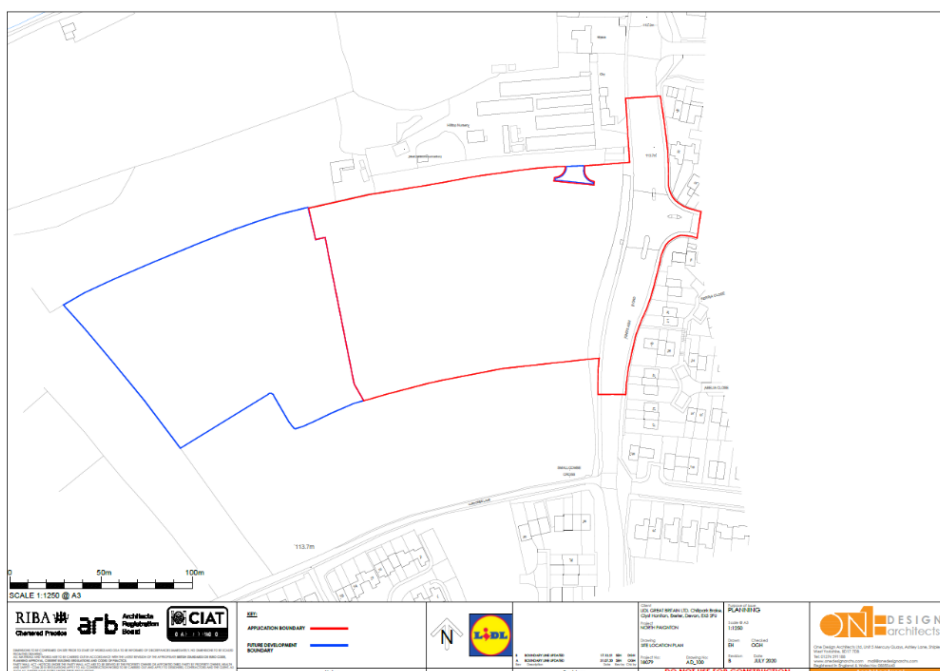


TORBAY COUNCIL

Application Site Address	Land West Of Kings Ash Road Paignton TQ3 3XF
Proposal	Formation of Lidl Supermarket (Class E(a)) and two ancillary Class E (a)(b)(c) units with associated parking, landscaping & access works including new junction on A380 Kings Ash Road.
Application Number	P/2020/0921
Applicant	Ms Victoria George-Taylor - Lidl Great Britain Ltd
Agent	Mr Chris Tookey - RPS Planning & Development
Date Application Valid	19.10.2020
Decision Due Date	18.01.2021
Extension of Time Date	18.02.2022
Recommendation	Approval, subject to: <ul style="list-style-type: none"> The resolution of any new material considerations that may come to light following Planning Committee to be delegated to the Divisional Director of Planning, Housing and Climate Emergency, including the addition of any necessary further planning conditions or obligations. The completion of a S.106 agreement as per the Heads of Term as contained within the committee report; The conditions in the committee report with the final drafting of conditions delegated to the Divisional Director of Planning, Housing and Climate Emergency; Final consultation response from the Natural England confirming agreement to the Habitats Regulations Assessment.
Reason for Referral to Planning Committee	Major Development
Planning Case Officer	Emily Elliott



Site Details

The site is located on the outskirts of Paignton on the western side of Kings Ash Road and to the north of Luscombe Lane. The site is centred on National Grid Reference SX 87077 61687, approximately 2.00 km to the north-west of Paignton Town Centre and immediately south of Hilltop Nurseries.

In terms of scale and context, the site covers an area of approximately 2.025 hectares. The site is roughly 106m wide (N-S) by 150m deep (W-E). At present, the site is vacant and partially vegetated, last year the site was cleared of vegetation.

Regarding land levels, the site is elevated from Kings Ash Road. The north-western corner of the site is the highest point at approximately 120.87AOD and falls away to the south-western corner (116.57AOD) and south-eastern edge (107.26AOD). The north-eastern corner is 115.16AOD. There is also a banked area to the eastern border with Kings Ash Road.

In terms of the borders, the site is surrounded on its northern, southern and western sides by varying vegetation. To the north of the site is low density commercial and residential uses; to the east is Kings Ash Road and beyond is dense residential use; to the south is vacant vegetated land and beyond Great Parks Phase 1 residential development; and to the west is vacant vegetated land and low-density residential uses. The site has tree belts to both the northern and southern boundaries.

Regarding policy context the site forms part of the Great Parks Phase 2 Committed and Other Deliverable Development Sites as defined by Policy H1(.11) of the Torbay Local Plan and is also designated as the Great Parks Proposed Local or Neighbourhood Shopping Centre, as defined by Policy TC2(.4) of the Torbay Local Plan. The site forms part of Great Parks Phase 2 which comprises of approximately 11 hectares of undeveloped land on higher ground on the western edge of Paignton. Great Parks Phase 2 adjoins Great Parks Phase 1 which Phase 1 contains approximately 450 dwellings. Phase 2 is expected to deliver in the region of 265 new homes as well as delivering a new local centre.

Great Parks Phase 2 requires a new access from Kings Ash Road as the existing access to Great Parks Phase 1 at Cotehele Drive does not have enough capacity. The Masterplan envisages a new access for Phase 2 that will serve further new homes, a local centre, and facilitates improved pedestrian and cycle connections. Given the Local Highway Authority's works to Kings Ash Road the access into Great Parks Phase 2 must be via the application site

The site is located within the Ramshill (Westerland Way) Local Nature Reserve and is located within the Westerland Valley to Ocombe and Preston Countryside Area as defined by Policy C1 of the Torbay Local Plan. The site is located within the South

Hams Special Area of Conservation Greater Horseshoe Bat (GHS) Sustainance Zone and Landscape Connectivity Zone, which is the area surrounding the Designated Roost that includes critical Foraging Habitat and Commuting Roosts.

Description of Development

The application seeks planning permission for the Formation of a Lidl Supermarket (Class E(a)) and two ancillary Class E (a)(b)(c) units with associated parking, landscaping and access works including new junction on A380 Kings Ash Road.

The proposed supermarket would be sited in the south-western corner of the site. The supermarket covers a rectangular footprint of around 70m by 33m. It is proposed to a commercial single-storey scale under a gently sloping mono-pitched roof. The elevations are finished in red brick panels with blue/grey brick piers and plinth. The supermarket will have 4 metre high glazing along the eastern elevation to provide natural light and modernise the visual appearance of the store, it will also wrap around a small portion of the northern elevation to provide a customer entrance lobby. The two smaller retail units (each 87 square metres internal footprint) are located in the north-eastern corner of the site and will be a single-storey building. The elevations are finished in red brick panels with blue/grey brick to plinth and piers. The smaller units will be finished in cladded panels close to the roof and including the roof. The glazing is floor to ceiling on the southern, eastern and western elevations.

Car parking is set to the north and east of the food store building. The car park would provide 137 spaces, including 2 electric vehicle charging spaces, 9 parent and child spaces and 6 disabled spaces. The proposal includes stepped pedestrian accesses in the north-eastern corner and on the western boundary, as well as a ramped DDA compliant access in the north-eastern corner.

In terms of levels the proposed ground level is cut and filled to provide a relatively level area of land. The level change is managed via retaining walls and a graded and landscaped bank.

In terms of the proposed access into the site this will be created off the western edge of Kings Ash Road. A new fourth arm will be introduced to the Kings Ash Road / Spruce Way signalised junction which will provide a new estate road for a wider development area. This fourth arm forms a spine road for the wider estate of the Great Parks Phase 2 and the site itself is accessed via the priority junction onto this spine road.

The proposal also includes other highway improvements such as an upgrade to the pedestrian crossing at Spruce Way, and a tactile crossing for the proposed spine road.

The proposed spine road would result in approximately 145 metres of tree belt lost from the northern boundary, however all other boundary vegetation will be retained.

Since submission the application has been amended, the key changes are as follows:

- The red line boundary has been extended to incorporate an extension of the access road, which will now be constructed to the western extent of the Lidl site, and to provide space for additional planting along the western boundary.
- A stepped pedestrian access has been incorporated on the western boundary into the site. This will be constructed as part of the development of the store and car park, but will be kept closed off until the adjoining land has been developed in order to prevent any trespass on to the site.
- Additional tree planting has been incorporated along the western boundary; the north boundary of the store site and along the northern edge of the access road.
- The two small retail units will now be built out alongside the store - Lidl are happy to accept a condition/S106 requiring those to be completed to a shell specification prior to the store opening.
- An acoustic fence is now incorporated on top of the retaining wall running alongside the delivery bay and around the plant area, to minimise the noise impact on any future housing on the neighbouring land. The new tree planting now proposed alongside the plant area will further assist in ameliorating noise, and Lidl are also willing to accept a condition on the planning permission to restrict the delivery hours.

Pre-Application Enquiry

DE/2020/0023: Construction of foodstore with associated parking and access: As a summary position the key issue is whether the scale of the proposal is appropriate to the nature and size of the centre and will complement its role and character, as set out in Policy TC3(B) of the Local Plan. In assessing this, the retail impact upon centres will then be key. Upon receipt of the Retail Impact Assessment: The visual impact and layout of the proposed development and its provision as a well-designed local centre that has considered the importance of public realm and provides a sense of place as set out in the SPG and Paignton Neighbourhood Plan is also critical. It should be noted that given the current climate, in particular with the future of high streets and town centres being uncertain, the Local Planning Authority will be assessing out-of-town proposals with particular scrutiny and how the proposal would enable residential development to be delivered.

Relevant Planning Policy Context

Section 38(6) of the Planning and Compulsory Purchase Act 2004 places a duty on local planning authorities to determine proposals in accordance with the development plan unless material considerations indicate otherwise. The following development plan policies and material considerations are relevant to this application:

Development Plans

- The Adopted Torbay Local Plan 2012-2030 ("The Local Plan")
- The Adopted Paignton Neighbourhood Plan 2012-2030 ("The Neighbourhood Plan")

Material Considerations

- National Planning Policy Framework (NPPF) - 26th July 2021
- Planning Practice Guidance (PPG)
- Published Standing Advice
- Adopted Great Parks Masterplan (SPD) – November 2013
- Planning matters relevant to the case under consideration, including the following advice and representations, planning history, and other matters referred to in this report:

Relevant Planning History

P/2013/0136: Alterations to Kings Ash Road/Spruce Way to provide a new link road to the West to allow access to proposed new housing development with access to Hilltop Nursery and associated widening to Kings Ash Road to provide new vehicle lanes shared footpath/cycle way and landscape verge. Approved 01/04/2014.

P/2012/0388: Alterations to Kings Ash Road/Spruce Way to provide a new link road to the West to allow access to proposed new housing development with access to Hilltop Nursery and associated widening to Kings Ash Road to provide new vehicle lanes shared footpath/cycle way and landscape verge. Withdrawn 18/02/2013.

Summary of Representations

Approximately 218 representations by approximately 185 individuals: 148 in support and 63 in objection, with 7 neutral.

Key issues of concern:

- Traffic and congestion
- Overdevelopment
- Not in keeping with the local area
- Impact on the local area
- Conflict with the Paignton Neighbourhood Plan
- Trees and wildlife
- Impact on Paignton Town Centre
- Noise
- Pollution
- Sets precedent

- Poor location out of town
- Impact on local businesses
- Littering
- Anti-social behaviour
- Access to natural light
- The masterplan does not envisage a food store in this location or of this scale

Key reasons for support:

- It provides facilities
- Accessibility for low income individuals
- It makes highway matters better
- Impact on local area
- Good location for use by local residents
- Create jobs
- It's shown in the Local Plan
- Residential amenity
- Will take pressure off The Willows/Tweenaway supermarkets
- Good location for sustainable travel for nearby residential development
- Improve the look / character of the area
- Will improve choice and reduce travel

Summary of Consultation Responses

Paignton Neighbourhood Forum: *(PNP response to scheme as originally submitted. PNP have been consulted on but have not commented on the scheme as amended).*

We strongly object. This proposal is a (very) typical out-of-town supermarket. It is oversized and out-of-character. The site is 4.3 times larger than envisaged by the consulted Great Parks Masterplan.

By Lidl's own data, the store will take revenue from other stores (including smaller local stores), and, crucially, from the town centre. The use of the term "no significant impact" will not go down well with the local business owners affected.

This application typifies a lip-service approach to the legal requirements of biodiversity and ecology, at the expense of the local residents of our (potentially) beautiful town of Paignton. Even the 'consultation' with the community will take place *after* the planning application process has taken place. We also note that the site was cleared prior to environmental assessments, archaeological assessments, or planning approval.

This application is NOT COMPLIANT with a number of very important Paignton Neighbourhood Plan policies.

In addition, discussion and feedback from Forum members, either directly or through our new Engagement Portal (at <https://portal.paigntonneighbourhoodforum.org.uk/application/2>), has shown the significant strength of negative feeling relating to this proposal.

