversity and sustainability reasons, to comply with policies DM22 and DM37 of Brighton & Hove City Plan Part 2, and SA5,

CP8, CP10 and CP12/CP13 of the Brighton & Hove City Plan Part One and SPD06:Trees and Development Sites.

14. The permission is hereby granted only for a retail Class E (a) use and for no other purpose (including any other purpose in Class E of the Schedule to the Town and Country Planning (Use Classes) Order 1987 (or any order amending, revoking and re-enacting that Order with or without modification).
Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015, as amended (or any order revoking and re-enacting that Order with or without modification), no changes shall occur to other uses without planning permission first being obtained from the Local Planning Authority.
No mezzanine floors shall be inserted into the development without further planning permission first being obtained from the Local Planning Authority.
Reason: To enable the Local Planning Authority to control the development in detail and as the scheme (and its respective impacts) has been assessed and approved on the basis of the specific type and quantum of development as set out in the application only, to comply with policies DA7, SS1, CP4, CP8 and CP10 of the Brighton and Hove City Plan Part One and policies DM11, DM12, DM20, DM22, DM33 , DM35, DM36, DM37, DM40 and DM43 of the Brighton and Hove City Plan Part Two and SPD15: Toad's Hole Valley.
15. The development hereby permitted shall not be commenced (other than demolition works and works to trees) until a detailed design and associated management and maintenance plan for foul and surface water disposal using sustainable drainage methods has been submitted to and approved in writing by the Local Planning Authority, in consultation with Southern Water.
Details of all components of the drainage system including the green roof, permeable paving and soakaways shall be provided, and details of the anticipated foul water discharge rates and evidence of sewer capacity.
The drainage design shall include enhanced measures to protect groundwater, with hydrocarbon treatment included prior to discharge where required. Evidence shall be provided to demonstrate that well locations have been monitored and backfilled prior to enabling works. No borehole soakaway shall be included. Evidence shall be submitted to demonstrate that land uses such as general hardstanding that may be subject to oil/petrol spillages are to be drained by means of appropriate oil trap gullies or petrol/oil interceptors.
Details of the timetable for the implementation of the sustainable drainage systems, details of who is responsible for their maintenance and how they will be maintained for the lifetime of the development shall be provided.
The approved drainage systems and maintenance plan shall be implemented.
Reason: To ensure that the principles of sustainable drainage are incorporated into this proposal and to protect the chalk aquifer and groundwater quality and to ensure sufficient capacity to accommodate the development, to comply with policies DM42 and DM43 of City Plan Part and CP11 of the Brighton & Hove City Plan Part One.
16. No development above ground floor slab level of any part of the development hereby permitted shall take place until details of the construction of the living green roofs have been submitted to and approved in writing by the Local

Planning Authority. The details shall include a cross section, construction method statement, the seed mix, and a maintenance and irrigation programme. The roofs shall then be constructed in accordance with the approved details and shall be retained as such thereafter.

Reason: To ensure that the development contributes to ecological enhancement on the site and for reasons of visual amenity, in accordance with Policies DM18 and DM37 of Brighton & Hove City Plan Part 2, Policies SA5 and CP10 of the Brighton & Hove City Plan Part One and Supplementary Planning Document SPD11 Nature Conservation and Development.

17. The deliveries to the site shall be carried out in accordance with the Delivery & Service Management Plan (February 2024) received on 15/2/24. Deliveries shall only be made to the store between 05.00-23.00 hours each day. The noise protection and management measures within the Plan shall be implemented during deliveries. Delivery vehicles shall dock directly onto the store building and all goods shall be offloaded directly from the vehicle into the warehouse with no external transfer of goods (i.e. no crates being wheeled across the car park/loading area) unless noise suppressing mats are placed on the floor of the external loading area.

Reason: In order to ensure that the safe operation of the development and to protection of the amenities of nearby residents, in accordance with policies DM20, DM33, and DM40 of Brighton & Hove City Plan Part 2.

18. Notwithstanding any details shown on the approved plans, no development above ground floor slab level of any part of the development hereby permitted shall take place until details of all materials to be used in the construction of the external surfaces of the development have been submitted to and approved in writing by the Local Planning Authority, including (where applicable):

- a) Samples/details of all brick, render and tiling (including details of the colour of render/paintwork to be used)
- b) samples of all cladding to be used, including details of their treatment to protect against weathering
- c) samples/details of all hard surfacing materials
- d) samples/details of the proposed window, door and balcony treatments
- e) samples/details of all other materials to be used externally

Development shall be carried out in accordance with the approved details.

Reason: To ensure a satisfactory appearance to the development and to comply with policies DM18/DM21 of Brighton & Hove City Plan Part 2 and CP12/CP13/SA5 of the Brighton & Hove City Plan Part One.

19. No development including any site clearance shall commence unless and until a Biodiversity Gain and Management Plan to ensure that there is a minimum 10% net gain in biodiversity on the site (+10% in habitat units and +10% in hedgerow units) within a 30 year period as a result of the development has been submitted to and agreed in writing by the Local Planning Authority. The net biodiversity impact of the development shall be measured in accordance with the DEFRA biodiversity metric as applied in the area in which the site is situated at the relevant time and the Biodiversity Gain and Management Plan shall include:

1. Proposals for the on-site biodiversity net gain;
2. A management and monitoring plan for onsite biodiversity net gain including 30 year objectives, management responsibilities, maintenance schedules and a methodology to ensure the submission of monitoring reports in years 2,5,10,15,20,25 and 30 from commencement of development, demonstrating how the BNG is progressing towards achieving its objectives, evidence of arrangements and any rectifying measures needed;
3. Proposals for any off-site biodiversity net gain, if required to achieve the minimum requirement of +10% habitat units and +10% hedgerow units.
4. A management and monitoring plan for all off-site biodiversity net gain including 30 year objectives, management responsibilities, maintenance schedules and a methodology to ensure the submission of monitoring reports in years 2,5,10,15,20,25 and 30 from commencement of development, demonstrating how the BNG is progressing towards achieving its objectives, evidence of arrangements and any rectifying measures needed

The development shall be implemented in full accordance with the requirements of the approved Biodiversity Gain and Management Plan.

Reason: In the interests of ensuring measurable net gains to biodiversity and in accordance with Policies CP8, CP10 and DA7 of the Brighton and Hove City Plan Part One and DM37 of the Brighton and Hove City Plan Part Two and the National Planning Policy Framework.

20. No development shall take place (including any demolition, ground works, site clearance) until a method statement for the protection of reptiles has been submitted to and approved in writing by the local planning authority. The content of the method statement shall include the:
 - a) purpose and objectives for the proposed works;
 - b) detailed design(s) and/or working method(s) necessary to achieve stated objectives (including, where relevant, type and source of materials to be used);
 - c) extent and location of proposed works shown on appropriate scale maps and plans;
 - d) timetable for implementation, demonstrating that works are aligned with the proposed phasing of construction;
 - e) persons responsible for implementing the works;
 - f) initial aftercare and long-term maintenance (where relevant);
 - g) disposal of any wastes arising from the works.

The works shall be carried out in accordance with the approved details and shall be retained in that manner thereafter.

Reason: To protect species identified in the ecological surveys from adverse impacts during construction and to avoid an offence under the Wildlife and Countryside Act 1981, as amended, and in line with CP10 of Brighton & Hove City Plan Part One and DM37 of Brighton & Hove City Plan Part Two.

21. No development shall take place (including demolition, ground works, vegetation clearance) until a construction environmental management plan (CEMP: Biodiversity) addressing the prevention/control of dust and other pollution on nearby nature conservation sites, the protection of badgers, breeding birds and

hedgehogs, and the removal and control of invasive non-native species, has been submitted to and approved in writing by the local planning authority. The CEMP (Biodiversity) shall include the following:

- a) risk assessment of potentially damaging construction activities;
- b) identification of "biodiversity protection zones";
- c) practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during construction (may be provided as a set of method statements);
- d) the location and timing of sensitive works to avoid harm to biodiversity features;
- e) the times during construction when specialist ecologists need to be present on site to oversee works;
- f) responsible persons and lines of communication;
- g) the role and responsibilities on site of an ecological clerk of works (ECoW) or similarly competent person;
- h) use of protective fences, exclusion barriers and warning signs.

The approved CEMP shall be adhered to and implemented throughout the construction period in accordance with the approved details.

Reason: To ensure that any adverse environmental impacts of development activities are mitigated and to protect species identified in the ecological surveys from adverse impacts during construction and to avoid an offence under the Wildlife and Countryside Act 1981, as amended, and in line with CP10 of Brighton & Hove City Plan Part One and DM37 of Brighton & Hove City Plan Part Two.

22. No development including demolition or site clearance shall take place until an ecological design strategy (EDS) addressing the provision of bird, bat and insect boxes, as set out in the Ecological Assessment (Ecology Solutions, October 2022) and the Consultation Response (Ecology Solutions, February 2023) has been submitted to and approved in writing by the local planning authority. The EDS shall include the following:

- a) purpose and conservation objectives for the proposed works;
- b) review of site potential and constraints;
- c) detailed design(s) and/or working method(s) to achieve stated objectives;
- d) extent and location /area of proposed works on appropriate scale maps and plans;
- e) type and source of materials to be used where appropriate, e.g. native species of local provenance;
- f) timetable for implementation demonstrating that works are aligned with the proposed phasing of development;
- g) persons responsible for implementing the works;
- h) details of initial aftercare and long-term maintenance;
- i) details for monitoring and remedial measures;
- j) details for disposal of any wastes arising from works.

The EDS shall be implemented in accordance with the approved details and all features shall be retained in that manner thereafter.

Reason: To ensure that any adverse environmental impacts of development activities can be mitigated, compensated and restored and that the proposed design, specification and implementation can demonstrate this, and to provide biodiversity enhancements as required by Section 40 of the Natural Environment

and Rural Communities Act 2006, the National Planning Policy Framework, and Policies CP10 and DM37 of the Brighton & Hove City Council City Plan.