We view this application as a test of the commitment of Torbay Council's Planning Committee to the residents of Paignton as expressed through the Paignton Neighbourhood Plan and the Paignton Neighbourhood Forum.

Given that EIGHT policies (PNP1, PNP1(a), PNP1(c), PNP1(g), PNP1(h), PNP2, PNP20, PNP22) are not compliant, we strongly object.

The full consultation response can be found on the Council's website.

WSP on behalf of the Local Highway Authority:

The Highway Authority offers no objection to the proposed development, subject to the following conditions:

- A Section 106 agreement will be required to include a new pedestrian access into the western bound of the site to enable connection to the wider future development area. This should include a zebra crossing marked close to the entrance of the HGV delivery bay.
- Prior to the occupation of the development, a Travel Plan is required to be submitted to and approved by the Local Planning Authority detailing measures to achieve a 30% reduction for trips related to all potential users of the site (as per Policy TA2 of the Torbay Local Plan (2012 – 2030)). For the avoidance of doubt such measures are required to include a financial incentive to travel by a sustainable mode.
- Prior to the commencement of the development, a Construction Traffic Management Plan is required to be submitted to and approved by the Local Planning Authority.
- Prior to the occupation of the development, a Car Park Management Plan is required to be submitted to and approved by the Local Planning Authority which will include details of how and when HGVs will access the site to undertake deliveries.
- A Section 38 Agreement will be required for the Local Highway Authority, secured via a condition, to adopt the proposed spine road that forms part of this application and this should be secured within a Section 106 Agreement. As part of this condition, the applicant will be required to submit a Section 38 layout plan. This is due to the site being part of a wider residential 'allocation' (commitment) and a ransom strip would have the potential to obstruct delivery of the Phase 2 Great Parks residential development. It is also important to ensure connectivity and safe and suitable access for the wider development in the future.

- The spine road shall be built to an adoptable standard in accordance with the Torbay Highways Design Guide. The Local Highway Authority seeks to ensure that the proposed spine road would not restrict access to the highway for any third parties (thereby creating a “ransom strip”) through the Section 38 Agreement process.
- The site shall not be occupied until all estate roads required for access to the site have been constructed to adoptable standards in accordance with the Torbay Highway.

Design Guide for New Developments in force at the time of commencement of the development and an agreement has been entered into between the developer and the Council as Highway Authority under Section 38 of the Highways Act 1980 for the adoption of all of the estate roads, including the central spine road up to the edge of the site boundary.

Reason: To ensure that the estate roads serving the development are completed to an acceptable standard and are available for use by the occupants and other users of the development in accordance with Policies DE1, DE3 and TA2 of the Torbay Local Plan 2012-2030

- The Local Highway Authority will seek the necessary S278 works or S106 planning contributions that are essential to make the scheme acceptable in planning terms. Such as the existing pedestrian crossing on the Spruce Way approach to the Kings Ash Road / Spruce Way signalised junction is to be formalised with the introduction of push buttons and pedestrian signals.

Natural England:

No objections subject to a Section 106 agreement to secure the off-site mitigation, planning conditions and revision of the Appropriate Assessment.

The full consultation response can be found on the Council’s website.

An update shall be given to Members at Planning Committee.

Devon County Council’s Ecologist:

No objection subject to planning conditions and a S.106 agreement to be set up between the applicant and Groundwork via Torbay Council. This agreement will be for the delivery of offsite habitat creation and management.

The full consultation response can be found on the Council’s website.

Devon County Council’s Archaeologist:

No objection subject to a planning condition securing the Written Scheme of Investigation.

Torbay Council Senior Planner, Strategy and Project Management Officer:

The proposal is somewhat different from the indicative design shown in the masterplan SPG. Although the masterplan is not a statutory document, it is given weight by its endorsement by Policy PNP20 of the Paignton Neighbourhood Plan. The main policy concern I have identified relates to the loss of housing land resulting from a larger retail area, rather than the scale of the retail proposal per se.

We have not finally resolved the numbers of dwellings that would not be achievable. My email of 11 February suggests that this could be up to 70 dwellings, although this is a worst-case scenario and a significant number of the unachievable dwellings would be apartments over the local centre stores, rather than family houses. The actual number is likely to be considerably less. We have to balance this against the length of time that the Great Parks Phase 2 area has remained undeveloped. The site has been proposed for development since at least the early 1990s, and should according to the original phasing have been built out in the early 2000s, following the completion of Great Parks Phase 1. On this basis, access and other highways works that Lidl are able to do to expedite the outstanding areas of housing would make up for the loss of numbers. I note that the proposal has been further revised to increase the amount of access road provided by Lidl, and creation of a stepped pedestrian access to the west. The revisions also includes an acoustic fence and additional planting to reduce the impact on the amenity of future housing.

I would prefer it Lidl could be persuaded to enter into a s106 agreement to use their best endeavours to dispose of the remainder of the site for housing speedily. In any event, the opening up of the site for development should aid implementation of the residential element of the site.

In relation to the requirement for car club parking in PNP22 and PNP1(h). I don't think it would do any harm to ask Lidl if they would be willing to identify a parking space prioritised for car club use (possibly alongside the families with children prioritised parking). However, I don't know whether a car club exists in the area, which would make it unreasonable to require a space to be reserved just for that use. Provision of cycling spaces, EV charging points and walking links would in my view be more central to securing compliance with the PNP policies (as well as TA1-3 of the Local Plan). In reaching a view about the proposal, the LPA has to take a view about whether the proposal is in accordance with the development plan taken as a whole. Development plans frequently pull in different directions or have requirements that cannot be met in their entirety. I cannot see that dedicated car club transport places would be pivotal either way to the determination of the application.

The proposal appears to in accordance with the retail policies in the Local Plan, despite some tension with the PNP and the masterplan. However, the loss of housing appears to have been satisfactorily mitigated; and the proposal provides employment and social benefits. Achieving development of the site is a further consideration in favour of the proposal. On this basis, I do not wish to raise a policy objection.

Retail Advisor to the Council (Avison Young):

This advice report has considered two particular issues associated with retail / main town centre planning policies in relation to an application for three retail units (and associated development) on land adjacent to Kings Ash Road in Paignton:

- the relationship of the proposed development with the retail/main town centre land use elements of the development plan allocation for a new 'centre' in the Great Parks area of north-west Paignton; and
- the forecast likely impact of the proposed retail floorspace on the health of, and investment within, nearby defined 'town centres'.

Whilst there can be no doubt that the development plan for the local area allocates the application site for a new 'centre', the Local Plan and the Neighbourhood Plan use different terminology for the new 'centre' and the Local Plan provides a level of floorspace for the new 'centre' which is different to the scale in this planning application.

Therefore, whilst the application proposal is providing retail and main town centre land use floorspace to meet, in general terms, the development plan requirement for the provision of such uses in a new 'centre' in this part of north-western Paignton, we do not consider that there is complete compliance with the development plan insofar as retail/main town centre land use policy issues are concerned. As a consequence, we consider it prudent for the Council to consider the sequential and impact policy tests, although this should be undertaken in a proportionate way given the particular policy circumstances of this application proposal. Consideration should also be given to the relationship of the proposal with Part (b) of Policy TC3 of the adopted Local Plan.

With regards to impact issues, we have examined the assessment provided by the applicant and also incorporated additional data which has been submitted in support of an application for a new foodstore at Kerswell Gardens in Torquay. This assessment has been undertaken in a proportionate way, bearing in mind the location/allocation of the application site and has found that there is unlikely to be significant adverse impact upon the health of nearby 'town centres'.

In light of the foregoing analysis, it is our view that whilst the content of the current planning application at Kings Ash Road does not offer complete compliance with retail/main town centre land use policy elements of development plan policy, it is nevertheless still helping to deliver the general aims of policy and our assessment of the likely impact of the proposal suggests that it is unlikely to have a significant adverse impact. This conclusion will also assist the Council in assessing the application against Policy TC3(B) of the adopted Local Plan and it is our advice that whilst the scale of the proposed floorspace is greater than what may have originally been intended, it is not so great (subject to appropriate controls) as to cause any significant conflict with the role and function of the neighbourhood centre. In any event, the content of the

current application will also help support the second part of TC3(B) and provide facilities which contribute to the long-term vitality and viability of the new centre and the provide the ability for the local population to meet their needs locally.

Landscape Advisor to the Council (Jacobs):

LVIA - Summary

We consider the proposed vegetation removal would create a substantial gap in the north eastern area of the site visually exposing large portions of the proposed development in close range views from the north and east/ south east. The proposed mitigation tree planting lies adjacent to an area of retained boundary vegetation and is dotted within the car park and along the eastern edge and not opposite those planned for removal and as such, the 'gap' is not remediated. This proposed removal would undermine the visual integrity of the group and fragment the continuity and strength of the tree belt. We consider that this would cause a greater magnitude of change than that reported upon in the LVIA, especially upon landscape character and visual receptors to the north and those to the east and south east.

In order to effectively mitigate this to reduce any potential significant long-term effects, we suggest the following in regard to amending the design proposals.

Design: Northern boundary

It has been established that the existing boundary vegetation provides positive characteristic components that will aid in the development of this site providing valuable screening for integrating the new development into the landscape. The design should be explored further to see if a strong vegetation belt along the northern boundary can remain in the long term. Can any notable mitigation planting be included behind the proposed retaining wall? If there is not sufficient space, can the proposed retaining wall be moved south to create space for meaningful planting, by removing the proposed northern footway along the access road? Given the vulnerability of the existing vegetation to ash dieback, any proposed new planting should be resilient to disease and climate change. We recommend that this is given further consideration.

If this is completely unachievable and vegetation removal along the northern boundary is deemed acceptable then it is suggested the applicant considers extending the proposed native hedgerow and tree line between the access road and car park, immediately opposite those planned for removal. In order to partially mitigate the 'gap' created but to also reinstate a cohesive visual screen and robust tree line along the contours.

The proposed species should be resilient whilst appropriate for the area. The tree species schedule on the landscape plan is deemed appropriate for the area whilst providing resilience and diversity. As these trees would be placed at the back of the proposed footway this should be acceptable for keeping visibility splays clear. Tree

stock selection with a taller clear stem may be required if there is any conflict in this regard.

If this scheme is approved and does become a '*catalyst for residential development to come forward on the remaining Phase 2 land*' (extract; applicants letter dated 10/09/2021) then it would be reasonable to surmise that the remaining trees in this group could be also subjected to removal possibly in full with the indicative road shown in the blue area. The proposed trees shown on the landscape proposals adjacent to this are welcomed as these would aid in minimizing this potential future loss upon the visual amenity.

Design: Southern boundary

The council should request detail of the southern retaining wall and any earth banking proposed to ensure the RPA of the group G3 is not affected. If permission is granted, we recommend this is covered with a pre commencement condition.

As this tree belt will be relied upon for providing valuable screening of the proposed development from the south and east, the Council may wish to consider ensuring the southern boundary tree belt is bolstered with native tree planting along its southern edge when planning applications are sought for development of the land to the south. The proposals for this Lidl application will create a shaded area between the proposed retaining wall and the existing tree belt along the southern boundary, which would cause difficulties in establishing any bolster planting on its northern side within the red line boundary.

Survey

Further topography and tree survey work should be requested (with consent from the adjacent landowner) along the southern boundary of the site. This is in order to establish the exact location of trees and ground levels to gain a more detailed understanding of the tree constraints on the southern boundary to ensure their safe retention in regard to the proposals.

SWISCo's Waste Client Manager:

I have no comment to make regarding this development. There is adequate space for waste and recycling storage and as a commercial enterprise it will be for Lidl to choose their own waste/recycling collection contractor.

Torbay Council's Senior Tree and Landscape Officer:

I am satisfied with the landscape proposals as laid shown. A compliance condition will be required for the two documents.

Torbay Council's Community Safety Officer:

No objections. However, the comments I made in my previous memo of the 07/12/2020 regarding the potential impact of noise from this development on future

residential development remain valid. I would also recommend a condition is included regarding a construction management plan.

Police Designing Out Crime Officer:

No objection in principle, detailed advice provided that can be viewed on the Councils website. Key points are as follows:

- Access and Movement (Permeability)
- Structure – (Design & Layout)
- Surveillance (Natural, Formal & Informal)
- Ownership
- Physical protection
- Activity
- Management and maintenance

Torbay Development Agency Drainage Engineer:

No objections subject to planning conditions.

South West Water:

No objection. For information it has been agreed that if required a surface water connection to the dedicated public surface water sewer network would be permitted.

Planning Officer Assessment

Key Issues/Material Considerations

1. Principle of Development
2. Design and Visual Impact
3. Residential Amenity Impact
4. Highways, Movement and Parking
5. Ecology, Biodiversity and Trees
6. Flood Risk and Drainage
7. Low Carbon Development, Climate Change and Waste Reduction

1. Principle of Development

The application seeks planning permission for the Formation of a Lidl Supermarket (Class E(a)) and two ancillary Class E (a)(b)(c) units with associated parking, landscaping and access works including new junction on A380 Kings Ash Road.

Torbay Council has reviewed the Local Plan at its five-year anniversary (December 2020). Although the housing supply position means that policies most important to determining applications for housing must be deemed to be out of date; the retail and other policies in the Local Plan remain relatively consistent with the NPPF and have

been assessed as being up to date. This is, in part, because they seek to promote economic recovery and flexibility (see Policy SS3). Whilst the current application may help unlock housing at Great Parks Phase 2, it is not a proposal for housing (and indeed will reduce the amount of homes that can be built at Great Parks Phase 2). The PNP was Made in June 2019 and Policy PNP20 applies directly to the site.

Accordingly, the policies most important to determining the application may be considered to be up to date and there is no reason to activate a tilted balance, given paragraph 11(d) of the NPPF.

The Great Parks Masterplan envisages a local centre having approximately 550 square metres of retail floorspace between three units (1 x 376 square metres and 2 x 87 square metres). The Masterplan indicatively shows a layout and an illustration of a three storey pitched roof terraced building which is said to be a 'landmark building to define main access and gateway'. The proposed local centre falls within the 'hub' as shown within the Masterplan whereby a new access to Kings Ash Road will provide the main approach to the development and serve a new local centre positioned on higher ground. The Masterplan seeks a retail, residential and community land use within the 'hub', with 45-50 dwellings per hectare, 2-3 storeys in height, buildings at the back of the pavement.

It is considered that the current application provides one large Class E(a) unit and two smaller Class E(a)(b)(c) units, which sit back from the pavement. It should be noted that the failure of Great Parks Phase 1 to deliver a local centre, requires the existing community to walk more than 10 minutes to a local shop. The proposed site is approximately 2.05 hectares; given the Masterplan the proposal results in a loss of approximately 90-100 residential units, however it more likely to be approximately 70 residential units given the local centre and necessary infrastructure, not necessarily dwellings, given that the indicative illustrations and text refer to apartments above the local centre. As Great Parks Phase 2 comprises of approximately 11 hectares of undeveloped land, the proposal utilises approximately 18% of the allocated land.

Policy PNP1 of the Neighbourhood Plan states that in all parts of the Paignton Neighbourhood Plan Area a balanced delivery of growth, biodiversity enhancement and more sustainable means of travel will be supported. Development proposals will be supported which:

- a) provide new employment on sites able to meet infrastructure needs and biodiversity enhancement;
- b) provide new employment in decentralised locations that reduce travel needs, involve new technologies, and will assist moving towards a low carbon economy;
- c) provide housing growth appropriate to meet local needs and the strategic needs set out in the Torbay Local Plan 2015, including affordable housing;
- d) bring back into use existing homes that have been vacant for 6 months or more;

- e) e) provide additional homes by the conversions of existing buildings, more efficient use of vacant buildings in all use classes, self build; and community-led housing enterprises wherever possible;

Development will not be supported where:

- f) the development proposal would result in an adverse impact on a European protected site;
- g) the provision of houses in multiple occupation (HMOs) would adversely affect the tourism offer, worsen concentrations of deprivation, create conditions of community conflict

Protecting Local Identity - The plan seeks to ensure that safe key areas of rural landscape, Local Green Space, and food production are safeguarded and enhanced to ensure an improvement in tourist appeal, enhance biodiversity and community wellbeing. This will be achieved by applying Policy PNP1 (and its subsections) to all development proposals where appropriate.

Achieving Sustainable Development - Sustainable development will be achieved by ensuring a balanced provision of new development through supporting:

- i) job led growth and housing provision being kept in balance by regular (annual) reviews;
- ii) balanced growth of food retail floorspace;
- iii) enhancement of local identity, heritage features, renewable and low carbon energy and construction solutions;
- iv) foul and surface water drainage and other key infrastructure being required when major development (as defined in the Town and Country Planning Procedure (England) Order 2015) applications are first submitted, and not being dealt with subsequently by conditions;
- v) encouraging local food growing and production across the Plan area to increase and improve local food production assets and deliver community social and health benefits.

Great Parks Position in the Retail Hierarchy

It is reasonable to treat the application site as a proposed Local Centre. The area has been designated for development since the early 1990s. It is shown as committed development on the policies map of the Local Plan 2012-30 (CDSP3).

Local Plan Policy TC2.4.13 designates part of the Great Parks allocation as a Neighbourhood Centre, and an indicative (but smaller) area is indicated on the Policies map in roughly the position of the current application. The Local Plan does not specify the size of stores that are appropriate in Local Centres, and supermarkets have been built in Local Centres along the Western Corridor at Yannons (TC2.3.18) and White Rock (TC2.3.19). Paragraph 6.1.1.9 indicates that Neighbourhood Centres are typically small parades of limited provision serving a local catchment, a likened to

comments in the glossary to the NPPF. However, paragraph 6.1.1.8 indicates that when completed Great Parks would have a role in the retail hierarchy.

Policy TC3 (B)1 of the Local Plan requires proposals within Local Centres to be of a scale appropriate to the nature and size of the centre and to complement its role and character. They should also contribute to the long-term vitality and viability of the centre and help people meet their needs locally.

Policy PNP20 of the Neighbourhood Plan notes that development should be carried out in accordance with the Great Parks Masterplan. The Masterplan is a non-binding Supplementary Planning Guidance (not a Supplementary Planning Document) but is given weight by the endorsement of PNP20. Figure 6.11 of the PNP shows a “Local Centre” at Great Parks Phase 2 on broadly the application site (taken from the Masterplan). The Masterplan expects a store of up to 550 square metres. This is shown indicatively as one unit of 376 square metres and two of 87 square metres. The 550 square metres figure is also noted indicatively in Table 15 attached to Policy SDP3 of the Local Plan. 550 square metres would equate to a Tesco Express or similar small-format store. The current application is for 2,175 square metres gross/1,410 square metres net trading area, which is significantly larger than envisaged in the Masterplan, and takes up a greater portion of the site than envisaged in the Masterplan. Two smaller units of 87 square metres are also proposed to make the area a genuine local centre rather than a standalone supermarket, these might attract uses such as a café or hairdresser for example. The Masterplan envisages a local centre facility for new and existing residents at Great Parks, that will include the provision of local shop(s) and flexible space for further community facilities or services.

The Masterplan states that the local centre could also provide flexible floor space to accommodate other community and service uses such as hairdressers, dry cleaners or take-away restaurant. Residential apartments could be provided at upper floors helping to reinforce the ground activities and bring natural surveillance to the courtyard space. Apartments would also benefit from attractive views to the coast. The new local centre would occupy a prominent position on higher ground to the north-west of the site, where a visible landmark building could define the new access. High quality public realm materials can define the boundary to the local centre and announce arrival at Great Parks. The Masterplan goes on to state that the local centre can be development up to three storeys that will enable residential uses above ground floor to reinforce commercial uses and deliver attractive far reaching coastal views.

Whilst Policy PNP2(c) seeks, very properly, to focus retail within the town centre, this cannot be taken as a ban on out of town-centre retail above the usual tests set out below.

On this basis, it seems reasonable to treat the site as a proposed Local Centre, with a position in the retail hierarchy; but the proposal is significantly larger than envisaged by the development plan and therefore is in conflict with the plan.

Avison Young were appointed on behalf of the Local Planning Authority to consider two particular issues associated with retail / main town centre planning policies in relation to this application which includes three retail units (and associated development) on land adjacent to Kings Ash Road in Paignton:

- the relationship of the proposed development with the retail/main town centre land use elements of the development plan allocation for a new 'centre' in the Great Parks area of north-west Paignton; and
- the forecast likely impact of the proposed retail floorspace on the health of, and investment within, nearby defined 'town centres'.

Whilst there can be no doubt that the development plan for the local area allocates the application site for a new 'centre', the Local Plan and the Neighbourhood Plan use different terminology for the new 'centre' and the Local Plan provides a level of floorspace for the new 'centre' which is different to the scale in this planning application.

Therefore, whilst the application proposal is providing retail and main town centre land use floorspace to meet, in general terms, the Development Plan requirement for the provision of such uses in a new 'centre' in this part of north-western Paignton, it is not considered that there is complete compliance with the Development Plan insofar as retail/main town centre land use policy issues are concerned. As a consequence, it is considered prudent for the Council to consider the sequential and impact policy tests, although this should be undertaken in a proportionate way given the particular policy circumstances of this application proposal. Consideration should also be given to the relationship of the proposal with Part (b) of Policy TC3 of the Local Plan.

With regards to impact issues, Avison Young have examined the assessment provided by the applicant and also incorporated additional data which has been submitted in support of an application for a new foodstore at Kerswell Gardens in Torquay. This assessment has been undertaken in a proportionate way, bearing in mind the location/allocation of the application site and has found that there is unlikely to be significant adverse impact upon the health of nearby 'town centres'.

It is considered that the proposal does not offer complete compliance with retail/main town centre land use policy elements of development plan policy, it is nevertheless still helping to deliver the general aims of policy and their assessment of the likely impact of the proposal suggests that it is unlikely to have a significant adverse impact. Furthermore, whilst the scale of the proposed floorspace is greater than what may have originally been intended as per the Great Parks Masterplan, it is not so great (subject to appropriate controls) as to cause any significant conflict with the role and

function of the neighbourhood centre. In any event, the proposal will also help support the second part of TC3(B) and provide facilities which contribute to the long-term vitality and viability of the new centre and the provide the ability for the local population to meet their needs locally.

As advised at pre-application stage, the sequential and impact tests required by Paragraphs 87 et seq. of the NPPF and TC3 of the Local Plan are the appropriate tools to assess retail proposals where there is conflict with the development plan. In addition, the LPA must consider other material considerations such as the economic and sustainable communities' impact of the proposal.

Sequential Test

Guidance on the sequential test is provided in 2b-009-20190722 of the NPPF but is also subject of extensive case law. The applicant has cited case law indicating that the sequential test requires applicants only to identify the broad type of development being proposed by the applicant (particularly the Supreme Court's ruling on *Tesco v Dundee* [2012] UKSC13). This case defines the scope to which the sequential test requires flexibility and realism by both the Local Planning Authority and the applicant (paragraphs 28 and 38), but is clear that the real world needs of the applicant must be taken into account.

The applicant has carried out a sequential test of both Paignton town Centre and Preston District Centre and has not identified a suitable and available site for a store of the size or the format they propose. Lidl currently operate within Paignton Town Centre (Victoria Square) and no other site of sufficient size is identified either within the town/district centres or edge of centre. It should be noted that there is already a Section 106 agreement in place that Lidl signed in order to secure permission for their White Rock store, which requires them to keep the Victoria Square store open until 2024. Lidl have declined signing up to an additional Section 106 agreement for this current proposal as the Victoria Square store has been under-performing for some years and runs counter to the Council's strategy for the town centre, including the Torbay Development Agency actively working on bringing forward redevelopment at Victoria Square, the TDA's Regeneration Project Manager, has confirmed that: i) subject to funding and agreeing terms they wish to purchase Lidl's leasehold at Victoria Square; and ii) Torbay has been offered funding in principle by the Government under the Future High Streets programme. Furthermore, given the tests set out in the CIL Regulations are not met in that it is not necessary to make the development acceptable in planning terms, or reasonable in scale and kind.

Impact Test

The applicant has submitted an Impact Assessment. Retail applicants are not required to demonstrate retail need, but an assessment of need is relevant to considering the retail impact.

Whilst the scale of proposed Class E floorspace, particularly the foodstore, is greater than the floorspace figures contained within the adopted Local Plan, the assessment of the likely impact of the proposal does not indicate a likely significant adverse impact upon any nearby defined 'town centre'. Moreover, the assessment of the trading effects of the proposal will assist with an examination against Policy TC3(B) of the Local Plan and whilst its role and function is arguably larger than the definition of neighbourhood centres in the Local Plan, it is helping to meet the general Development Plan aspiration for new retail/main town centre floorspace in this part of Paignton and also that the proposal will contain uses which will maintain its health and attractiveness and serve the local community.

Impact on Small Shops/ Foxhole Local Centre

Representations have been made about the impact of the proposal on other shops in the area. There is also likely to be an effect on other local centres, particularly Foxhole Local Centre (TC2.3.14), which contains a small food store. No breakdown of the impact on individual nearby local centres is provided. It may be that the Foxhole local centre would still meet more day-to-day needs, as well as providing functions such as hairdressers, takeaway etc. As a local centre the proposed Great Parks store has a place in the retail hierarchy similar to Foxhole and planning cannot consider competition between retailers.

A store of up to 550 square metres at Great Parks will have some "planned" impact on the Foxhole Local Centre, and it is really only the additional impact of a much larger store that can be taken into account. Nevertheless, potential harm to the Foxhole local centre due to the size of the proposed store at Great Parks Local centre is a relevant consideration. The applicant has provided information that predicts £0.5 million of diversion from small shops/local stores will be spread across a number of stores and will not cause a significant adverse harmful impact. As the application site has an allocation for some retail floorspace in the Development Plan, it is considered that there is some acknowledgement that there would be some redistribution of trade however this would be associated with larger foodstores and supermarkets elsewhere. Therefore, it is considered that the proposal's impact on small shops and the Foxhole Local Centre would not be detrimental.