23. The development hereby permitted shall not be first occupied until an external lighting strategy has been submitted to and approved by the Local Planning Authority which contains the following:
- i) details of external lighting, which shall include details of; levels of luminance, hours of use, predictions of both horizontal illuminance across the site and vertical illuminance affecting immediately adjacent receptors, hours of operation and details of maintenance;
 - ii) the predicted illuminance levels have been tested by a competent person to ensure that the illuminance levels agreed in part i) are achieved. Where these levels have not been met, a report shall demonstrate what measures have been taken to reduce the levels to those agreed in part i).
 - ii) evidence to demonstrate that the lighting has had regard to, and will not unduly impact, the South Downs National Park Dark Skies Reserve status;
 - iii) identification of those areas/features on site that are particularly sensitive for bats and hazel dormice and that are likely to cause disturbance in or around their breeding sites and resting places or along important routes used to access key areas of their territory, for example, for foraging;
 - iv) demonstration of how and where external lighting will be installed (through the provision of appropriate lighting contour plans and technical specifications) so that it can be clearly shown that areas to be lit will not disturb or prevent the above species using their territory or having access to their breeding sites and resting places;
 - v) details of any lighting to signage proposed (including advertisements and highway signs).

All external lighting shall be installed and operated in accordance with the specifications and locations set out in the strategy, and these shall be maintained thereafter in accordance with the strategy. Under no circumstances should any other external lighting be installed without prior consent from the local planning authority.

Reason: Many species active at night (e.g. bats, badgers and dormice) are sensitive to light pollution. The introduction of artificial light might mean such species are disturbed and /or discouraged from using their breeding and resting places, established flyways or foraging areas. Such disturbance can constitute an offence under relevant wildlife legislation, and would be contrary to Policy DM37 of Brighton & Hove City Plan Part 2. In addition, to safeguard the amenities of the occupiers of adjoining properties and the wider locality including the South Downs National Park Dark Skies Reserve, to comply with policies DM20 and DM40 of Brighton & Hove City Plan Part 2 and SA5 of City Plan Part One.

24. The development hereby approved shall achieve a minimum Energy Performance Certificate (EPC) rating 'A' for new build non-residential development.

Reason: To improve the energy cost efficiency of existing and new development and help reduce energy costs, and to ensure a sustainable exemplar, to comply with policy DM44 of the Brighton & Hove City Plan Part Two and DA7 of Part One.

25. The development hereby permitted shall not be first brought into use until a Climate Change Adaptation Strategy and Design for Disassembly and Adaption Study has been submitted to and approved in writing by the Local Planning Authority, and in addition evidence submitted that the following measures have been incorporated within the development:

- Air Source Heat Pump and refrigeration heat recovery scheme
- Water efficiency measures which achieve at least a 30% improvement over baseline standards for water consumption
- Responsibly sourced materials of A or A+ rating
- EV chargers
- Efficient lighting
- Energy management system

The agreed measures shall be provided prior to first occupation and shall be retained within the development.

Reason: To ensure the development is sustainable, and an exemplar, to comply with policies CP8, DA7 and DM44 of the City Plan.

26. Within 6 months of first occupation of the development hereby permitted a BREEAM Building Research Establishment issued Post Construction Review Certificate confirming that the non-residential development built has achieved a minimum BREEAM New Construction rating of 'Excellent' shall be submitted to, and approved in writing by, the Local Planning Authority.

Reason: To ensure that the development is sustainable and an 'exemplar' and makes efficient use of energy, water and materials and to comply with policies CP8 and DA7 of the Brighton & Hove City Plan Part One.

27. No development above ground floor slab level shall take place until detailed plans and evidence have been submitted to the Local Planning Authority for written approval to demonstrate how the site will be able to connect to any future decentralised heat network, should one become available. Evidence should demonstrate the following:

- a) Energy centre size and location showing facility for expansion for connection to a future district heat network: to include sufficient physical space to be allotted for installation of heat exchangers and any other equipment required to allow connection;
- b) A route onto and through site: details of below ground works which will be implemented within the scheme to ensure that appropriate piping routes are available and safeguarded to enable future connections to a heat network, demonstration of where connections will be made, space on site for the pipework connecting the point at which primary piping comes onsite with the on-site heat exchanger/ plant room/ energy centre. Proposals must demonstrate a plausible route for heat piping and demonstrate how suitable access could be gained to the piping and that the route is protected throughout all planned phases of development.
- c) Metering: installed to record flow volumes and energy delivered on the primary circuit.

The approved future-proofing measures shall be implemented before first occupation and shall be retained.

Reason: To ensure the development is future-proofed in the interests of sustainability and to be an 'exemplar', to comply with Policy DA7 and CP8 of the Brighton and Hove City Plan Part One and DM44, DM45 and DM46 of the Brighton and Hove City Plan Part Two and SPD15: Toad's Hole Valley.

28. No development above ground floor slab level shall take place until details of a centrally located pedestrian/cycle link up to the south-western boundary of the site with the ability to join up with the adjacent development site at Toads Hole Valley (as shown on the submitted plans), to include a sealed surface, drainage and lighting, has been submitted to and approved in writing by the Local Planning Authority. It shall incorporate a segregated cycle path and footpath wide enough for a double buggy and wheelchair to pass at once. The development shall not be brought into use until the approved link has been fully implemented.

Reason: In the interest of promoting sustainable transport and ensuring a satisfactory primary link between both sites to ensure a comprehensive and connected scheme on the whole of the Toads Hole Valley site, to comply with policies DA7, CP9 and CP13 of the Brighton and Hove City Plan Part One and DM18, DM22 and DM33 of the Brighton and Hove City Plan Part Two.

29. Notwithstanding the layout of the building shown on the submitted drawings, no development above ground floor slab level shall take place until a revised layout plan which includes provision of staff showering facilities has been submitted to and approved in writing by the Local Planning Authority. The approved layout including provision of showering facilities shall be implemented before the building is first brought into use.

Reason: To ensure the promotion of sustainable transport such as cycling and walking, to comply with policies DA7, CP8 and CP9 of the Brighton and Hove City Plan Part One and DM33 and DM35 of the Brighton and Hove City Plan Part Two.

30. Notwithstanding the submitted plans, no development above ground floor slab level shall take place until a revised car park layout plan has been submitted to and approved in writing by the Local Planning Authority.

This shall include details of proposed cycle parking, motorcycle parking, car parking, electric vehicle parking and charging, mobility scooter parking and charging, disabled parking, customer (and staff) parking, parent and child parking, loading bays, taxi pick-up and drop off, service and delivery areas and signage (markings and signs) for the management of all forms of parking and stopping as appropriate (such as numbered spaces and Department for Transport approved names and symbols (e.g. for a disabled bay) inside and outside of the space).

This should also include details of the following unless otherwise agreed:

- How parent and child spaces have been relocated closer to the store
- how the proposal complies with SPD14 Parking Standards
- the dimensions and layout of disabled spaces
- how vehicles safely and conveniently turn to leave the site in a forward gear
- dropped kerbs from footways and tactile paving where appropriate for the mobility and visually impaired including adults with child buggies

- additional EV charging points (both passive and active) to reach a total of 36 (18 of each type)

The approved scheme shall be fully implemented and made available for use prior to the first occupation of the development and shall thereafter be retained for use at all times.

Reason: To ensure the development provides for the needs of all occupants and visitors to the site, to ensure the provision of satisfactory facilities for all users of the car park including pedestrians and the mobility and visually impaired and to be a sustainable exemplar, to comply with policies DA7 and CP9 of City Plan Part One & DM33 of City Plan Part Two and SPD14 Parking Standards.

31. The development hereby permitted shall not be occupied until details of secure cycle parking facilities for the staff and users of the development shall have been submitted to and approved in writing by the Local Planning Authority. The approved facilities shall be fully implemented and made available for use prior to the first occupation of the development and shall thereafter be retained for use at all times.

Reason: To ensure that satisfactory facilities for the parking of cycles are provided and to encourage travel by means other than private motor vehicles and to comply with policy DA7, DM33 of the Brighton & Hove City Plan, and SPD14: Parking Standards.

32. No development above ground floor slab level shall commence on site until a Car Park Management Scheme for parking and stopping in the car park area has been submitted to and approved in writing by the Local Planning Authority. The scheme shall at least include the following measures:

- Details of how the proposal complies with SPD14 Parking Standards
- Details of how each car parking space will be allocated and managed
- Details of how the site and car park will be managed outside of store opening hours

The above plan must be implemented prior to the occupation of the building and thereafter be maintained as such.

Reason: To ensure the development maintains a sustainable transport strategy and for crime prevention, to comply with SPD14 Parking Standards and policies CP9 and CP13 of the City Plan Part One and DM33 and DM36 of City Plan Part Two.

33. No development above ground floor slab level shall commence until a Scheme of Management of Staff Parking has been submitted to and approved in writing by the Local Planning Authority. The scheme must at least include the following measures:

- Clear rules and regulations for staff parking and communication to encourage staff not to park on nearby residential roads
- Monitoring of all staff travel modes
- Support for alternative transportation modes like public transport, cycling, or walking
- Incentives for carpooling or car sharing, such as preferential parking spaces
- Monitoring and enforcement procedures
 - Consideration of flexible working arrangements to reduce overall parking demand

- Regular review and adjustment of the plan based on its effectiveness.

The plan shall be fully implemented according to its terms, any periodic updates should be sent to the local planning authority.

Reason: To ensure the development maintains a sustainable transport strategy and to comply with SPD14 Parking Standards and CP9 of the City Plan Part One and policy DM33, DM35 and DM36 of City Plan Part Two. To mitigate against the potential for overspill parking onto surrounding residential streets including but not limited to King George VI Drive, Woodland Avenue, Hill Top, The Heights, Woodland Drive, Valley Drive, Hill Brow, Tongdean Lane, Whitehorn Drive.

34. Prior to first occupation of the development hereby permitted, a footpath / footway layout plan shall have been submitted to and approved in writing by the Local Planning Authority. This should include details of materials, dimensions, methods of construction, location, levels, gradients, length of gradients, lighting, handrails and provision for the mobility and visually impaired (for example turning circles, radius dimensions and tactile paving). The layout plan should also include justification for any steps proposed.

The approved scheme shall be fully implemented and made available for use prior to occupation of the development and shall thereafter be retained for use at all times.