Economic and Social Benefits

The proposal would bring significant economic and health benefits in terms of access to fresh food and employment. Analysis of the 2019 Indices of Deprivation show that the proposed Lidl would be in the catchment of several areas of localised deprivation. The Foxhole area (directly to the east) falls within the 10% most deprived areas in term of overall indices of deprivation and also in the income, employment, education, health and deprivation affecting children domains. This is a serious basket of multiple deprivation. Queen Elizabeth Drive (QED) to the south generally falls within the 20% most deprived lower super output areas in the 2019 Indices, although some very localised poverty in this area is likely to be more severe. Whilst there are supermarkets

within 5 minutes' drive time of these areas, many of the residents may not have access to a car.

The proposal would create employment both in the construction phase and create up to 40 jobs during the operation. Both the Local Plan and the PNP seek to boost employment and reduce deprivation (e.g. Local Plan Policies SS4, SS5, SS11, SC3, SC5, and Neighbourhood Plan Policies PNP1). Turning the tide on poverty is a priority in the Community and Corporate Plan.

Access to healthy food is a key benefit supported by Policy SC1 of the Local Plan, and draws some support from the Healthy Torbay SPD. The individual store operator is not primarily a planning issue, however a larger store will typically be able to provide food at lower cost than much smaller shops, as covered in the applicant's Retail Statement. Deep discounters such as Lidl do have a significant amount of fresh fruit and vegetables as part of their offer. The current pandemic has highlighted the importance of access to essential retail needs, as well as increasing the importance of boosting the economy and supporting measures to aid the economic recovery.

The proposal is CIL liable at £120 per sq. m, i.e. circa £311,748.08, of which 25% must be spent locally. This is a local finance consideration that may be treated as a material consideration in the determination of the application.

To realise these economic and social benefits, it will be essential to ensure good walking and cycling links to the surrounding residential area, particularly to the Foxhole area, but also to Great Parks. These will also be essential to make the centre function as a local centre rather than just a car-borne shopping destination.

Impact on Delivery of Housing at Great Parks

Great Parks has been allocated for development since the 1980s. Despite efforts since the early 2000s to unlock development, delivering the full extent of phase 2 has been difficult due to various issues including the complexity of the 1991 and 1995 Planning Agreements, infrastructure costs, multiple ownerships and access issues. The smaller Local Centre, has been proposed on various parts of the site since at least 1991 but failed to attract local interest.

The Lidl store will inevitably reduce the amount of available housing land within the remainder of the CDSP3 part of the Great Parks Phase 2 area. However, despite being originally conceived as a mixed-use area with a school and more varied local centre, very little but housing has been built at Great Parks. Accordingly, a larger Local centre may be justified if it clearly helps deliver the remaining housing at Great Parks.

The applicant has revised the scheme to deliver approximately an additional 70 metres of the spine road which will lead into the future housing area, has undertaken to market the remaining land in its ownership for housing and has agreed to enter into a S.106

agreement to allow an access through its land to adjoining land allocated for housing. It is considered that the subject to the above the development will be the driver and catalyst to bring housing delivery forward on the remaining Gt Parks 2 area

Accessibility

The issue that the proposed food store should unlock the adjacent housing land, is integrally linked to the need for road layouts to provide road, walking and cycling links to the adjacent residential areas. This will help it function as a local centre and increase the permeability through Great Parks to minimise the amount of local traffic needing to use Kings Ash Road. This will help encourage walking and cycling and reduce car use, which will assist in reducing the impact on Kings Ash Road and also help with carbon reduction as sought by Development Plan Policies, such matters are covered within the highways section of this committee report.

The Retail Planning Policy Balance

The most directly relevant development plan policies for this proposal are TC2 and TC3 (B) of the Local Plan and PNP20 of the Neighbourhood Plan. The scale of the proposal is in conflict with Policy PNP20 and TC3 (B)1 of the Local Plan. However, the proposal would help people meet needs locally (TC3(B)2) and could assist the delivery of Great Parks as a mixed-use area.

There would be some impact on the Town Centre and District Centre, and potentially Foxhole but the retail analysts advising the Council have stated this would not be significant and would not justify the refusal of planning permission. The proposal would have significant benefits of providing employment and fresh food to deprived areas around Foxhole and QED. The Covid pandemic has highlighted the need for local food networks and also increased the importance of economic recovery. Given that the Local Plan, and the Community and Corporate Plan both seek to secure economic recovery, create jobs and turn the tide on poverty, these benefits carry significant weight in favour of the proposal.

Section 7 of the NPPF aims to ensure the vitality of town centres. Paragraph 87 states that "*local planning authorities should apply a sequential test to planning application for main town centre uses which are neither in an existing centre nor in accordance with an up-to-date plan*". Paragraph 88 states "*when considering edge of centre and out of centre proposals, preference should be given to accessible sites which are well connected to the town centre. Applicants and the local planning authority should demonstrate flexibility on issues such as format and scale, so that opportunities to utilise suitable town centre or edge of centre sites are fully explored*". Paragraphs 87 and 88 of the NPPF set out the requirement for a Sequential Test, it is considered that the Sequential Test has been achieved.

2. Design and Visual Impact

The NPPF states that the creation of high quality, beautiful and sustainable buildings and places is fundamental to what the planning and development process should achieve (Paragraph 126). Policy PNP1(c) is the key policy tool within the Paignton Neighbourhood Plan and cites that development must be of good quality design, respect the local character in terms of height, scale and bulk, and reflect the identity of its surroundings. In terms of further advice within the Development Plan, Policy DE1 of the Local Plan outlines the importance of good design and is also a key policy tool in design terms and Policy DE4, which principally seeks development to be built to the prevailing height within the local area.

In terms of context the visual character of the site, the site was previously heavily vegetated open land but currently has 2 metre high hoarding around the site which the applicant erected under permitted development. The site is now only partially vegetated as the applicant cleared the site in 2020. This did not require planning permission, but compliance with relevant wildlife legislation.

The site is located within an area designated as “Countryside Area” as defined by Policy C1 of the Local Plan, yet a “Committed other Deliverable Development Sites” within the Local Plan. The site is located in a prominent position and at a high level and as identified in the Landscape Character Assessment for Torbay, this area is *‘Located at the head of a steep secluded valley, the steepness of the land has led to the retention of the field pattern which often runs along the contours and subdivides pasture fields.’* And also notably *‘The elevation of much of this land means that there is the potential for changes to be very apparent and mitigation measures are unlikely to be particularly effective.’* There is an acceptance that the character of the site will undergo some change given its development site allocation, however this should be done sensitively to ensure any development integrates well into the landscape it is located within.

Landscape and visual impact

The application has been supported by a Landscape and Visual Impact Assessment (LVIA). Landscape consultants Jacobs were instructed by the Council to review and comment on the applicants LVIA and they consider that the methodology used to undertake this LVIA is deemed appropriate and in accordance with *The Guidelines for Landscape and Visual Appraisal (3rd Edition)*, Landscape Institute and IEMA, 2013 and also *‘LI Technical Guidance Note 06/19, Visual representation of Development Proposals’*, Landscape Institute, 2019. The LVIA predates the current version of the detailed landscape proposals however. The applicant has provided no addendum or update to the LVIA in line with changes made since it was originally produced.

The 5km study area and 7 representative viewpoints selected for the LVIA is deemed proportionate to the scale of the proposals. Jacobs undertook a site visit made on the 3rd November 2021 and agreed with the LVIA conclusion that the area of visual influence is close range generally limited to an area approx. 1 – 1.5km from the site

boundary. Jacobs have addressed the discrepancies with the design changes: the applicant is proposing to remove a portion of the northern boundary tree belt (Group G1.1 and G1.2) due to the impact caused by the location of the proposed access road into the site from the A380 Kings Ash Road and the proposed cut and fill. The applicant proposes to retain the southern boundary vegetation (Group G3) and protect it from the proposed works.

Jacobs consider it reasonable to conclude that the existing tree belt to the north of the site would provide effective screening of the proposed building, however views from higher ground to the north and west would well gain a birds eye perspective of part of the higher portions of the proposed development seen above the tree line. Jacobs also consider it reasonable to conclude that the existing tree belt to the south of the site would provide some effective but partial screening of the majority of proposed building, concealing the majority of the lower portions of the development from views from the south and south-east. It should be noted however that it is not yet known if this tree belt can be retained when the land to the south is developed for housing as allocated.

Jacobs consider the proposed vegetation removal would create a substantial gap in the north-eastern area of the site visually exposing large portions of the proposed development in close range views from the north and east/ south-east. The proposed mitigation tree planting lies adjacent to an area of retained boundary vegetation and is dotted within the car park and along the eastern edge and not opposite those planned for removal and as such, the 'gap' is not remediated. This proposed removal would undermine the visual integrity of the group and fragment the continuity and strength of the tree belt, Jacobs consider that this would cause a greater magnitude of change than that reported upon in the LVIA, especially upon landscape character and visual receptors to the north and those to the east and south east. In order to effectively mitigate this to reduce any potential significant long-term effects, Jacobs have suggested the following in regard to amending the design proposals:

- If the vegetation removal along the northern boundary is deemed acceptable then it is suggested the applicant considers extending the proposed native hedgerow and tree line between the access road and car park, immediately opposite those planned for removal. The proposed species should be resilient whilst appropriate for the area ensuring that visibility splays are kept clear.
- Request detail of the southern retaining wall and any earth banking proposed to ensure the root protection area of the group G3 is not affected as a pre-commencement condition.

The applicant has revised the proposals which now includes extending the proposed native hedgerow and tree line between the access road and car park, which is considered to provide mitigation against the northern tree belt that will be removed. It is considered that the proposed development would have a negative adverse impact on the landscape, given that it results in almost the total loss of the northern tree belt and the proposal will be visible from a number of public vantage points, however the

site is allocated and is only part of a much wider allocated site, so eventually all the undeveloped 11 hectares will be developed. Furthermore, whilst the loss of the northern tree belt is regrettable, there is no other suitable or achievable vehicular access point to enable Great Parks Phase 2 to come forward. This negative landscape impact must be weighed against any benefits of the proposal in the planning balance.

Design of the proposal

The proposed food store would be sited in the south-western corner of the site. The food store covers a rectangular footprint of around 70 metres by 33 metres. It is proposed to a commercial single-storey scale under a gently sloping mono-pitched roof. The elevations are finished in red brick panels with blue/grey brick piers and plinth. The supermarket will have 4 metre high glazing along the eastern elevation to provide natural light and modernise the visual appearance of the store, it will also wrap around a small portion of the northern elevation to provide a customer entrance lobby. The two smaller units (each 87 square metres internal footprint) are located in the north-eastern corner of the site and will be a single-storey building. The elevations are finished in red brick panels with blue/grey brick to plinth and piers. The smaller units will be finished in cladded panels close to the roof and including the roof. The glazing is floor to ceiling on the southern, eastern and western elevations. It should be noted that the appearance of the food store and two smaller units have been revised due to Officer concerns on the initial scheme which originally proposed elevations consisting of white cladding panels, with grey rendered plinth beneath and silver eaves guttering and rainwater pipes.

The Masterplan envisages a landscaped courtyard to provide public car parking to support the retail units and a welcoming arrival space. It considers a new landscaped edge along the eastern boundary to support a pedestrian access route to the local centre stepping up the slope, as well as a natural stone feature wall to define the local centre boundary at the corner of the new junction to create a positive sense of arrival at the site gateway. The material details of the boundary treatments have not been given, a planning condition shall be employed to secure such details that provide the vision of the Masterplan. The proposal includes a stepped pedestrian access on the north-eastern corner instead of the eastern boundary given the level lands.

Car parking is set to the north and east of the supermarket building. The car park would provide 137 spaces, including 2 electric vehicle charging spaces, 9 parent and child spaces and 6 disabled spaces. The car park includes tree planting, is surrounding by wildflower meadows and screened by either native mix hedge planting or shrub/herbaceous planting.

Land levels

Generally, the site falls quite steeply from north to south from 115 – 108.3m AOD (6.7m change) and it also falls west to east by approximately 7m. The applicant proposes the car park level at range between 115.2 – 116m AOD with the finished

floor level (FFL) for the food store building at 116.00m AOD and the two smaller units at 115.80m AOD. The FFL is such as the applicant proposes to cut and fill the site to gain a relatively level site, the applicant's justification for the cut and fill exercise is due to *the placement of the access road, which is required to ensure acceptable gradients in highways term*. This cut and fill exercise will require the implementation of retaining walls around sections of the north, west and southern areas of the site. The tallest part of the proposed food store would be 123.02m AOD, as it is mono-pitch and gently sloping this decreases to 120.9m AOD to the south of the building.