Reason: For sustainability, highway safety and accessibility, to comply with policies CP9 of the City Plan Part One and policy DM33 of City Plan Part Two.

35. No customers shall remain on the premises outside the hours of 08.00 to 22.00 Monday to Saturday and 10.00 to 17.00 on Sundays, Bank and Public Holidays.

Reason: To safeguard the amenities of the locality and to comply with policies DM20 and DM40 of Brighton & Hove City Plan Part 2.

36. The development hereby permitted shall not be first occupied until a scheme for the control of any plant in respect of fumes, smells and odours has been submitted to and approved in writing by the Local Planning Authority. The scheme shall be implemented in strict accordance with the approved details prior to the first use of the development hereby approved, and shall thereafter be retained as such.

Reason: To safeguard the amenities of the occupiers of adjoining properties and to comply with policies DM20 and DM40 of Brighton & Hove City Plan Part 2.

37. Noise associated with plant and machinery incorporated within the development shall be controlled such that the Rating Level measured or calculated at 1-metre from the façade of the nearest existing noise sensitive premises, shall not exceed the existing LA90 background noise level. The Rating Level and existing background noise levels are to be determined as per the guidance provided in BS4142:2014-A1:2019 (or the relevant updated Standard). In addition, there should be no significant low frequency tones present.

Reason: To safeguard the amenities of the occupiers of neighbouring properties and to comply with policies DM20 and DM40 of Brighton & Hove City Plan Part 2.

38. There shall be no combustion process on site; no boilers; no diesel chillers; and no Combined Heat and Power plant (with associated flues or chimney emissions to air) on this site without the prior written approval of the Local Planning Authority.
Reason: To protect air quality in the interest of health and amenity, to comply with policies DM20 and DM40 of the Brighton and Hove City Plan Part Two.
39. No part of the development hereby permitted shall be first occupied or brought into use until written evidence, such as Secure By Design certification, has been submitted to and approved in writing by the Local Planning Authority to demonstrate that the scheme has incorporated crime prevention measures.
Reason: In the interests of crime prevention, to comply with policies CP12 and CP13 and SA6 of the Brighton & Hove City Plan Part One.
40. The development hereby approved shall not be occupied until the refuse and recycling storage facilities indicated on the approved plans have been fully implemented and made available for use. These facilities shall thereafter be retained for use at all times.
Reason: To ensure the provision of satisfactory facilities for the storage of refuse and recycling and to comply with Policies DM18 of Brighton & Hove City Plan Part 2, policy CP8 of the Brighton & Hove City Plan Part One and Policy WMP3e of the East Sussex, South Downs and Brighton & Hove Waste and Minerals Local Plan Waste and Minerals Plan.

Informatives:

1. In accordance with the National Planning Policy Framework and Policy SS1 of the Brighton & Hove City Plan Part One the approach to making a decision on this planning application has been to apply the presumption in favour of sustainable development. The Local Planning Authority seeks to approve planning applications which are for sustainable development where possible.
2. The applicant is advised to contact the Council's Streetworks Team (permit.admin@brighton-hove.gov.uk 01273 290729) for necessary highway approval from the Highway Authority prior to any works commencing on the adopted highway to satisfy the requirements of the conditions.
3. Where asbestos is found/suspected in site, it will fall under the control of Asbestos Regulations 2012, overseen by the Health and Safety Executive. Further information can be found here: <https://www.hse.gov.uk/asbestos/> .
4. The applicant should be aware that the site is in a radon affected area. If the probability of exceeding the Action level is 3% or more in England and Wales, basic preventative measures are required in new houses, extensions, conversions and refurbishments (BRE2011). Radon protection requirements should be agreed with Building Control. More information on radon levels is available at <https://www.ukradon.org/information/ukmaps> .
5. The DEMP/CEMP shall include:
 - (i) A commitment that any temporary traffic management measures and/or marshalling of traffic on the highway, including that of both construction

traffic and general traffic, shall aim to be undertaken by Contractors holding National Highways Sector Scheme 12(d) certification.

- (ii) A commitment that any staff marshalling vehicles and plant within the site will be encouraged to hold a current valid Construction Plant Competency Scheme (CPCS) Card, endorsed with Category A73.
- (iii) A commitment to register the construction site with the Considerate Constructors Scheme (CCS) and the Construction Logistics & Community Safety scheme (CLOCS), to retain that certification for the duration of the works and to comply with all mandatory requirements of the related Codes.
- (iv) A commitment that the Principal Contractor for both demolition and construction shall have Silver certification under the Fleet Operators Recognition Scheme (FORS).
- (vi) Details of measures to protect highway assets (and commitments to survey and repair any damage that occurs) and to mitigate impacts on public transport, bike share and car club services and provide for their continued operation during the works. This should include a commitment not to commence demolition or construction until we have agreed any roads that may be damaged by construction traffic and, if any, means of addressing this.
- (vii) Details of vehicle cleaning and drainage facilities to prevent mud and dirt being trafficked onto the highway from the site or being washed onto it.
- (viii) A detailed scheme of employee and contractor parking and any drop-off areas, including to actively monitor and deter parking and drop-offs in any other locations on nearby streets.
- (ix) A detailed scheme for liaison with neighbours, public transport operators, elected members and other relevant parties, to include regular Community Liaison Meetings (with at least one each before the commencement of both demolition and construction respectively), a dedicated website, and regular local circulation of Newsletters to update on site progress and improvements to address issues and complaints.
- (x) Contact details for a DEMP/CEMP manager to be responsible for implementing the plan on the Owner's behalf (with authorisation to instruct all contractors) and to serve as the single point of contact, both for the Council in general and for other parties who may have feedback or complaints. Similar appointment of a separate individual responsible for CEMP monitoring.

The applicant must contact the Highway Authority by e-mail (s278@brighton-hove.gov.uk) at their earliest convenience to avoid any delay and prior to any works commencing on-site and on the adopted (public) highway. An assigned officer telephone number will be supplied in the e-mail response to provide a point of contact regarding the DEMP/CEMP.

6. Footpath / Footway Layout Plan:

In order to be in line with CP9 Sustainable Transport of City Plan Part One footpaths / footways must be safe, convenient, have gradients in preference to steps for the impaired and waste disposal operatives (the steeper the gradient the shorter its length should be), have handrails where appropriate (average height 900mm to 1000mm and a lower rail if necessary set at 550mm to 650mm to aid and stop children and anyone else from falling through), be made of appropriate materials to appropriate methods and standards, well-lit and where

appropriate well signed. It should also be noted that if steps are proposed then the 'going' should preferably be 300mm and the 'rising' should preferably be 100mm. For further information consult the Department for Transport Inclusive Mobility and Manual for Streets documents. Also, if footways are proposed to be adopted, to adoptable standards and/or are on the adopted (public) highway then they will need to be designed and constructed under licence from the Highway Authority. The applicant must contact the Council's Streetworks Team (permit.admin@brighton-hove.gov.uk 01273 290729) at their earliest convenience to avoid any delay and prior to any works commencing on the public highway.

7. The applicant is advised that the disabled car parking spaces should be designed in accordance with Department for Transport Traffic Advisory Leaflet 5/95 Parking for Disabled People and BS8300:2001.26. A combination of these two documents requires at least a 1.2m clear zone to both sides and roadway end of the bay.
8. The applicant is advised in addition to planning consent that they must also apply for and obtain all necessary approvals from the Council's Street Lighting team prior to any works taking place on or near any highway infrastructure. The applicant is also advised to contact the Council's Street Lighting Team via email streetlighting@brighton-hove.gov.uk or telephone 01273 292517 for advice and information at their earliest convenience to avoid any delay and also prior to any works commencing.
9. In order to be in line with Policy DM33 of the Brighton & Hove City Plan Part Two cycle parking must be secure, convenient (including not being blocked in), accessible, well lit, well signed, near the main entrance, by a footpath/hardstanding/driveway and wherever practical, sheltered. It should also be noted that the Highway Authority would not approve vertical hanging racks as they are difficult for many people to use and therefore not considered to be policy and Equality Act 2010 compliant. Also, the Highway Authority approves of the use of covered, illuminated, secure 'Sheffield' type stands spaced in line with the guidance contained within the Manual for Streets section 8.2.22. Or will also consider other proprietary forms of covered, illuminated, secure cycle storage including the 'slide cycle in' type cycle store seen in railway stations, the 'lift up door' type cycle store, the metal Police approved 'Secure-By-Design' types of cycle store, the cycle 'bunker' type store and the 'two-tier' type system again seen at railway stations where appropriate. Also, where appropriate provision should be made for tricycles, reclining cycles and 'cargo bikes'.

2. SITE LOCATION

- 2.1. The application relates to land at Court Farm, which is to the south-east side of the roundabout connecting the A27, Devil's Dyke Road, Mill Road, Dyke Road Avenue and King George VI Avenue (KGV6 – the A2038). It is on the western-most edge of the Withdean area of Brighton and to the north of Hove. Court

Farm House and the associated garages / storage building on site have been demolished and the site has mostly been cleared.

- 2.2. The site is roughly triangular in shape and is a former farm and farmland, and forms part of a dry valley that was cut off from wider farmland when the A27 bypass was constructed to the north in the early 1990s. The site extends to 0.97 hectares and is part of the larger strategic Development Area allocated in City Plan Part One (Policy DA7 Toad's Hole Valley). The remaining Toads Hole Valley site is currently an undeveloped field of approximately 46 ha and has consent for a new neighbourhood (see History section below). The site is surrounded by land identified as Urban Fringe Strategic Allocation (policy SA4) which provides the setting for the South Downs National Park to the north beyond the A27 corridor and north-east beyond the roundabout.
- 2.3. The Court Farm site is not within a conservation area, nor is it a listed building. The Woodland Drive Conservation Area is located to the north-east of the site across KGV Ave, including Three Cornered Copse. The site is subject to the Court Farm Article 4 direction (removing permitted development rights for the erection of barns, piggeries, buildings for the storage of animal feeding stuffs, poultry houses, cow sheds and buildings for housing agricultural plant and machinery).
- 2.4. To the west, south east and south west of the site is extensive 20th century suburban housing. The Woodland Drive Conservation Area is located to the north-east of the site across King George VI Avenue, including Three Cornered Copse.
- 2.5. The site is located within a Groundwater Source Protection Zone, the Built Up Area Boundary (where development of land may be acceptable in principle) and the Hangleton and Knoll Neighbourhood Area. Three Cornered Copse, a Local Wildlife Site (LWS) is to the east and there is another LWS to the north-east, Waterhall golf course. There is also a LWS to the west of the wider THV site.

3. RELEVANT HISTORY

- 3.1. **BH2021/03511** Demolition of existing buildings on site and erection of retail unit (Class E) with associated works including new access, car parking and landscaping. (For information: proposal is for 1895 sqm of gross floorspace, with 1315 retail floor space and 120 space car park). Withdrawn January 2022
- 3.2. **BH2015/04182:** Demolition of existing buildings and erection of 2no three storey blocks (one with basement parking) and 2no part three part four storey blocks containing 69no one, two and three bedroom flats (C3) (including 28no affordable housing units). Provision of 107 parking spaces, (67no at basement level and 40no at surface level) and 132 cycle spaces with associated landscaping and altered site access arrangements. Granted 27 March 2017
- 3.3. **BH2012/03446:** Demolition of existing buildings and construction of 5no two storey detached dwelling houses and a 58 bed space, part two and part three

storey nursing home with associated landscaping and access works and provision of 28 new car parking spaces and 15 cycle spaces. Allowed at Appeal 18 February 2014

- 3.4. **BH2004/01017/FP:** Demolition of existing stables and construction of new building for storage and vehicle garaging. Granted 14 May 2004

Adjacent site at Toads Hole Valley (THV):

- 3.5. **BH2022/02534** Outline application for up to 182 residential dwellings (C3 use) with parking and incidental landscaping (All Matters Reserved). Granted 26/4/23

- 3.6. **BH2022/00203** Outline application for a mixed use development comprising residential dwellings (C3 use); land for a 6-form entry secondary school (F1 use)/community sports facilities (F2 use); office/research/light industry floorspace (E use); neighbourhood centre including retail outlets (E/sui generis uses), a doctors' surgery (E use) and community building (F2 and E use); public open and play space, alterations to the Site of Nature Conservation Interest (SNCI); and associated landscaping. Provision of 3no. vehicular accesses onto King George VI Avenue (unreserved) with associated highway alterations. Granted 6/6/22

Pre-application discussions

- 3.7. **PRE2022/00068** – Pre-application discussions took place in the summer of 2022 with council officers and the local Design Review Panel. In summary, these requested: more information to justify the retail use; that a mixed use of the site to include some residential be explored; a requirement for an enhanced landscape-led scheme; amendments to the design of the building to break down its visual bulk/mass and use of natural materials to help it tie in better with its surroundings; the proposed height of the building was advised to be acceptable; a need to address transport issues including linkages to surrounding areas and compatibility with THV; a need to address sustainability, ecology and on-site BNG; and advice regarding retail impact assessment was given.

Environmental Impact Assessment

- 3.8. An EIA Screening Opinion was issued by the council on 20/1/21 which confirmed that EIA was not required for the development as it did not meet the relevant thresholds.

4. APPLICATION DESCRIPTION

- 4.1. Planning permission is sought for the demolition of existing buildings on site and erection of retail unit (Class E) with associated works including new access, car parking and landscaping.
- 4.2. The proposal is for 1880sqm of gross floorspace (with 1315sqm retail supermarket floorspace) and a 107 space car park including 7 disabled parking spaces, 6 parent and child spaces and 3 motorcycle spaces. Twenty customer and 10 staff bicycle parking spaces are also proposed. Twelve (active) EV chargers are proposed with a further 12 having potential to be converted in the

future (passive spaces). The service yard would be to the north/east of the building.

- 4.3. The existing vehicular access to the site would be reconfigured and upgraded. Associated highway works are proposed including: a 'right-turn' island on King George VI Avenue (KGVl Ave); an island crossing across KGVl Ave; enhanced footpaths/cycleways on eastern side of KGVl Ave; provision of a new cycle/pedestrian link to west of KGVl Ave outside the site (to eventually link in with the main Toads Hole Valley (THV) highway works and crossing at roundabout a later date); downgrading of KGVl Ave from 40mph to 30mph; widening of KGVl Ave to provide 2 clear lanes adjacent to roundabout; surfacing of an existing informal pathway through Three Cornered Copse from KGVl Ave to Dyke Road Avenue; creation of a pedestrian/cycle link in the middle of the site to connect through to the main THV site.
- 4.4. The building would be of a simple contemporary design using a mixture of timber slats and grey metal cladding at upper levels. Full height glazing and brick material is also proposed. A projecting canopy is proposed. Living green roofs are proposed on the main roof and the canopy roof. The building would have only one level but would measure 8.5 metres high at its highest point, reducing to 6 metres at the rear.
- 4.5. Existing trees and vegetation along the site boundaries would be retained. The proposal will involve the loss of 31 category 'C' trees, and includes a landscaping scheme with 54 new trees and new hedgerows and chalk grassland areas.
- 4.6. The proposal includes sustainable measures such as a reduction in carbon emissions (9.1% above the 2021 Building Regulations) partly achieved through good building fabric and low air permeability. Heating and cooling to the retail space will be provided by an Air Source Heat Pump supplemented by a refrigeration heat recovery system. Other energy saving measures include efficient lighting; energy management system with meters fitted throughout building. Materials will be responsibly sourced and meet A or A+ rating.
- 4.7. On-site wildlife habitat mitigation and enhancement is proposed, and all 10% of the required biodiversity net gain is proposed to be provided on-site. Reptiles are proposed to be translocated.

5. REPRESENTATIONS

- 5.1. **Twenty Nine (29)** letters of representation have been received objecting to the proposed development on the following grounds :

Supermarket Need

- Another supermarket not needed, area already well served
- A supermarket use here not identified in City Plan, only ancillary supporting retail uses
- Will adversely affect existing shopping areas, will draw convenience goods shopping out of centres

- More housing is needed instead

Traffic and transport

- Is unsustainable location, will be car-heavy, little walking/cycling
- Traffic congestion, area is gridlocked at rush hour already
- Will cause chaos when is match day Park and Ride on Mill Road
- Poor and difficult walking/cycling access at top of hill, encourages car use
- Is not well served by public transport, needs direct bus route
- Needs traffic lights
- Transport Assessment is flawed, all will visit by car, demand understated and there are other 'peak' queuing times to consider
- Access should be from A27 directly
- Increase in parking demand
- No dedicated staff parking will lead to overspill
- Adverse affect on highway safety, is on a junction and is a dangerous location on a steep, fast and busy hill
- Needs a safe crossing
- Increased noise, pollution and emissions
- Disruption during demolition and construction

Design

- Poor design, is generic box, does not respond to local context, will be an ugly eyesore, too tall
- Adverse impact on South Downs
- Uncharacteristic to have large building and car park on edge rural area, could set precedent
- Overdevelopment
- Adverse effect on conservation area

Ecology and sustainability

- Adverse impact on ecology and protected species
- Will not achieve 10% BNG
- Should not take land at Three Cornered Copse
- Should use a brownfield, not greenfield site
- Increased water run-off
- Is not a sustainable exemplar in this peripheral location, as required by policy

Other

- Amount of jobs claimed is false
- Adverse impact to house building at THV
- Detrimental effect on property value
- Multiple submission of planning applications wearing people down

5.2. **Twenty (22)** letters of representation have been received in support of the proposed development on the following grounds:

Use of site, need for supermarket, jobs

- Excellent use of redundant brownfield site already earmarked for development
- Will complement new neighbourhood at THV who will need somewhere to shop
- Good amenity to have a local supermarket, especially a budget one for lower income residents who need access to cheap good quality food
- Is much needed, Westdene, Withdean, Hove Park, West Blatchington, Hangleton have no (affordable) supermarkets
- Will bring much needed employment (during construction and connected with store) and revenue to the area
- Will provide benefits to wider community
- Better a supermarket than more flats

Design

- Good design, it fits in and is highly suitable for landscape

Transport/Traffic

- Will not create a traffic problem, area is navigable even in rush hour
- Will shift traffic rather than add to it, will prevent additional town centre traffic
- Will reduce traffic as can cycle or walk there, will improve cycle network for locals
- Well located next to road network and public transport

Ecology/sustainability

- Environmentally sensitive design
- Proposals are sympathetic to wildlife

Other

- Will stop monopoly of big supermarkets

6. CONSULTATIONS

Internal:

- 6.1. **Arboriculture Team** No objection subject to condition
The tree protection and proposed landscaping are appropriate and can be conditioned as set out in the application. The level of soft landscaping within the car park has increased which is an improvement.
- 6.2. **Economic Development & Regeneration: Comment**
We would welcome the proposed commercial floorspace of 1880sqm in principle because this is utilising a redundant site for commercial purposes. Up to 50 local jobs will be created. This would generate a good level employment but we would like to see a greater level of employment provision on the site, more in line with OffPAT's employment densities.
- 6.3. **Employment and Skills: Comment**
Based on the information provided in the application, the contribution requested is £17,390 towards the Local Employment Scheme in line with the council's

Technical Guidance for Developer Contributions. In addition, as there will be demolition and construction phases involved in the development, separate Employment and Training strategies will be required in respect of both phases.