The applicant has failed to provide precise details of the proposed retaining walls, particularly in relation to the boundary vegetation to the south-east of the site, where some of the greatest level changes are proposed. The applicant provided measurements between the tree protection fencing and the proposed retaining wall which indicated a distance range between 3.35 – 4.26m, and also provided distances from the tree root protection area (RPA) to the proposed wall in a range between 4.7 – 6.4m, which would be the absolute maximum working area in order to not encroach into the rooting environment. Therefore, a planning condition is recommended to secure the finer details of the retaining walls prior to the commencement of development.

Proposed landscaping

The proposal includes a landscaping plan which includes a proposed wildflower meadow to the east of the site fronting Kings Ash Road and an element of such to the north. The proposal also include shade tolerant meadow to the western and southern boundaries, as well as within the scheme including tree, hedge and shrub planting. Given Jacobs comments, the applicant has provided a more robust landscaping scheme that includes additional tree planting to mitigate the removal of G1.1 and G1.2. Jacobs have also provided a recommendation regarding the grading from the back of the footpath to the car parking area that through earth banking, it could result in a smaller retaining wall which would be less visually intrusive. The applicant has provided a plan showing the proposed boundary treatments, yet fails to provide a definitive height or materials of the proposed retaining walls, therefore a planning condition would be required to secure such details prior to the commencement of development.

All matters considered, the proposal is considered acceptable in design terms as it is in broad accordance with the aspirations of Policies DE1 and DE4 of the Local Plan, Policy PNP1(c) of the Neighbourhood Plan, and the advice contained within the NPPF, for the reasons stated above.

3. Residential Amenity Impact

Policy DE3 of the Local Plan states that development should provide a good level of amenity for future occupiers and should not unduly impact upon the amenity of

neighbouring properties and surrounding uses. Policy PNP1(c) of the Neighbourhood Plan states that development proposals should where possible and appropriate to the scale and size of the proposal protect residential amenity in terms of noise, air, or light pollution. In terms of amenity the NPPF seeks to promote well-designed places that amongst other things achieve a high standard of amenity for existing and future users.

The proposed building is positioned some distance from existing residential dwellings, such as those in Foxhole (Spruce Way/Kerria Close/Abelia Close/Smallcombe Road) separated by Kings Ash Road and those in Great Parks Phase 1 (Fishacre Close/Heligan Drive/Trentham Close) separated by Luscombe Lane. The proposals are not considered to result in any serious detriment to residential amenity for the existing residential development by reason of loss of light, loss of privacy or by reason of being unduly dominant or overbearing due to the separating distances involved which are a minimum of approximately 60 metres to the north, 26 metres to the east and 80 metres to the south from the perimeter of the red line boundary.

In terms of noise, the proposals have the potential to impact upon residential amenity but more in terms of the future development of Great Parks Phase 2 rather than existing development. The Council's Senior Environmental Health Officer has been consulted on the application and has reviewed the acoustic consultant's report. The report finds that the effect of the predicted noise from plant and deliveries is acceptable in terms of impact on the nearest existing noise sensitive dwellings and therefore the Officer does not object on these grounds. However, the report does not consider the noise impact of this development on future homes likely to be constructed immediately adjacent to this proposed site. In the recently revised scheme, the applicant has included an acoustic fence to be incorporated on top of the retaining wall running alongside the delivery bay and around the plant area, to minimise the noise impact on any future housing on the neighbouring land.

Objectors have raised concerns regarding noise, pollution, littering, anti-social behaviour and access to natural light. It is considered that through the recommended planning conditions for a Construction Management Plan, delivery hours, hours of use, and control of any additional extraction/ventilation/plant to serve the development, will ensure that the proposal does not result in detrimental harm to adjacent neighbours in terms of noise pollution. In terms of littering, the proposed layout includes a bin near the two smaller units, a planning condition is recommended that notwithstanding the plans additional bins are sited within the site to alleviate any potential littering. Subject to the aforementioned planning conditions, the proposal is considered to accord with Policy DE3 of the Local Plan

Policy PNP1(g) of the Neighbourhood Plan states that all developments will be expected to show how crime and the fear of crime have been taken into account in the proposals submitted having regard to "Designing out Crime" guidance. In terms of anti-social behaviour, the Police Designing-Out Crime Officer has been consulted on the

scheme and has advised that a planning condition should be employed to secure a scheme of measures on designing out crime, fear of crime, antisocial behaviour and conflict. Subject to the aforementioned planning condition, the proposal is considered to accord with Policy PNP1(g) of the Neighbourhood Plan.

Given its siting, scale, and design, it is considered that subject to conditions as set out above, the proposal would not result in any unacceptable harm to the amenities of neighbours by loss of privacy, outlook or access to natural light and therefore the proposal is considered to be acceptable given the context.

4. Highways, Movement and Parking

The NPPF guides that in assessing specific applications for development it should be ensured that (a) appropriate opportunities to promote sustainable transport modes can be – or have been – taken up, given the type of development and its location; b) safe and suitable access to the site can be achieved for all users; c) the design of streets, parking areas, other transport elements and the content of associated standards reflects current national guidance, including the National Design Guide and the National Model Design Code; and d) any significant impacts from the development on the transport network (in terms of capacity and congestion), or on highway safety, can be cost effectively mitigated to an acceptable degree (Paragraph 110).

The Development Plan, largely through Policies TA1, TA2 and TA3 of the Local Plan, outlines similar policies goals as the NPPF, but also guides on parking levels and sustainable transport facilities within new development. Policy PNP1(h) of the Neighbourhood Plan states that new development should aim to achieve where appropriate and subject to viability: i) electric vehicle charging points; ii) comprehensive direct networks for walking, cycling and public transport within and beyond the development. The policy goes on to state that where on-site roads are planned schemes will be encouraged to include: i) car free areas within the development; ii) shared space streets and squares; iii) on-street secure cycle storage; and iv) dedicated space for car club transport.

Policy PNP22 of the Neighbourhood Plan states to support Active Travel in the Western Corridor area, where appropriate, viable and achievable development proposals should provide or contribute to the provision of the following:

- a) the provision of safe, continuous, separated cycling and pedestrian pathways to all schools and employment sites in the area;
- b) the delivery of a Western Area park and-ride facility connecting with central Paignton to accord with policy PNP6 criteria g);
- c) the establishment of a strategic, continuous, separate cycling and pedestrian pathway across open countryside to Totnes working with local landowners, Devon County Council and other involved authorities;

- d) establishing a well connected green infrastructure network on both sides and middle of the Western corridor and the routes it serves by additional street tree planting and new public seating at selected points;
- e) space for the secure parking of at least two community car club cars in all major developments and one in each residential local centre; and
- f) other necessary highway and associated infrastructure.

The proposed access into the site will be created off the western edge of Kings Ash Road. A new fourth arm will be introduced to the Kings Ash Road / Spruce Way signalised junction which will provide a new estate road for a wider development area. This fourth arm forms a spine road for the wider estate of the Great Parks Phase 2 and the site itself is accessed via the priority junction onto this spine road. The revised scheme has amended the red line boundary of the site to incorporate an extension of the proposed spine road to extend into the western land currently also owned by the applicant. Car parking is set to the north and east of the food store building. The car park would provide 137 spaces, including 2 electric vehicle charging spaces, 9 parent and child spaces and 6 disabled spaces. The proposal does not include at least two community car club car spaces as there is not a community car club in the area.

Access and Highway Safety

The proposal includes alterations to the A380 / Spruce Way and the creation of (the first section of) a new spine road. This road will serve both the proposed development and the Great Parks Phase 2. A new fourth arm will also be introduced to the Kings Ash Road / Spruce Way signalised junction which will provide a new estate road for a wider development area. The applicant has provided 2.4m x 43m visibility splays in both the primary and secondary directions. It is noted that the left-hand visibility splay is currently within an indicative road layout which will be finalised when future development comes forward. The proposed access detail is considered acceptable by the Highway Authority.

In terms of highway network capacity based upon the junction capacity assessments, it can be determined that the resultant trip generation due to the proposed development will not result in an adverse impact upon the operation of the local highway network. The applicant has demonstrated that the Proposed Access would operate within capacity and with a reasonable capacity buffer to be able to accommodate GPP2 traffic (as far as the GPP2 traffic flows can be assumed at this stage), reducing the risk of the junction needing reconfiguration to accommodate GPP2 traffic. The Highway Authority do not raise any objection or concern regarding the network capacity and possible impact upon the nearby light-controlled junction to the south with Cotehele Drive and Kings Ash Road.

The proposed site is located on the western bound of Paignton, approximately 2km from the town centre. The development is located within close proximity, 180m, from bus stops located on Spruce Way with footways, street lighting and a pedestrian

crossing available for the duration of the pedestrian movement between the two. The bus stops on Spruce Way service the 109 Paignton Circular bus route. Additional bus stops are located approximately 400m east of the site on Ramshill Road. The proposal will include the existing pedestrian crossing on the Spruce Way approach to the Kings Ash Road / Spruce Way signalised junction is to be formalised with the introduction of push buttons and pedestrian signals. This is considered acceptable by the Local Highway Authority and will enable safe passage for pedestrians crossing over Spruce Way. This will be secured through a planning condition and a Section 106 agreement.

The applicant has also proposed to install tactile paving and pedestrian crossing infrastructure at the junction to the east of the site access with Kings Ash Road. This is considered acceptable as it promotes continuous and safe pedestrian movement to/from the site and origin and destination locations within the wider area.

Initially, the Local Planning Authority sought for the applicant to provide a footway on the western side of Kings Ash Road between Luscombe Lane and Cotehele Drive. However, upon further investigation it is not possible for the applicant to provide this connectivity as there is insufficient highway land to provide an adoptable footway. An alternative arrangement for those on foot coming from Great Parks Phase 1 would be to utilise the signal-controlled crossing from Cotehele Drive across Kings Ash Road and then returning onto the western side of Kings Ash Road at the signalised junction with Spruce Way. Further connectivity will also be provided in the future once additional development within Great Parks Phase 2 comes forward, a Section 106 agreement is recommended to secure future connectivity in particular relating to the western side of the site.

A Section 38 Agreement will be required for the Local Highway Authority to adopt the proposed spine road that forms part of this application and this should be secured within a Section 106 Agreement. The spine road shall be built to an adoptable standard in accordance with the Torbay Highways Design Guide. The Local Highway Authority are also seeking to ensure that the proposed spine road would not restrict access to the highway for any third parties (thereby creating a "ransom strip") through the Section 38 Agreement process.

In terms of internal movement within the site layout the proposal is considered acceptable in terms of commercial servicing and in terms of the environment it presents to users of the various elements within the site. The applicant has demonstrated that a HGV is able to manoeuvre within the site.

Based on the information submitted the Highway Authority offers no objection to the development proposals in terms of access, servicing and broad highway capacity.

Parking and sustainable travel

The detailed layout presents parking facilities. The Lidl and the two smaller retail units will have a combined 137 parking spaces, including 2 electric vehicle charging spaces, 9 parent and child spaces and 6 disabled spaces. In terms of general parking the split between the provision for the food store and the two smaller units is unclear as it appears arranged as an open car park. In terms of assessment of the proposed parking the level of parking for the supermarket is below the guidance contained within the Local Plan, which would for a convenience store above the threshold of 1,000 square metres of gross floorspace would seek generally 1 space per every 14 square metres of gross floorspace, therefore indicating that 168 spaces should be delivered.

Previous information submitted by the applicant in relation to TRICS car parking demand profiles identified that the car parking previously proposed for the development provided more than sufficient capacity for the trip generation and parking demand associated with the site. It is therefore considered that the new proposed car parking provision which was originally 145 now 137 is acceptable and does not present a risk of overspill parking on the local highway network. To conclude the parking provision is considered acceptable, however planning conditions are recommended to secure the parking provision and the delivery of electric charging points including further future delivery, in accordance with the policy aspiration that all new development should, where viable, include provision for electric charging points.

Regarding cycle parking 26 cycle spaces (10 for staff and 12 for customers) at the food store, with an additional 4 spaces provided for the two smaller units. Policy guidance contained within the Local Plan outlines that for non-domestic uses 1 space per every 2 employees should be delivered. The Local Highway Authority consider this provision to be acceptable. It is recommended that a planning condition requiring the delivery of the cycle spaces takes place prior to the first use is secured.

Highways conclusion

All matters considered, subject to the planning conditions recommended at the end of the committee report, the proposals are considered in broad accordance with Policies TA1, TA2 and TA3 of the Local Plan, Policy PNP1(h) of the Neighbourhood Plan and the advice contained within the NPPF.

5. Ecology, Biodiversity and Trees

Policy NC1 of the Local Plan states that all development should positively incorporate and promote biodiversity features, proportionate to their scale. Policy SS8, particularly criterion 1, of the Local Plan states sites, species and habitats protected under European, or equivalent legislation will be protected from development. Development around the edge of the built-up area will be required to protect and manage wildlife and habitats, including corridors between them, in accordance with Policy NC1 of the Local Plan and particular attention must be paid to Greater Horseshoe Bat flightpaths. Policy PNP1(c) of the Neighbourhood Plan states that development proposals should

where possible and appropriate to the scale and size of the proposal safeguard biodiversity by ensuring that layout and design will protect existing features of biodiversity value on site and biodiversity connections with related sites. Policy PNP20 of the Neighbourhood Plan states that completion of development proposals in the Great Parks area will be supported in accordance with the Masterplan produced in 2013, subject to the required further habitat safeguards being achieved to ensure no likely significant effects on protected species in the area. Paragraph 180 of the NPPF states that opportunities to improve biodiversity in and around developments should be integrated as part of their design, especially where this can secure measurable net gains for biodiversity or enhance public access to nature where this is appropriate. The anticipated Environment Bill will make it a statutory requirement to provide a 10% net gain in biodiversity.