- 6.4. **Environmental Health (Air Quality): No objection**
Recommend there are no combustion process on site; boilers, diesel chiller or CHP, with associated flue or chimney emissions to air at this site.
- 6.5. **Environmental Health (Contamination): Comment**
A Desk Study has been submitted which assesses the overall risk to human health from ground gases/vapour to be moderate and suggests the site investigation confirms whether ground gas protection measures are required. An intrusive site investigation is recommended to assess the contamination of soil, gas concentrations, groundwater levels, radon and invasive weeds. The findings of this study are accepted although some clarification regarding the site investigation report and the issue of ground gas is required.
- 6.6. It is recommended that a condition be imposed to secure standard contaminated land measures (omitting the desk study), for site investigation, a method statement for risk/remediation and unforeseen contamination and a verification report. Informatives regarding asbestos and radon should also be included.
- 6.7. **Environmental Health (Noise and nuisance): Approve subject to conditions**
Acoustic Report submitted highlights potential noise from:
- Noise generated from car parking activities
 - Noise from fixed external plant and
 - Noise from deliveries.
- 6.8. The findings indicate that for the three areas assessed, these are unlikely to have an adverse impact on the soundscape and in particular residents. Conditions should be imposed ensure secure measures relating to impact of external plant and deliveries. It is reasonable to expect that staff will take in deliveries and stock the shelves when the store is closed to the public and the building fabric should prevent this becoming an issue.
- 6.9. Conditions are required to control plant noise, general public opening hours, delivery hours and to secure a bespoke delivery management plan.
- 6.10. A construction environmental management plan (CEMP), site waste management plan, odour control equipment and external lighting should also be conditioned.
- 6.11. **Flood Risk Engineer: No objection subject to condition**
The entire site is at very low risk of flooding from all sources, being in National Flood Zone 1, and no recorded flooding incidents have occurred on site. The applicant has submitted calculations demonstrating that the proposed development will not increase, and indeed is likely to reduce flood risk downstream of the site. Therefore, we have no issues concerning flood risk.

- 6.12. The approach to SUDs and drainage is generally acceptable. Further information will be required by condition to secure final details of all components of the drainage systems, in particular the green roof, permeable paving, and soakaways, and to demonstrate anticipated foul water discharge rates and evidence of the availability of sewer capacity.
- 6.13. **Heritage:** No comment.
- 6.14. **Planning Policy: Comment**
Policy DA7 (Toads Hole Valley):
The provision of a supermarket on the Court Farm section of the strategic allocation, is not directly in accordance with the land uses set out in policy DA7, which sets out the requirement for small-scale ancillary retail uses. However, given the relatively modest scale and specific format of the proposed supermarket (compared to that of other multiple convenience retailers), along with the approved application for the majority of the THV site and the floorspace and housing numbers that that part of the site will deliver, it is considered that an exception to the policy can be made in this instance.
- 6.15. The Court Farm site would make up only 2-3% of the total strategic site allocation and is in separate ownership to the rest of the allocation. There is no requirement in the policy text of DA7 for a comprehensive redevelopment of both sites collectively.
- 6.16. In terms of general compliance with the remaining DA7 requirements, the proposed store classified as use class E, would generate a good level of employment on the site, with approximately 50 full and part time jobs created, providing employment for local people.
- Retail Impact:**
- 6.17. The applicant is not required to demonstrate their proposals are needed, but the NPPF suggests an applicant must demonstrate the development cannot be met in sequentially preferable locations, allowing for flexibility. The Retail Impact Assessment submitted in April 2024 provides an up to date assessment since the submission of the original planning application to accord with CPP1 Policy CP4 as the proposal is for a supermarket in an out-of-town location and over 1,000 sqm in size. This assessment is robust, and demonstrates that the proposal is considered not to result in a significant impact to surrounding town centres. It is also agreed that there are no sequentially preferable sites for the supermarket to locate to in the immediate catchment area of the supermarket.
- 6.18. On-site public art will not be required as the minimum threshold in terms of floor area in this area of the city had not been met.
- 6.19. **Public Health: Comment**
More detail is required in terms of access for residents of all age groups, as well as their local approach to food sustainability and healthy food initiatives. The application can be supported in principle subject to evidence of improved bus access for residents of all age groups (including older age groups, people with visual impairments, people with mobility impairments). Seek safe accessible

linkage from the store to bus stops and that bus routes and frequency of buses has been considered to the satisfaction of LHA.

6.20. **Sustainability Officer:** No objection subject to condition

The building will achieve a reduction in carbon emissions of 35.7% improvement on Building Regulations Part L 2013, thus amply meeting policy CP8, DM44 and also new 2021 Building Regulations. It would be 9.1% above the 2021 Regulations and could thus be described as an 'exemplar'. While design is at an early stage, note carbon emissions to be achieved through good building fabric/low air permeability, use of air source heat pumps and refrigeration heat recovery (fed into underfloor heating), efficient lighting, electricity meters. EPC rating of A so would exceed B required by DM44, condition should require exploration of heat networks with THV. BREEAM Pre-Assessment report shows that credits can be targeted to give a 73.02% score with the potential to increase this marginally to 73.8%, meeting the Excellent standard which has a threshold of 70%. Food waste solutions should be considered (charity, anaerobic digester). Incorporation of soft landscaping including trees, plus a green roof welcomed. Positive 30% improvement over baseline standards for water consumption and 30% less water run-off. SUDs should tie in with strategy proposed for the THV development. Sustainable transport links should be improved.

6.21. It is recommended that the following should be secured via condition/s106 to ensure the proposal meets policy requirements and is a sustainable exemplar:

- Development should achieve the BREEAM 'Excellent' score
- Development should achieve an EPC 'A' rating
- Submission of a Climate Change Adaptation Strategy and Design for Disassembly and Adaptation Study
- ASHP and refrigeration heat recovery scheme could be secured
- Water efficiency measures could be secured
- Submission of a Site Waste Management Plan (construction and operational)
- Future proof connection to heat network
- EV chargers
- Enhancement of sustainable transport

6.22. **Sustainable Transport:** Approve subject to conditions and S106

Broadly accept the conclusion of the TA that the impact of the proposal, including on the A27 roundabout and KGV Avenue, is not expected to be severe or unsafe (subject to condition/S106). Proposed highway works are considered acceptable and provide important linkages, including to the wider area.

6.23. New pedestrian/cycle link is proposed at Three Cornered Copse (3CC) to be secured by S106 to respond to DA7 requirement for exemplary transport provision (including direct link to 27 bus stops); and providing an attractive pedestrian route into site and discourage pedestrians from attempting to access KGV Ave from the roundabout at the top of Dyke Road Ave. This is a key highway safety risk.

- 6.24. The LHA originally sought the provision of a signalised crossing at the roundabout, but an objection from National Highways has placed on hold any partial delivery of the proposed major dumbbell roundabout scheme – will not be implemented until the THV roundabout improvement scheme is constructed. As a result of this, pedestrian crossing of KGVI Ave close to the roundabout must be discouraged, and pedestrians should be diverted to the “dormouse crossing”.
- 6.25. The A27 dumbbell roundabout improvement scheme anticipated to be carried out for THV will also mitigate the impacts of the Aldi proposed development, providing a signalised pedestrian crossing at the top of KGVI Ave, and restricting vehicles from turning right on exit of the proposed Aldi store. Southern dumbbell roundabout currently beyond capacity in peak hours – major upgrade agreed through main THV scheme; Aldi scheme will add to need for upgrade so are required to fund in part. The anticipated impact of the development on the junction suggests development trips will account for 1% of the total future impact ‘without THV’ and 1.35% ‘with THV’. A proportionate contribution to the wider scheme cost should be secured by S106 agreement (equates to approx. £30,000).
- 6.26. No parking stress on local residential roads anticipated given provision; layout acceptable. Request Car parking and staff parking management plans to be secured by condition, along with cycle parking.
- 6.27. Existing public transport provision is poor, the 21 bus service currently operates as a half-hourly and evening service, and this is dependent upon short term government funding. Financial contribution via S106 sought to enhance the service, particularly if short term funding withdrawn, and £75,000 per annum (for 2 years) could secure an hourly service throughout the day and evening. . This would support bus mode share for a reasonable length of time and would provide the possibility that the proposed service for the neighbouring Toads Hole Valley application could commence and a continuity of service therefore be provided for Aldi customers and staff. Also upgrade of nearest bus stops is required to promote bus usage (no.21 and no.27).
- 6.28. On an average day, 4 HGV deliveries anticipated to the Aldi store, and one medium sized goods vehicle. Waste collections are anticipated to generate a further 1-2 HGV movements per week. A Delivery Management Plan has been submitted and is acceptable, and can be secured via condition.
- 6.29. A CEMP should be secured for the construction phase. A Travel Plan should be secured to promote use of sustainable modes, and contribution towards the Bike Share scheme.
- 6.30. **Urban Design officer: Comment**
 The proposal has evolved as a result of the pre-application process and input of the Design Review Panel. More information and clear design intent is however needed. Much can be secured via condition. A clear commitment to the protection and enhancement of natural landscape, and inclusive design, is needed. Use of renewable and efficient energy, and sustainable drainage systems should be incorporated. A whole life carbon assessment should be

considered. Opportunities for public art and sensory landscaping, and an outside area for staff to rest, should be taken.

External:

- 6.31. **County Archaeology:** Approval subject to conditions
The proposed development is of archaeological interest due to its scale and location in close proximity to a number of prehistoric and Romano-British sites, including human burial sites. Submitted details confirm site has low to moderate potential to contain evidence for agricultural activity, low potential to contain settlement evidence from these periods, recognised potential for the recovery of residual Mesolithic material. We generally concur with this assessment. The information identifies that there is a risk that archaeological remains will be damaged. Nonetheless it is acceptable that the risk of damage to archaeology is mitigated by the application of planning conditions.
- 6.32. **County Ecology:** Approval subject to conditions
The proposed application can be supported with conditions to secure the agreed mitigation (including landscaping, nest boxes, habitat creation, sensitive lighting etc), compensation and enhancement (including the delivery of a minimum 10% biodiversity net gain (BNG)).
- 6.33. Woodland and scrub along the northern and north western boundaries are to be retained, enhanced and bolstered with new native species planting, the hedgerow along the south western boundary is to be enhanced though the removal of non-native invasive species and new native planting. Species poor grassland is to be replaced with species rich chalk grassland. Newly created, retained and enhanced habitats should be managed to maximise their biodiversity interest. Japanese knotweed will need to be suitably controlled. The proposed badger/hedgehog safeguards are acceptable and should be detailed in a CEMP (ecology).
- 6.34. The recommendation to install log piles in discreet locations in the north west of the site is supported. Site offers low potential for foraging bats, given light spill and noise from roads. Updated surveys confirmed the continued presence of low populations of reptiles on site. As the proposed development will result in the loss of the majority of suitable habitat on site, a robust mitigation strategy is required that will include the identification and securing of an offsite receptor site. Surveys confirmed the presence of breeding dormice on site so licence required. Given the retention and bolstering of boundary habitats, the proposed development is unlikely to lead to fragmentation of the population. The site is likely to support a varied assemblage of common widespread invertebrates. The proposed to provide insect nesting aids on green roofs and suitable trees is supported.
- 6.35. The proposed pathway through Three Cornered Copse follows an existing desire line and provided it does not impact on any existing scrub, trees or woodland, or on any of the planting to be delivered through the THV scheme, the route can be supported. The use of lighting along this route is not supported from an ecological perspective due to potential impact to bats and dormice

unless it can be clearly demonstrated that impacts can be appropriately mitigated against.

- 6.36. It is considered likely that, with careful design, the scheme can deliver the minimum +10% BNG required in habitat and hedgerow units on-site.
- 6.37. **County Landscape Architect:** Approval subject to conditions
The submitted Landscape and Visual Impact Assessment (LVIA) provides an accurate baseline landscape and visual assessment of the site and surrounding area. The site is not considered to be valued landscape in the context of the NPPF. The conclusions of the LVIA are that the proposed development would have overall minor beneficial effect on local landscape character and views. These conclusions are not disputed; however the beneficial effects would only be realised with the implementation of the proposed landscape masterplan. Long-term maintenance should be secured.
- 6.38. **Designing Out Crime Officer (Sussex Police):** No objection
Despite the level of crime and anti-social behaviour in the Brighton & Hove district being above average when compared with the rest of Sussex, I have no concerns with the proposals at the location from a crime prevention perspective, however, additional measures to mitigate against any identified local crime trends and site-specific requirements should always be considered.
- 6.39. **East Sussex Fire & Rescue:** Do not wish to comment, as will be formally consulted at Building Regulation stage.
- 6.40. **Environment Agency:** No response
- 6.41. **National Highways:** Comment:
It is recommended that conditions should be attached to any permission granted.
- 6.42. National Highways previously commented on application ref: BH2021/03511 and recommended that the application not be approved, and that application was subsequently withdrawn on 27 January 2022. The reason for the withdrawal was to allow time for National Highways and BHCC to agree on the modelling and analysis of the Toads Hole Valley Strategic site, located directly adjacent to the application site.
- 6.43. There have been lengthy discussions with the applicant's Transport consultant since the current application was first submitted, which included commentary on 29 Technical Notes and an updated Transport Assessment. Two scenarios have been tested 'with THV' and 'without THV', to test the scenario of Aldi being independently developed of THV if Aldi is to come forward ahead of THV, and to ensure both schemes are compatible for the future.
- 6.44. The submitted information demonstrates that the proposal will not have a significant impact on the Strategic Road Network. In particular, the currently presented results are showing negligible impact on the A27 westbound off-slip as a result of the proposed development. The proposals will need to meet

national guidance and local policies to ensure the development offers a genuine choice of transport and the necessary transition to net zero.

- 6.45. Conditions should be imposed to secure: a Travel Plan, a Construction Environmental Management Plan, a Boundary Treatment Plan, a Drainage Plan, and prevention of relocation of Protective Species onto NH land.
- 6.46. **Scotland Gas Networks: Comment**
In the event that gas pipes are present within the site, there may be restrictions on the work being undertaken to ensure the safety of the site and the protection of the gas pipes.
- 6.47. **South Downs National Park Authority (SDNPA): Comment**
This resubmitted scheme is considered to be an improvement upon that withdrawn application and the SDNPA's main considerations again focus on the impact upon the setting of the National Park, including Dark Night Skies Reserve status.
- 6.48. Condition should be imposed to secure details of proposed green roof, to be planted with a characteristic downland wildflower mix and tree screening to the boundaries facing the National Park, to be retained and supplemented with additional planting. Careful consideration of external lighting is required, especially if elevated on columns, given the National Parks' International Dark Sky Reserve status.
- 6.49. **Southern Water: No objection subject to conditions**
The site is located inside the Source Protection Zone 2 of our Hove public groundwater supply, approximately 1.2km north of our source. The proposed car park drainage strategy is to discharge to ground via permeable block paving which is underlain by a subbase (no oil interceptor or alternative hydrocarbon treatment proposed). The soakaway testing has been completed in the Chalk and Southern Water presume the soakaway discharge will target this geological horizon, and not the Clay-with Flints. Therefore, the soakaway features will bypass the natural Clay-with-Flints "soil" and instead directly discharge into the principal aquifer, compromising the aquifer water quality. Therefore, enhanced mitigations are required to provide adequate treatment.
- 6.50. Formal application for a connection to the public foul sewer to be made by the applicant or developer.
- 6.51. Conditions required regarding: drainage design (to include enhanced groundwater protection), backfilling of monitoring wells, no piling and no borehole soakaways.
- 6.52. **UK Power Networks (Neos Networks): Comment**
Safe dig procedures will be needed in proximity to gas apparatus.

7. MATERIAL CONSIDERATIONS

- 7.1. In accordance with Section 38 (6) of the Planning and Compulsory Purchase Act 2004, this decision has been taken having regard to the policies and proposals in the National Planning Policy Framework, the Development Plan, and all other material planning considerations identified in the "Considerations and Assessment" section of the report.
- 7.2. The development plan is:
- Brighton & Hove City Plan Part One (adopted March 2016)
 - Brighton & Hove City Plan Part Two (adopted October 2022)
 - East Sussex, South Downs and Brighton & Hove Waste and Minerals Plan (adopted February 2013);
 - East Sussex, South Downs and Brighton & Hove Waste and Minerals Sites Plan (adopted February 2017);
 - Shoreham Harbour Joint Area Action Plan (adopted October 2019).

8. **POLICIES**

The National Planning Policy Framework (NPPF)

Brighton & Hove City Plan Part Two

DM11	New Business Floorspace
DM12	Regional, Town, District and Local Shopping Centres
DM18	High quality design and places
DM20	Protection of Amenity
DM22	Landscape Design and Trees
DM23	Shopfronts
DM26	Conservation areas
DM29	Setting of Heritage Assets
DM31	Archaeological Interest
DM33	Safe, Sustainable and Active Travel
DM35	Travel Plans and Transport Assessments
DM36	Parking and Servicing
DM37	Green Infrastructure and Nature Conservation
DM40	Protection of the Environment and Health - Pollution and Nuisance
DM41	Polluted sites, hazardous substances and land stability
DM42	Protecting the Water Environment
DM43	Sustainable Drainage
DM44	Energy Efficiency and Renewables
DM45	Community Energy
DM46	Heating and Cooling Network Infrastructure

Brighton & Hove City Plan Part One

SS1	Presumption in Favour of Sustainable Development
DA7	Toads Hole Valley
SA4	Urban Fringe
SA5	The setting of the South Downs National Park
SA6	Sustainable neighbourhoods
CP2	Sustainable economic development
CP4	Retail provision
CP7	Infrastructure and developer contributions

CP8	Sustainable buildings
CP9	Sustainable transport
CP10	Biodiversity
CP11	Flood risk
CP12	Urban design
CP13	Public streets and spaces
CP15	Heritage
CP18	Healthy city

Supplementary Planning Documents:

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

9. CONSIDERATIONS & ASSESSMENT

- 9.1. The main considerations in the determination of this application relate to: the principle of development, ecological impact; impact on landscape and visual amenity, character and appearance; on transport; on neighbouring amenity; and sustainability considerations.

Principle of development

- 9.2. Policies DA7 (Toads Hole Valley) and CP4 (Retail Provision) are key to consideration of this application.

Policy DA7

- 9.3. Court Farm forms part of the wider area known as Toads Hole Valley, and the overall aim of Policy DA7 is:

“The strategy for the development of Toad’s Hole Valley and Court Farm is to secure a modern, high quality and sustainable mixed use development to help meet the future needs of the city, improve accessibility and provide new community facilities to share with adjacent neighbourhoods.”

- 9.4. Part B of the policy seeks the provision of the following by 2030:
- A minimum of 700 residential units
 - B1 employment space – site area 3.5 – 4.5ha
 - Site reserved for a new secondary school – site area 5ha
 - Public open space with children’s play space and informal sports facilities – 2 ha
 - Provision of ancillary supporting uses – shops and cafes and multi-use community building
 - Food growing space – 0.5 ha
 - Green infrastructure integrated through the site to deliver Biosphere objectives and contribute to Biodiversity Action Plan targets

- 9.5. The principle of developing the site is accepted, as per the DA7 allocation. In terms of appropriate land uses, as can be seen above, Policy DA7 does not seek provision of large-scale retail uses. The proposed supermarket thus does not strictly accord with the strategic policy allocation. However, the extant permission for a mixed-use neighbourhood which meets (and in places exceeds) all of the uses required by DA7 is a material consideration of significant weight (see History section for details). There is no further requirement under DA7 for the application site to deliver specific uses or amounts of development.
- 9.6. Also of consideration is that the proportion of land that the Court Farm represents in the overall strategic allocation of DA7 is about 2-3%. Court Farm is in separate ownership and there is no requirement in DA7 to a comprehensive redevelopment of both sites collectively. It does however remain important that any proposed development still supports and delivers the local priorities and criteria set out in Policy DA7, and is compatible with the outline permission now covering the rest of the allocation.
- 9.7. The proposal would make effective use of a vacant development site and would provide a significant number of jobs (50 FTE), which are both welcomed. The proposal is considered to be compatible with the THV proposals (see also discussions in sections below). Appropriate new pedestrian/cycle linkages through both sites and along their frontages are proposed and the proposal would contribute towards strategic infrastructure. The supermarket would help serve the new THV population and nearby residential neighbourhoods.