The site is on the edge of the South Hams Special Area of Conservation (SAC) for the Greater Horseshoe Bat (GHB) Sustenance Zone for Berry Head to Sharkham Point SSSI/SAC (A GHB maternity and hibernation roost 8.5km southwest of the site) and is in the SAC GHB Landscape Connectivity Zone. The site falls within the Cirl Bunting 2km consultation zone. The proposal would involve the removal of the dense scrub present within the redline boundary and removal of approximately 100 metres of the northern hedgebank. However, the north-western woodland and southern boundary hedgebanks within the wider survey area will be retained (although ecological functionality of these habitats will be lost as part of the wider Great Parks Masterplan development).

Following the guidance of the South Hams SAC (DCC et al, 2019), this application could potentially have a likely significant effect on GHB foraging and commuting habitat within a Sustenance Zone and cannot be screened out from requiring a Habitats Regulations Assessment. The proposal will lead to the complete loss of 1.8ha of GHB foraging habitat within a South Hams SAC sustenance zone, and this mitigation will need to be provided offsite.

The application is supported by ecological assessments, including a mitigation strategy for the GHB and biodiversity net gain measures and the information has been reviewed by Devon County Council's Ecology Officer.

The proposals have the potential to lead to a direct loss of commuting and foraging habitat and indirect impact by increased artificial illuminance. Habitats onsite have been confirmed through survey to support numbers of commuting and foraging Greater Horseshoe bats. Greater Horseshoe Bats were recorded on the both the northern and southern site boundaries. Analysis of the data obtained from the remote detector surveys identified a total of 49 greater horseshoe bat contacts from both detectors over the 42 nights the detectors were deployed.

Construction of the scheme will result in the loss of 1.54 hectares of scrub and grass verge habitat utilised by low numbers of foraging greater horseshoe bats throughout the full survey season, and the removal of up to 100m of the northern hedgebank (also utilised by foraging GHBs). Development will lead to the functional loss of all onsite habitats and offsite habitat creation will be required. All habitats within the redline boundary except for the retained sections of the northern and southern hedgerow, have been removed from the site in 2020. Therefore, offsite habitat establishment and functionality will not be possible in advance of anticipated impacts on GHBs arising from this development. This scheme will likely cause loss, damage or disturbance GHB foraging and commuting habitat. Using the South Hams SAC HRA Guidance document (DCC et al. 2019), there may be a Likely Significant Effect on the South Hams SAC in the absence of mitigation. This has triggered the need for a Habitats Regulations Assessment (HRA). A HRA has been undertaken in accordance with regulation 63 of the Conservation of Species and Habitats Regulations 2017 (as amended). This has been updated in consultation with Natural England, a final version has been sent to them for their final approval. Natural England has been consulted throughout and it is expected that Natural England will confirm their agreement to the final form of the HRA. Members will be updated at the meeting. The recommendation is subject to Natural England agreeing that, subject to the agreed on-site and off-site mitigation measures being secured by condition and S106, the proposed development will not have an adverse effect on the integrity of the South Hams SAC.

In terms of biodiversity, the proposed works will result in the loss of low quality habitats of value to foraging badgers, bats, birds and reptiles. The north-western extent of this site has been identified as an area of higher ecological value which will need to be retained and buffered post-development.

In terms of ciril buntings, surveys which were undertaken in the summer of 2019, did not record any activity and therefore it is deemed that there are no impacts on the species with regards to the proposed development. In terms of other bird species, it is anticipated that nesting birds will be present and hence vegetation and building removal should be duly managed therefore a planning condition is recommended to ensure that no vegetation clearance shall take place during bird nesting season unless advised in writing by a suitably qualified Ecologist. In addition, nesting facilities are recommended as a biodiversity net gain measure and recommended to be secured by planning condition.

Regarding reptiles, slow worms have been recorded onsite, due to some vegetation clearance having taken place without requiring planning permission. The translocation and habitat manipulation of the slow worms has already been carried out. The reptile exclusion fencing will be maintained on site until site works are complete. The supporting ecological assessment states that upon the completion of works a suitably qualified Ecologist will supervise the removal of the fencing and any reptiles identified will be translocated to the receptor site, which has the same function as the existing

site, comprising a mosaic of open areas, grassland, rank vegetation, scrub margins and hedge/woodland.

Regarding badgers, a range of badger activity was identified within the survey area, comprising a badger latrine on the western site boundary. Used badger tracks and signs of foraging were also identified on the northern side boundary. No setts were recorded within the survey area or hedge bank boundaries. Updated badger surveys with associated mitigation and compensation measures, should be undertaken prior the commencement of any site works, and this is recommended as a planning condition.

The site is located within a Devon Great Crested Newt Consultation Zone. There are no ponds located within the survey area and Ordnance Survey mapping indicates that there are no ponds within a 500m radius of the site, so it is deemed there is no impact upon the species. Additionally, dormice surveys were conducted onsite, no dormice were recorded onsite, and the species is deemed absent, this conclusion is deemed valid.

Policy C4 of the Local Plan states that development will not be permitted where it would seriously harm, either directly or indirectly, protected trees or veteran trees, hedgerows, ancient woodlands or other natural features of significant landscape, historic or nature conservation value. Policy C4 goes on to state that development proposals should seek to retain and protect existing hedgerows, trees and natural landscape features wherever possible, particularly where they serve an important biodiversity role.

The application is supported by an Arboricultural Impact Assessment, a Tree Protection Plan and a Tree Constraints Plan. There are no tree preservation orders in force on the site. The Council's Senior Tree and Landscape Officer has reviewed the submitted information and considers that the Arboricultural Impact Assessment addresses the main arboricultural impacts of the proposals. The identification of the Ash and the likelihood of infection from Ash dieback is noted and agreed with. The Officer considers that the Arboricultural Impact Assessment accurately reflects the site conditions and the site tree stock.

The proposal involves the removal of approximately 145 metres of tree belt (Group G1.1 and G1.2) due to the siting of the proposed access road into the site from the A380. Jacobs have reviewed the information on behalf of the Council also and have stated that there is an obligation on Lidl's behalf to ensure the safe retention of the rooting environment during the construction works. The tree protection fencing within the Arboricultural Impact Assessment seems appropriate and the area beyond should be regarded as a construction exclusion zone. Jacobs have recommended to offset the partial loss of the northern boundary hedgerow, extending the proposed native hedgerow and tree line between the access road and the car park will partially mitigate

the 'gap' created but also reinstate a cohesive visual screen and robust tree line along the contours.

The proposal seeks to retain the southern boundary vegetation and protect it from the proposed works. Jacobs have recommended that a pre-commencement condition should be employed to request details of the southern boundary retaining wall and any earth banking proposed to ensure that the root protection area of the group (G3) are not affected, as well as topographical and tree survey information along the southern boundary of the site (with the consent from the adjacent landowner) to establish the exact location of the trees and ground levels to ensure the trees safe retention with regard to the proposals. Planning conditions are recommended to ensure compliance with the Arboricultural Impact Assessment and associated documents.

In terms of the proposed landscaping, such matters were covered in the design and visual impact section of this committee report. To remind Members, a planning condition is recommended for the applicant to provide alternative landscaping details to those shown on the approved plans to strengthen the landscaping character and value.

Subject to the recommended arboricultural conditions, the proposal is in-line with the aspirations of Policies NC1, SS8 and C4 of The Local Plan, The Neighbourhood Plan, and advice contained within the NPPF.

6. Flood Risk and Drainage

The site sits in the Torbay Critical Drainage Area, as designated by the Environment Agency, but is not in an area of heightened flood risk, sitting in Flood Zone 1.

The application site is in flood zone 1, based on the information provided the Local Planning Authority are satisfied based on the assessment of the best available information for all sources of flooding for the site, that the site is at the lowest risk of flooding from any source. The site is at lowest risk of flooding from any source which is the test in paragraph 162 of the NPPF and therefore no flood sequential test is required.

Policy ER1 of the Local Plan states that proposals should maintain or enhance the prevailing water flow regime on-site, including an allowance for climate change, and ensure the risk of flooding is not increased elsewhere. The policy outlines a hierarchy for water-flow management within new development, and similar guidance is contained within the Environment Agency's Critical Drainage Area Advice Note for Torbay. Regarding national advice the NPPF guides that 'major' developments should incorporate sustainable drainage systems unless there is clear evidence that this would be inappropriate. Policy ER2 requires all development to seek to minimise the generation of increased run-off, having regard to the drainage hierarchy, whereby

surface water will firstly discharge to an adequate infiltration system, a main river or watercourse, a surface water sewer or highway drain or as a last resort a combined foul sewer where discharge is controlled to be at a greenfield discharge rate. Policy PNP1(i) of the Neighbourhood Plan states that developments will be required to comply with all relevant drainage and flood risk policy.

The application is supported by a conceptual surface water drainage strategy. The site currently comprises greenfield land therefore it is anticipated that there is no formal drainage network within the site. It is anticipated that surface water generated within the site currently discharges into the ground with runoff forming once the ground is storage capacity of the ground is exceeded. Based on the topography of the site, runoff is likely to drain in an easterly direction. According to OS mapping, the nearest watercourse is an unnamed ordinary watercourse which is located approximately 320 m west of the site. This watercourse is shown to flow in a generally southerly direction before turning eastwards and eventually discharging into Tor Bay. No other watercourse are recorded within a 500 m radius of the site. Reference to SWW Asset Location Plans, included as Annex E, indicate the following sewers within the vicinity of the site:

- 2 no. combined sewers originating beneath Kings Ash Road approximately 75 m south of the site. The sewers are shown to trend in an easterly direction beneath Smallcombe Road;
- A surface water sewer is shown to originate to the south of no. 28. Kings Ash Road approximately 100 m south of the site. The sewer is shown to trend in a southerly direction beneath the grass verge adjacent to the road.
- Surface water sewers are shown to serve the residential neighbourhood to the south and east of the site.

The site is underlain by bedrock deposits from the Torbay Breccia Formation which is described as comprising interbedded layers of Breccia and Sandstone. Site specific infiltration testing was first undertaken by RPS in November 2020 with additional testing undertaking on 25th and 26th February 2021. The results of the infiltration testing exercise indicates that the strata beneath the site is considered to be a 'good infiltration media'. As such, it is proposed to discharge surface water run-off generated by the proposed development into the ground via infiltration.

The proposed drainage strategy proposes to convey surface water run-off generated by the proposed the proposed to underground geocellular storage crates that will provide storage for all events to and including the 1 in 100 year plus 40% climate change event prior to run-off infiltrating into the ground. Overall, it has been demonstrated that an appropriate surface water drainage strategy can be provided for the proposed development thus ensuring that the proposed development does not result in an increase in surface water run-off from the site.

The drainage strategy has been considered by the Torbay Development Agency Drainage Engineer who considers that providing the surface water drainage is constructed in accordance with the submitted drawings and hydraulic design, they have no objections on drainage grounds to planning permission being granted for this development. South West Water do not object to the proposal.

The proposals are, subject to a planning condition securing the drainage strategy, deemed in accordance with Policies ER1 and ER2 of the Local Plan, Policy PNP1(i) of the Neighbourhood Plan and advice contained within the Environment Agency's Critical Drainage Area Advice Note for Torbay and the NPPF.

7. Low Carbon Development, Climate Change and Waste

Policy SS14 of the Local Plan seeks major development to minimise carbon emissions and the use of natural resources, which includes the consideration of construction methods and materials. Policy ES1 of the Local Plan states that the Local Plan will seek to ensure that carbon emissions associated with energy use from new and existing buildings (space heating, cooling, lighting and other energy consumption) are limited. All major development proposals should make it clear how low-carbon design has been achieved, and how the following sequential energy hierarchy has been applied in doing so. Proposals should identify ways in which the development will maximise opportunities to achieve the following:

1. Conserve energy by reducing energy demand through siting and design. This includes the use of building orientation, layout and landscaping to optimise solar gain, ventilation and cooling;
2. Use energy efficiently within the fabric of the building;
3. Incorporate the use of decentralised heat, cooling and power systems; and
4. Use on-site or near-site renewable technologies to achieve further reductions in carbon emissions.