Retail Impact

- 9.8. The NPPF at paras 90-95 states that planning applications for retail uses out of town centres should be assessed against the impact of the proposal on:
- the impact of the proposal on existing, committed and planned public and private investment in a centre or centres in the catchment area of the proposal; and
 - the impact of the proposal on town centre vitality and viability, including local consumer choice and trade in the town centre and wider retail catchment (as applicable to the scale and nature of the scheme).
- 9.9. The applicant is not required to demonstrate their proposals are needed, but the NPPF suggests an applicant must demonstrate the development cannot be met in sequentially preferable locations, allowing for flexibility.
- 9.10. Policy CP4 seeks to maintain and enhance the city's defined shopping areas, and applications for all new edge and out of centre retail development (such as this) are required to address the tests set out in national policy and a retail impact assessment at a locally set threshold (or 1,000 sqm (net) floorspace or more).
- 9.11. In line with policy CP4, a Retail Impact Assessment has been undertaken and demonstrates that the proposal would not result in a significant impact to surrounding town centres and that there are no sequentially preferable sites for the supermarket to locate to in the immediate catchment area. The Planning Policy team have duly assessed the report and consider it to be robust.

- 9.12. In view of the above considerations, the council's Policy Team raise no objection to the proposal, and the development is considered acceptable in principle.

Impact on Ecology

- 9.13. The site is sensitive in ecological terms with the wider THV site containing a Local Wildlife Site (LWS) at its western end (former Site of Nature Conservation Importance), and a LWS opposite at Three Cornered Copse. The site itself is currently partly greenfield and as noted in the Ecology Officer response, contains a number of important wildlife habitats, including protected dormice.
- 9.14. An ecological assessment has been submitted, which the County Ecologist confirms is robust. The proposal will impact wildlife habitats but measures to appropriately mitigate the impact are included. Woodland and scrub along the northern and north western boundaries are to be retained, enhanced and bolstered with new native species planting, the hedgerow along the south western boundary is to be enhanced though the removal of non-native invasive species and new native planting. Species poor grassland is to be replaced with species rich chalk grassland. Newly created, retained and enhanced habitats are to be managed to maximise their biodiversity interest.
- 9.15. Reptiles are to be translocated off-site (to nearby golf course(s) or LWS's), secured via S106. The landscape scheme has been designed to offer replacement habitats for dormouse, and to bolster retained habitats to increase their suitability and carrying capacity. Bird nesting boxes will be incorporated. A suitable external lighting strategy taking into account impact to wildlife will be incorporated. All measures can be suitably secured via conditions and S106 agreement. A Biodiversity Method Statement as part of a Construction Environmental Management Plan can be secured, and an overall Ecological Design Strategy.
- 9.16. The proposals, including landscaping, have also been designed to incorporate significant enhancement of wildlife habitats. All of the 10% Biodiversity Net Gain (BNG) is proposed on site, which is welcomed.

Three Cornered Copse

- 9.17. The widening of KGVI Avenue and use of a small part of the edge of Three Cornered Copse Local Wildlife Site (3CC LWS) for strategic transport links (including pathways) has been previously agreed as part of the main THV permission. The County Ecologist does not raise an objection to formalising and upgrading a further existing pathway through the 3CC LWS proposed as part of this Court Farm scheme, however, they have reservations regarding any associated lighting. Inclusion of lighting would make the route safer and more usable in winter months and at night and it would be the main route to the 27 bus stops until the THV transport scheme is implemented (and the most direct route). Therefore, lighting will be pursued as part of the scheme unless demonstrated to have a significantly detrimental impact to wildlife at detailed design stage.
- 9.18. The County Ecologist confirms that the proposals can be supported from an ecological perspective subject to condition/S106, and the proposals are

considered to comply with policies CP10, DM37 and DA7. The proposals are also considered acceptable in terms of landscape and comply with policies SA4, SA5 and DM22 (see also below).

Impact on Landscape, Visual Amenity, Character and Appearance

- 9.19. City Plan polices, including DM18, seek to ensure that development proposals demonstrate a high standard of design and make a positive contribution to a sense of place and the visual quality of the environment. Proposals need to be appropriately designed for their particular context.
- 9.20. The scheme has evolved since pre-application stage and is now considered to be described as 'landscape-led' scheme. A Landscape and Visual Impact Assessment (LVIA) has been submitted to accompany the application. This provides an accurate baseline landscape and visual assessment of the site and surrounding area. The site is not considered to be valued landscape in the context of the NPPF.
- 9.21. The conclusions of the LVIA are that the proposed development would have overall minor beneficial effect on local landscape character and views. These conclusions are not disputed by the County Landscape Architect, however they noted that the beneficial effects would only be realised with the implementation of the proposed landscape masterplan which would be secured by condition. This includes provision of substantial additional landscape buffers and also throughout the site, to soften the visual impact of the scheme. Also the green living roof is a benefit. The scheme only removes low quality (category C) trees (31) and proposes a net increase with 54 new trees plus new hedgerows and grassland. This is welcomed and the council's Arboriculturist raises no objection subject to condition. The South Downs National Park Authority raise no objection to the scheme and the impact on the setting of Park is considered acceptable.
- 9.22. The design and layout of the proposal has evolved since pre-application stage and takes account of advice given by the Design Review Panel and the council's Urban Designer, which is welcomed. The proposals are considered a good quality design. A simple contemporary approach is considered appropriate, and the building makes suitable references to its semi-rural location and incorporates natural materials such as timber screening and a green living roof. A projecting canopy and different elevational treatment are proposed which help break up the mass of the building successfully. The building is set back off the main road frontage and set in landscaped grounds, with planting throughout including in the car park.
- External lighting
- 9.23. Whilst the site is adjacent to main roads and junctions which are already lit by lampposts, details of external lighting associated with the development will still need careful consideration, especially given its sensitive location adjacent to the SDNP. The lighting will need to be designed so as to not adversely the SDNP's Dark Skies Reserve status, and this can be secured via condition. Landscape buffers will also limit the impacts of lighting.

- 9.24. The proposal is considered to comply with policies CP12, CP13, DA7, SA4, SA5, DM18. DM22 and of the City Plan.

Transport

- 9.25. National and local planning policies seek to ensure that development appropriately meets the demand for travel it creates, and they seek to promote the use of sustainable modes of transport.
- 9.26. Policy DA7 in particular seeks a development of exemplary standard in terms of environmental, social and economic sustainability, and requires improvement to sustainable transport links to the area and pedestrian and cycle links to adjacent residential areas, and to the South Downs National Park. Improvements to public transport access and a good quality public realm that encourages healthy lifestyles (walking and cycling) are expected. DA7 also expects development proposals to address the issues of highway safety on King George VI Avenue, noise and other traffic impacts from the A27. SPD15 gives further guidance in this regard.
- 9.27. Given the extant permission for the main Toads Hole Valley site, it is important to assess the cumulative transport impact and also ensure that both schemes are compatible, and that together they will meet the requirements of Policy DA7. Also, as THV infrastructure and highway works are not likely to be in place by the time of Aldi opening, the current proposal needs to be acceptable as a 'stand-alone' scheme.
- 9.28. The impacts of the proposal and the above scenarios have been robustly tested as part of the submitted Transport Assessment (TA). The methodology for the TA has been agreed with the applicant in conjunction with National Highways and the council as Local Highway Authority, including trip generation and distribution, growth scenarios, junction analysis and road safety. The conclusion of the TA is accepted, namely that the impact of the proposal, including on the A27 roundabout and KGVI Avenue, is not expected to be severe or unsafe (subject to condition/S106). This is the case for the 'with' or 'without THV' scenario. The proposed highway work designs would be compatible with, and connect to, the works proposed for the THV scheme.
- 9.29. It is recognised that the location of the site is challenging, being at the top of a hill, next to a junction and with poor pedestrian/cycling linkages and limited bus provision at present. A comprehensive set of highway works and measures for vehicle users, pedestrians, cyclists and bus users are therefore included.
- 9.30. The proposal includes provision of new pedestrian/cycle links and crossings and downgrading of KGVI Ave to 30mph from 40mph. KGVI Ave would be widened to create 2 clear lanes and a new right turn 'ghost lane' to the site, to aid overall road capacity. All of the proposed works have been proven to be safe in principle via a Stage 1 Road Safety Audit. The A27 dumbbell roundabouts are currently operating at capacity and this junction has been identified in the council's Infrastructure Delivery Plan as in need of upgrade to meet the demands of future development within the city. The THV scheme would contribute towards future enhancement of the roundabouts (if developed), and correspondingly a

contribution is sought from the Aldi scheme on the basis of the impact it would have (equivalent to 1.35% of cost of the works).

- 9.31. The proposal would provide the 'missing' strategic pedestrian/cycle link in front of the site between the THV scheme and the roundabout (and future crossing as part of the THV scheme), which is a welcome benefit. It would also formalise and surface an existing cycle/footway through Three Cornered Copse to aid access towards Westdene and the no.27 bus stops. It would provide an island crossing over KGVI Avenue and enhanced linkages to it. As a key issue for any comprehensive redevelopment of THV is to ensure there are improved sustainable transport links to the area, a financial contribution towards enhancement of the nearest bus route (21) is to be secured via S106, and also upgrades to the nearest no.21 and no.27 bus stops. Once THV is developed this will also contribute towards bus service enhancements.
- 9.32. The proposal meets parking standards in SPD14 and is not considered to result in undue overspill in the area. A staff parking plan secured by condition can help mitigate any residual impact. The car park makes appropriate provision in principle for disabled users, parent/child spaces, and bicycle parking can be secured via condition. Provision of additional EV charging spaces are proposed, to ensure the proposal is an exemplar.
- 9.33. A construction environmental management plan (CEMP) would ensure the site and adjacent highways are safe at construction stage. The council will ensure that any THV works are suitably coordinated when they are developed in due course.
- 9.34. On the basis of the above, the proposal would comply with policies DA7, CP9, DM33, DM35 and DM36.

Neighbouring Amenity

- 9.35. Policies DM20 and DM40 seek to ensure that developments do not cause unacceptable loss of amenity (including via noise pollution) to the proposed, existing, adjacent or nearby users, residents, occupiers or be detrimental to human health.
- 9.36. Given the site's location on the edge of the city, adjacent to major roads and some distance from the nearest residential properties, it is considered that the impact of the proposal in terms of neighbouring amenity will be limited. In addition, a substantial landscaped buffer will be provided between the site and the new THV neighbourhood to the south-west.
- 9.37. The main sources of potential noise generation would be from car parking activities, fixed external plant and from deliveries. The application has been accompanied by an acoustic report to assess these aspects, and satisfactorily demonstrates that these are unlikely to have an adverse impact on the soundscape and in particular residents, subject to mitigation measures. This is confirmed by the Environmental Health officer who has assessed the report and raises no objection, subject to imposition of conditions to secure a bespoke Delivery Management Plan, restricted opening hours and measures to control

plant noise. Conditions to secure a site waste management plan, odour control equipment and external lighting are also recommended. The Environmental Health team raise no objection on air quality grounds, subject to condition.