Policy PNP1(e) of the Neighbourhood Plan states that new commercial development should aim to achieve where appropriate and subject to viability the highest standards of sustainable construction such as Passivhaus or EnerPHit. Policy PNP1(f) of the Neighbourhood Plan states that new development should aim to achieve where appropriate and subject to viability:

- i) the latest developments in sustainable construction and water management technologies that mitigate and adapt to climate change;
- ii) the use of reclaimed materials and natural finishes;
- iii) include soft landscaped areas for natural drainage of rain water, and compensate fully for any existing soft area lost to development;
- iv) on site renewable energy generation to achieve 20% of subsequent in-use requirement wherever possible. Solar arrays will be encouraged where they do not adversely affect residential amenity, a vista of landscape value, or designated conservation area;

- v) connecting cycleways and footpaths where development involves new road infrastructure;

The supporting Statement states that the scheme will be designed to comply with the latest government guidance and the new Part L Building Regulations. In addition, various sustainable measures will be implemented. These include but are not limited to:

- Sustainable surface water drainage scheme.
- Solar panels installed on the roof.
- Electric Vehicle Charging spaces.
- Recycled materials in insulation and floor finishes.
- Use of water-based paints on steelwork.
- High efficiency LED lighting incorporated internally and externally.
- Lighting to be installed with movement detectors.
- Dual flush toilets.
- Sensor taps to reduce water consumption.
- Improved air leakage and enhanced U-Values where possible.
- Building management system-controlled lighting by Lux sensors.
- Environmental waste removal and management policies.
- Delivery noise reduction through quiet, manually operated bridging plates and dock shelter, used in conjunction with sloped loading ramp.

The applicant has stated that environmentally sustainable design solutions have been incorporated into various stages of the proposed development, affecting the internal design, external appearance and the foodstore's relationship with its context. Energy demand is reduced in the first instance through passive design and a consideration of efficient operational procedures ensures that the proposed foodstore's ongoing environmental impact is minimised.

The approach outlined is considered to present development that is in accordance with Policies SS14 and ES1 of the Local Plan and Policies PNP1(e) and PNP1(f) of the Neighbourhood Plan.

Policy W2 of the Local Plan states that development proposals which are likely to generate significant volumes of waste must include a Waste Audit and Five Year Waste Management Plan setting out how waste generation will be reduced during the construction and operation of the development. This will include provision of appropriate on-site facilities for re-use, recycling and collection of waste.

In regard to waste reduction aspirations a Waste Audit and Management should be secured by planning condition to cover the prevention and to minimise, re-use and recycle waste, minimise the use of raw materials, minimise the pollution potential of unavoidable waste, seek alternative modes of transport (to the use of roads) to move

waste (wherever possible), make provision for the storage and collection of waste, and dispose of unavoidable waste in an environmentally acceptable manner. These details respond to the policy guidance contained within Policy W2 of the Local Plan.

Sustainability

Policy SS3 of the Local Plan establishes the presumption in favour of sustainable development. The NPPF definition of sustainability has three aspects which are economic, social and environmental. Each of which shall be discussed in turn:

The Economic Role

Job creation is a driver of economic growth and there would be significant economic benefits from both the construction phase and operational phase. There are no adverse economic impacts that would arise from this development. In respect of the economic element of sustainable development the balance is in favour of the development.

The Social Role

A key social benefit of the proposed development is the delivery of job opportunities in the local area and provision of services for local residents in terms of access to fresh food and provision of a discounted food retailer in an area of deprivation, presenting dual benefits that weigh in favour of the development.

The proposal results in a loss of housing land, including a proportionate loss of affordable housing at a time when the Council has a serious shortfall of housing land. However, the development will open up adjoining land for housing development that has been stalled in delivery for decades so will aid housing delivery.

Overall, the social benefits weigh in favour of the development

The Environmental Role

With respect to the environmental role of sustainable development, the elements that are considered to be especially relevant to the proposed development are impacts on ecology and biodiversity and drainage. These matters have been considered in detail within this report.

In respect of the environmental element of sustainable development, the balance is negative in terms of the development. Impacts on biodiversity can be mitigated as set out in the report so having a neutral impact, however there is an adverse landscape impact due to loss of tree belt on the northern boundary which whilst mitigated by replacement planting will take time to establish.

Sustainability Conclusion

Having regard to the above assessment, weighing the positive impacts of the development against the marginally negative landscape impacts, the positive impacts weigh in favour of the development and the proposed development is considered to represent sustainable development when considered in the round.

Statement on Human Rights and Equalities Issues

Human Rights Act - The development has been assessed against the provisions of the Act, and in particular Article 1 of the First Protocol and Article 8 of the Act. This Act gives further effect to the rights included in the European Convention on Human Rights. In arriving at this recommendation, due regard has been given to the applicant's reasonable development rights and expectations which have been balanced and weighed against the wider community interests, as expressed through third party interests / the Development Plan and Central Government Guidance.

Equalities Act - In arriving at this recommendation, due regard has been given to the provisions of the Equalities Act 2010, particularly the Public Sector Equality Duty and Section 149. The Equality Act 2010 requires public bodies to have due regard to the need to eliminate discrimination, advance equality of opportunity and foster good relations between different people when carrying out their activities. Protected characteristics are age, disability, gender reassignment, pregnancy and maternity, race/ethnicity, religion or belief (or lack of), sex and sexual orientation.

Local Finance Considerations

CIL

Retail floorspace is CIL liable at £120 per sqm.

The total liability is circa £311,748.08 based on the development delivering 2,349 square metres of liable floorspace.

S106 Heads of Terms

Para 57 of the NPPF states that planning obligations must only be sought where they meet all of the following tests:

- a) necessary to make the development acceptable in planning terms;
- b) directly related to the development; and
- c) fairly and reasonably related in scale and kind to the development.

The following are required to make the development acceptable in planning terms:

- Construction of the two smaller units to shell prior to the opening of the main foodstore and marketing the units for a minimum period of 24 months.
- Agreement to be set up between the applicant and Groundwork via Torbay Council; to deliver, manage and maintain an area of land to enhance biodiversity value in favour of Greater Horseshoe Bats as per the agreed and approved Mitigation Strategy for the Greater Horseshoe Bats. The S106 will secure the mitigation measures as set out in the Habitats Regulations Assessment.
- Delivery of the full length of road shown within the application site to adoptable standards and the requirement to enter into a S.38 agreement prior to the commencement of development and completion of such works prior to any occupation of the development, with no ransom strip to access land to the west.
- Undertaking to allow third parties the right to construct and use a vehicular and pedestrian access linking the development sites to the south and west to the Kings Ash Road through Lidl's land without ransom.
- To market the applicants adjoining land within the blue line for housing development only and for an agreed minimum time period.
- To secure a pedestrian access linking the site to the 'blue' land to the west.
- To ensure protection and buffer planting of the southern hedgebank at least until the off-site bat mitigation habitat is functional.
- Entering into a Section 278 agreement prior to the commencement of development to secure the provision of the new main junction and other highway and related works and any necessary traffic regulation order and require completion of the works prior to any occupation of the development.

EIA/HRA

EIA: The development has been screened. Due to the scale, nature and location this development will not have significant effects on the environment and therefore is not considered to be EIA development.

HRA: Due to the scale, nature and location this development is not considered to have a likely significant effect on European Sites subject to the planning conditions contained within this report and the completion of a Section 106 agreement, in accordance with advice received by Natural England and Devon County Council acting as the Council's Ecological Advisor.

Planning Balance

The planning assessment considers the policy and material considerations in detail.

The scheme would provide a discounted food retailer in area of economic deprivation providing access to fresh food. It will provide employment during construction and when operational. The proposal will also provide the necessary infrastructure to unlock Great Parks Phase 2 by delivering the fourth arm onto Kings Ash Road and, though legal obligation, rights to access allocated housing land to the west and south, land that has been allocated for decades without delivery. Whilst the proposal would result in a loss of housing land, it is considered that the proposal will be the driver at bringing the remainder of Great Park Phase 2 forward for housing development at a time when this Council is in considerable need of housing delivery. All other matters such as drainage, biodiversity impacts and landscape impacts can be satisfactorily addressed or mitigated.

In conclusion, it is considered that the planning balance weighs in favour of the proposal.

Conclusions and Reasons for Decision

The proposal does not fully accord with the Development Plan in so far as it does not wholly conform with Great Parks Masterplan, however the proposal is considered to be acceptable in principle for the reasons set out in this report and the benefits of this development significantly outweigh any harm or policy conflict. It is considered that the proposal accords with the development when taken as a whole

The proposed development is considered to represent sustainable development and is acceptable, having regard to the Torbay Local Plan, the Paignton Neighbourhood Plan, the NPPF, and all other material considerations.

Officer Recommendation

Approval: Subject to;

The resolution of any new material considerations that may come to light following Planning Committee to be delegated to the Assistant Director of Planning, Housing and Climate Emergency, including the addition of any necessary further planning conditions or obligations.

Conclusion of a S106 agreement based on the "S106 Heads of Terms" set out above;

Final consultation response from Natural England confirming agreement to the Habitats Regulations Assessment;

The conditions as outlined below with the final drafting of conditions delegated to the Divisional Director of Planning, Housing and Climate Emergency;

Conditions

Retaining Walls

Prior to the commencement of any development except construction of the site access hereby approved, full details of all retaining walls, any underbuild, site levels including landscaped areas and finished floor levels in relation to the units, shall have been submitted to and approved in writing to the Local Planning Authority. The development thereafter shall be in accordance with the proposed details and levels as approved.

Reason: In interests of visual and local amenity and in accordance with Policies DE1 and DE3 of the Torbay Local Plan 2012-2030. This pre-commencement condition is required to protect visual amenity.

Drainage

The development shall proceed in full accordance with the submitted and approved flood risk assessment and drainage plan and the drainage scheme shall be fully implemented prior to the occupation of the unit to which it relates. The drainage system shall then be maintained at all times thereafter to serve the development.

Reason: In the interests of adapting to climate change and managing flood risk, and in order to accord with saved Policy ER1 and ER2 of the Torbay Local Plan 2012-2030 and the guidance contained in the NPPF.

Construction Management Plan

No development shall take place until a site-specific Construction Management Plan has been submitted to and been approved in writing by the Council. The plan must demonstrate the adoption and use of the best practicable means to reduce the effects of noise and dust. The plan should include, but not be limited to:

- Procedures for maintaining good neighbour relations including complaint management.
- All works and ancillary operations which are audible at the site boundary, or at such other place as may be agreed with the Local Planning Authority, shall be carried out only between the following hours:
 - 08:00 Hours and 18:00 Hours on Mondays to Fridays and 08:00 and 13:00 Hours on Saturdays and; at no time on Sundays and Bank Holidays.
- Deliveries to and removal of plant, equipment, machinery and waste from the site must only take place within the permitted hours detailed above.

- Mitigation measures as defined in BS 5528: Parts 1 and 2: 2009 Noise and Vibration Control on Construction and Open Sites shall be used to minimise noise disturbance from construction works.
- Control measures for dust and other air-borne pollutants.
- Wheel washing facilities.
- Details of the location of construction compounds and storage areas for plant, machinery and materials.
- Details of parking for construction workers vehicles.

Development shall take place in accordance with the approved details.

Reason: In the interests of the amenities of surrounding occupiers during the construction of the development, and in accordance with Policy DE3 of the Torbay Local Plan 2012-2030. This pre-commencement condition is required to protect local amenity and highway safety prior to potentially impacting working commencing.

Written Scheme of Investigation

The development shall proceed in accordance with the Written Scheme of Investigation prepared by RPS (JAC26858, dated 02 February 2021) and submitted in support of this planning application. The development shall be carried out at all times in accordance with the approved scheme, or such other details as may be subsequently agreed in writing by the Local Planning Authority.

Reason: To ensure, in accordance with Policy SS10 of the Torbay Local Plan 2012 - 2030 and paragraph 205 of the National Planning Policy Framework, that an appropriate record is made of archaeological evidence that may be affected by the development.

Construction and Ecological Management Plan

No development (including ground works) or vegetation clearance works shall take place until a Construction and Environmental Management Plan (CEMP) for that phase has been submitted to and approved in writing by the Local Planning Authority. The CEMPs shall be prepared in accordance with specifications in clause 10.2 of BS 42020:2013 (or any superseding British Standard) and 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.
- d) The location and timing of sensitive works to avoid harm to biodiversity features. This includes the use of protective fences, exclusion barriers and warning signs.

- e) The times during construction when specialist ecologists need to be present on site to monitor works to ensure compliance with the CEMP, and the actions that will be undertaken.
- 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.

The approved CEMPs shall be adhered to and implemented throughout the construction period of the phase of the development that they relate to strictly in accordance with the approved details.

Reason: In the interests of biodiversity and to minimise impacts on protected species in accordance with Policy NC1 of the Torbay Local Plan 2012-2030 and guidance contained within the NPPF. These details are required pre-commencement as specified to ensure that biodiversity is not harmed by building operations or vegetation removal.

Landscape and Ecological Management Plan

No development (including ground works) or vegetation clearance works shall take place until a Landscape and Ecology Management Plan has been submitted to and approved in writing by the Local Planning Authority. The LEMP shall include the recommendations included in the submitted and approved Ecological Assessment and all details relating to mitigation measures, species requirements, and the delivery of a net gain in biodiversity. The LEMP shall also seek to secure management of wildlife habitats for the lifetime of the development, detail for an ecological clerk of works to oversee all wildlife requirements, and set out compliance monitoring reporting to the Local Planning Authority at a timetable to be agreed.