9.38. Potential noise and disruption during the construction stage can be appropriately controlled via a Construction Environmental Management Plan condition.

9.39. On this basis the proposal would not adversely affect amenity, and is acceptable.

Sustainability

9.40. Policy DA7 seeks that development in this location should be of an exemplary standard in terms of environmental, social and economic sustainability, achieving a One Planet approach and promoting the city's UNESCO Biosphere objectives. Environmental sustainability should be central to the design and layout of development, and it will be expected to meet the requirements of policy CP8. DA7 seeks that development within this area will aim to incorporate infrastructure to support low and zero carbon decentralised energy and in particular heat networks subject to viability and deliverability.

9.41. It is considered that the proposal meets the requirements of policies CP8, DA7 and other relevant City Plan policies and, subject to condition, would be considered an exemplar of sustainability. This is confirmed by the council's Sustainability officer, and is welcomed.

Sustainable measures

9.42. The proposal will make effective and efficient use of a vacant development site. The building will achieve a significant reduction in carbon emissions (9.1% above current Building Regulations), which is a significant benefit.

9.43. A suite of sustainable measures are proposed including: a fabric first approach; use of Air Source Heat Pumps for heating and cooling supplemented by a refrigeration heat recovery system; use of efficient lighting; use of an metered energy management system throughout; use of responsibly sourced A or A+ rated materials; an Energy Performance Certificate (EPC) rating of 'A'; future-proofed plant space for integrated heat networks and/or communal heating systems; a BREEAM standard of 'Excellent'; use of significant soft landscaping and a green living roof, incorporation of water efficiency measures which achieve at least a 30% improvement over baseline standards for water consumption and 30% less water run-off; use of sustainable drainage systems; site waste management; and inclusion of EV chargers (above SPD14 standards).

9.44. Conditions can secure such measures and ensure standards that go beyond CP8 requirements are achieved where appropriate, to ensure the proposal is an exemplar, as sought by Policy DA7.

Other

Flood Risk

9.45. The site is at very low risk of flooding. The proposed use of sustainable drainage systems is welcomed, including a green roof, permeable paving and natural soakaways. It will however be important that appropriate protection of

groundwater can be achieved, given the site is located within a Protection Zone. Southern Water and the council's Flood Risk engineer raise no objection subject to conditions to secure further detail regarding this. Appropriate water and sewage connections are able to be provided, and can also be conditioned.

Land contamination

- 9.46. Given the former use of the site as a farm there is potential for land contamination and use of asbestos. A Desk Study risk assessment has been submitted and the Environmental Health team raise no objection on this basis appropriate remediation is secured via condition. The proposal is considered to comply with policy DM41.

Heritage

- 9.47. Given the location of the site across King George VI Avenue and its distinct separation from the Woodland Drive Conservation Area opposite (which includes Three Cornered Copse), it is considered that the proposal would not unduly impact upon its heritage setting. The Heritage Team raise no objection to the proposal. The proposal would comply with policies CP15, DM26 and DM29.

Archaeology

- 9.48. The County Archaeologist considers the proposal could impact archaeological interest, however, raises no objection subject to condition to secure a programme of archaeological works. The proposal would comply with Policy DM31.

Conclusion

- 9.49. The principle of development of the site is acceptable as it forms a strategic allocation in City Plan Part One, as set out in Policy DA7: Toad's Hole Valley (THV). Whilst a supermarket use does not strictly meet the policy requirements of DA7, which envisages only small-scale retail uses, it would not prejudice delivery of all of the requirements of DA7 as secured via recent permission on the main THV site.
- 9.50. A Retail Impact Assessment demonstrates there would be no adverse impact to existing shopping areas. The *need* for the development is not a planning consideration. The proposal will make effective use of a vacant development site and will create employment. The proposal would help achieve key aims of Policy DA7 and would be compatible with the extant permission on the rest of the site. The Planning Policy Team raise no objection to the proposal. Development is therefore welcomed in principle.
- 9.51. The proposals will impact ecological habitats as currently the site is partly a green field, however the impact can be appropriately mitigated and it will deliver benefits including significant ecological enhancement and creation of new habitats, and can achieve the required biodiversity net gain on-site. The County Ecologist is supportive of the scheme in principle.
- 9.52. Sustainability is embedded within the designs and proposals, and the proposals will be future-proofed and conditions will ensure the scheme goes beyond

current environmental standards. The scheme can be described as a sustainable exemplar, which is a benefit and accords with Policy DA7. The council's Sustainability officer is supportive of the scheme.

- 9.53. The proposals can satisfactorily protect sensitive groundwater, deal with surface runoff/flood risk, and would incorporate sustainable drainage systems. The council's Flood Risk officer and Southern Water do not raise any objections, subject to appropriate conditions being imposed.
- 9.54. The proposed design, layout and landscaping is considered appropriate in terms of impact to the character and appearance of the surrounding area, including the setting of the South Downs National Park. The proposals make effective and efficient use of the site whilst being 'landscape-led', and the proposed building height and use of some natural materials is appropriate. The County Landscape Architect and the South Downs National Park Authority raise no objection.
- 9.55. The proposed highway impacts are considered acceptable, subject to appropriate conditions and S106 obligations to secure sustainable transport enhancement, highway works and other mitigation/enhancement. This includes enhanced pedestrian/cycle connectivity within the wider area and an enhanced bus service. The severance caused by KGVI Avenue is addressed by highway works including a crossing and it will be 'downgraded' and made safe, as required by DA7 and SPD15. The proposed level and type of parking on site is acceptable. The Local Highway Authority and National Highways raise no objection.
- 9.56. The amended and enhanced proposal is considered to have satisfactorily overcome the issues raised by the previous 2021 proposal which was withdrawn (see History section).
- 9.57. The proposal is considered to deliver a benefit to the city, and does not compromise policy DA7 objectives and helps achieve its strategic aims. Approval is therefore recommended.

10. EQUALITIES

- 10.1. Section 149(1) of the Equality Act 2010 provides:
- 1) A public authority must, in the exercise of its functions, have due regard to the need to—
 - (a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;
 - (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
 - (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.
- 10.2. Officers have considered the information provided by the applicant, together with the responses from consultees in addition to the representations made by third parties. Conditions can ensure that the development is accessible.

11. COMMUNITY INFRASTRUCTURE LEVY

- 11.1. The amount of CIL liability for the type and scale of development proposed is approximately £199,825.20. This is an estimate and the actual figure secured would be confirmed by CIL liability notice at the appropriate time, should this application be approved.

12. S106 AGREEMENT (reasons for refusal if not signed)

- 12.1. In the event that the draft S106 Agreement has not been signed by all parties by the date set out section 1 above, the application shall be refused for the following reasons:
1. The proposed development fails provide a financial contribution towards the City Council's Local Employment Scheme to support local people to employment within the construction industry contrary to policy DA7 and CP7 of the Brighton & Hove City Plan Part One and the City Council's Developer Contributions Technical Guidance.
 2. The proposed development fails to provide an Employment and Training Strategy specifying how the developer or their main contractors will provide opportunities for local people to gain employment or training on the construction phase of the proposed development contrary to policy DA7 and CP7 of the Brighton & Hove City Plan Part One and the City Council's Developer Contributions Technical Guidance.
 3. The proposed development fails to provide a mechanism (via S106 legal agreement) to secure a financial contribution for management and monitoring of the S106, this would include the necessary contribution to provide on-going assessment and monitoring of the Biodiversity Net Gain measures and the contribution to provide on-going assessment and monitoring of secured Travel Plan to promote sustainable modes of transport. The proposal therefore fails to address the requirements of Policies DA7, CP7, CP9 and CP10 of the Brighton and Hove City Plan Part One or DM33 and DM37 of City Plan Part Two and the council's Developer Contributions Technical Guidance.
 4. The proposed development fails to provide a mechanism (via S106 legal agreement) to secure a Travel Plan to promote sustainable modes of transport. The proposal therefore fails to address the requirements of Policies DA7, CP7 and CP9 of the Brighton and Hove City Plan Part One or DM33 of City Plan Part Two and the council's Developer Contributions Technical Guidance.
 5. The proposed development fails to provide a mechanism (via S106 legal agreement) to secure a financial contribution towards an enhanced bus service, and would not provide upgrades to bus stops or bus information, and therefore would not adequately promote use of sustainable transport to the site. The proposal would thus fail to address the requirements of Policies DA7, CP7 and CP9 of the Brighton and Hove City Plan Part One or DM33 of City Plan Part Two and the council's Developer Contributions Technical Guidance.

6. The proposed development fails to provide a mechanism (via S106 legal agreement) to secure a financial contribution for the required future upgrade of the A27/Devils Dyke interchange roundabouts. The proposal therefore fails to address the requirements of Policies DA7, CP7 and CP9 of the Brighton and Hove City Plan Part One or DM33 of City Plan Part Two and the council's Developer Contributions Technical Guidance.
7. The proposed development fails to provide a mechanism (via S106 legal agreement) to secure required highway works including to the main site access, crossing and works to King George VI Avenue and downgrading of speed limit, and required provision of enhanced pedestrian and cycling linkages, and therefore would not adequately meet the travel demands of the development, would not promote use of sustainable transport to the site and would compromise highway safety. The proposal would thus fail to address the requirements of Policies DA7, CP7 and CP9 of the Brighton and Hove City Plan Part One or DM33 of City Plan Part Two and the council's Developer Contributions Technical Guidance.
8. The proposed development fails to provide a mechanism (via S106 legal agreement) to secure appropriate ecological mitigation including the translocation of reptiles off-site and maintenance of their habitat. The proposal would be contrary to Policies DA7, CP10 and DM37 and the council's Developer Contributions Technical Guidance.