Reason: In the interests of biodiversity and to minimise impacts on protected species in accordance with Policy NC1 of the Torbay Local Plan 2012-2030 and the guidance contained within the NPPF. These details are required pre-commencement as specified to ensure that biodiversity is not harmed by building operations or vegetation removal.

Vegetation Clearance

No vegetation clearance shall take place during the bird nesting season (01 March to 30 September, inclusive) unless the developer has been advised by a suitably qualified ecologist that the clearance will not disturb nesting birds and a record of this kept and made available to the Local Planning Authority upon request.

Reason: To ensure due protection is afforded wildlife, in accordance with Policy NC1 of the Torbay Local Plan 2012-2030 and Policy PNP1(c) of the Paignton Neighbourhood Plan, and the advice contained within the NPPF.

Repeat Badger Surveys

No development (including ground works) or vegetation clearance works shall take place until a repeat survey for the presence of badgers on the site and surrounding suitable habitat, with associated mitigation/compensation measures, has taken place and been submitted to and approved in writing by the local planning authority. The development shall proceed in full accordance with the approved detail.

Reason: To secure an acceptable form of development in accordance with Policies SS8 and NC1 of the Torbay Local Plan 2012-2030, and the advice contained within the NPPF. This is required pre-commencement to ensure protected species are not unduly impacted.

Ecological Monitoring Strategy

No development (including ground works) or vegetation clearance works shall take place, unless an alternative timescale has been agreed in writing with the Local Planning Authority, until an Ecological Monitoring Strategy of the offsite mitigation land has been submitted to and approved in writing by the Local Planning Authority. This strategy will secure compliance monitoring of the mitigation measures on and around the site, and to provide early warning of the need to implement timely remedial action where mitigation measures are not functional. The Ecological Monitoring Strategy will be based upon best practice (including BS42020). The development shall proceed in full accordance with the approved strategy.

Reason: To secure an acceptable form of development in accordance with Policies SS8 and NC1 of the Torbay Local Plan 2012-2030, and the advice contained within the NPPF.

Compliance HRA

The development hereby approved shall be carried out in strict accordance with the recommendations of the Habitats Regulations Assessment Report (plan reference 'XXXX' received 2nd February 2022).

Reason: In the interests of protected species and in accordance with Policy NC1 of the Torbay Local Plan 2012-2030.

Food Store PD Removal

Notwithstanding the provisions of The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended), or any Order amending or revoking the Order, and notwithstanding the provisions of the Town and Country Planning (Use Classes Order) 1987 (as amended), or any Order amending or revoking the Order the main food store unit hereby approved (the Lidl Supermarket) shall have a maximum net sales area of 1,410 square metres and shall at all times be used solely for the retail sale of food only except that no more than 20% of the net sales area may

be used for the sale of comparison goods, with no sub-division of the food store unit into more than one separate retail unit.

Reason: In order to secure an acceptable form of development in accordance with Policies TC1, TC2 and TC3 of the Torbay Local Plan 2012-2030.

Smaller Units PD Removal

Notwithstanding the provisions of The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended), or any Order amending or revoking the Order, and notwithstanding the provisions of the Town and Country Planning (Use Classes Order) 1987 (as amended), or any Order amending or revoking the Order the two ancillary Class E (a)(b)(c) units hereby approved shall at all times be used solely for uses falling within Use Classes E (a)(b)(c), and for no other purposes.

Reason: To secure an appropriate form of development that presents small-scale ancillary food sales operations to support the established retail offer within what is an out-of-centre location, in accordance with Policy TC3 of the Torbay Local Plan 2012-2030 and the NPPF.

Boundary Treatment/Hard Surfaces PD Removal

Notwithstanding the provisions of Part 2, Class A and Part 7, Classes B, C, D and E of The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended), or any Order amending or revoking the Order, no boundary treatments or hard surfaces, other than those shown on the plans hereby approved, shall be installed at any time unless permission under the provisions of the Town and Country Planning Act 1990 has first been sought and obtained in writing from the Local Planning Authority.

Reason: In interests of visual and local amenity and the living environment conditions in this locality in accordance with Policies DE1 and DE3 of the Torbay Local Plan 2012-2030.

Landscape Scheme

Notwithstanding the plans hereby approved prior to the first occupation or use of the development hereby permitted, a Detailed Landscaping Scheme for the site shall be submitted to and approved in writing by the Local Planning Authority.

The scheme shall include details of hard and soft landscaping, including all boundary treatments. Where applicable, it shall specify tree and plant species and methods of planting.

The hard landscaping shall be constructed as approved prior to the occupation/use of the development in any phase. The soft landscaping of a phase shall be planted in the first planting season following the first occupation or use of the development, or in earlier planting seasons wherever practicable. 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 a similar size and species, unless the Local Planning Authority gives written consent to any variation.

Reason: In the interests of amenity and design in accordance with Policies DE1, C4 and NC1 of the Torbay Local Plan 2012-2030, Policy PNP1(c) of the Paignton Neighbourhood Plan 2012-2030 and the advice contained within the NPPF.

Unsuspected Contamination

If, during development, contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing with the Local Planning Authority) shall be carried out until a remediation strategy detailing how this contamination will be dealt with has been submitted to, and approved in writing by, the local planning authority. The remediation strategy shall be implemented as approved.

Reason: For the protection of controlled waters, in accordance with Policy ER3 of the Torbay Local Plan 2012-2030.

Southern Tree Belt Underground Works

Prior to the commencement of development along the southern boundary of the site, details of any underground works including excavation shall be submitted and approved in writing by the Local Planning Authority. No works shall be carried out in the vicinity of the southern boundary of the site except in accordance with the approved details.

Reason: In the interests of amenity, design and ecology, in accordance with Policies NC1, DE1 and C4 of the Torbay Local Plan 2012-2030, and the NPPF. These details are required prior to commencement to ensure protection measures are in place prior to potential harmful construction works commencing on site.

Trees (Pre-Commencement)

Prior to the commencement of development, the following information should be submitted and approved in writing by the Local Planning Authority:

A detailed Arboricultural Impact Assessment, including (but not exclusive to) details of the southern retaining wall and any earth banking proposed to ensure the Root Protection Areas of the group G3 is not affected; sequence of site operations; pre-commencement site meeting for tree protection measures; initial sign of on tree

protections; monthly visits to ensure the Tree Protection Fencing is in place and fit for purpose; timing of fence removal; protection of Root Protection Areas during landscaping,

The development shall proceed in full accordance with the approved details.

Reason: In the interests of amenity, design and ecology, in accordance with Policies NC1, DE1 and C4 of the Torbay Local Plan 2012-2030, and the NPPF. These details are required prior to commencement to ensure protection measures are in place prior to potential harmful construction works commencing on site.

Tree Pit Details

The development shall proceed in accordance with the approved Tree Pit plan ('JSL3871-RPS-XX-EX-DR-L-9002 P01 (Tree Pit Details)' received 16th March 2021), unless otherwise submitted and approved in writing by the Local Planning Authority.

Reason: In the interests of amenity, design and ecology, in accordance with Policies NC1, DE1 and C4 of the Torbay Local Plan 2012-2030, and the guidance contained within the NPPF.

Highways Standards

Prior to the first use of the development, construction of the internal roads and footpaths within the internal layout shall be in accordance with the Torbay Highways Design Guide and in operation. Roads serving the development shall be completed to adoptable standards.

The design and specification for the internal access roads and the new main junction shall meet the requirements for access and servicing the development of the remainder of Great Parks Phase 2 Committed and Other Deliverable Development Sites as defined by Policy H1 of the Torbay Local Plan. The estate road shall extend and be constructed to the red line boundary of the application site to offer potential connection to the land edged blue on the approved site plan and the remainder of Great Parks Phase 2 and avoiding the creation of any ransom strip.

Reason: To ensure highway safety is not impaired and the need for comprehensive development, in accordance with Policies DE1, H1, TA1 and TA2 of the Torbay Local Plan 2012-2030.

Secured by Design

Prior to the first use of the development hereby approved, a scheme of measures for designing-out crime shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall include details of how designing out crime, fear of crime, antisocial behaviour and conflict have been considered for the scheme and where implemented. And shall include details of a monitored CCTV system and

confirmation that a clear passport to compliance document will be in place prior to installation to ensure that the system is fit for purpose. The approved measures shall be fully installed prior to the first use of the development and shall be retained and maintained for the lifetime of the development.

Reason: In the interests of crime prevention in accordance with Policies DE1 and SS11 of the Torbay Local Plan and Policy PNP1(g) of the Paignton Neighbourhood Plan.

Public Realm

Prior to the first use of the main foodstore (the Lidl Supermarket) hereby approved, details of the public realm area (north-east corner of the site) shall be submitted to and approved in writing by the Local Planning Authority. These details shall include dimensions and materials of the external surfaces and including street furniture. The public realm shall be installed as approved prior to the use of the main foodstore. The public realm shall thereafter be retained and maintained as a public area and shall not be used for any other purpose.

Reason: In the interests of design and in order to accord with Policy DE1 of the Torbay Local Plan 2012-2030, Policy PNP1(c) of the Paignton Neighbourhood Plan, and guidance contained within the NPPF.

Energy

The development shall proceed in accordance with the energy saving measures outlined within the submitted and approved Energy Statement (One Design Architects; January 2022). The approved measures shall be fully incorporated within the scheme prior to its first use.

Reason: In the interests of sustainable development and in accordance with Policy SS14 of the Torbay Local Plan 2012-2030.

Waste Audit and Management

No development (including demolition and ground works) or vegetation clearance works shall take place for any phase of the development until a Waste Audit and 5-year Waste Management Plan for that phase has been submitted to and approved in writing by the Local Planning Authority. The Waste Audits and 5-year Waste Management Plans shall include measures to:

- a) Prevent and minimise, re-use and recycle waste (including composting where appropriate).
- b) Minimise the use of raw materials.
- c) Minimise the pollution potential of unavoidable waste.
- d) Seek alternative modes of transport (to the use of roads) to move waste (wherever possible).

- e) Make provision for the storage and collection of waste.
- f) Dispose of unavoidable waste in an environmentally acceptable manner.

The Waste Audits and 5-year Waste Management Plans shall be implemented as approved.

Reason: To minimise waste from the development in accordance with Policy W2 of the Torbay Local Plan 2012-2030. These details are required pre-commencement as specified to ensure that waste generation is minimised from the start of the development and is dealt with in a sustainable way.

Lighting

Prior to the first use of the development a detailed Lighting Strategy shall be submitted to and agreed in writing by the Local Planning Authority. The Strategy shall seek to minimise impacts on wildlife and ensure no light spill onto adjacent wildlife habitats, and shall include details such as the following: artificial lighting associated with public realm lighting and internal and external lighting associated with any proposed buildings. The development shall proceed in full accordance with the approved detail and no additional external or internal lighting shall be provided within the development at any time.

Reason: To secure an acceptable form of development in accordance with Policy NC1 of the Torbay Local Plan 2012-2030, Policy PNP1 of the Paignton Neighbourhood Plan and advice contained within the NPPF.

Parking provision

Prior to the first use of the supermarket hereby approved, the parking provision shown on the approved plans shall have been provided in full, including the provision of the demarked disabled and parent and child spaces. These elements shall thereafter be retained as parking facilities for the life of the development.

Reason: To secure an appropriate form of development in accordance with Policy TA3 of the Torbay Local Plan 2012-2030.

Delivery Access and Manoeuvring

Prior to the first use of the supermarket hereby approved, the delivery bay and manoeuvring area shown on the approved plans shall have been provided in full. These elements shall thereafter be retained as parking facilities for the life of the development.

Reason: To secure an appropriate form of development in accordance with Policy TA3 of the Torbay Local Plan 2012-2030.

Electric charging facilities

Prior to the occupation of the development hereby approved, the electric charging points shown on the approved plans shall be provided, and thereafter permanently retained for the life of the development. The agreed electrical charging points shall be thereafter maintained.

Reason: To secure an appropriate form of development in accordance with Policies TA3 and SS14 of the Torbay Local Plan 2012-2030 and Policy PNP1(h) of the Paignton Neighbourhood Plan.

Cycle parking provision

Prior to the first occupation of the development hereby permitted, the bicycle storage shown on the approved plans shall be provided. Once provided, the agreed bicycle storage shall be retained and maintained for the life of the development.

Reason: To secure an appropriate form of development in accordance with Policies DE1, DE3 and TA3 of the Torbay Local Plan 2012-2030 and Policy PNP1(h) of the Paignton Neighbourhood Plan.

Highway Agreement

Prior to the commencement of development all necessary legal agreements shall be made with the Local Highway Authority in respect to all proposed works to the highway. The agreed works shall be implemented in full prior to the first use of the development.

Reason: To secure all necessary works to the public highway in order to ensure highway safety is maintained and network impacts are adequately managed, in accordance with Policies TA1 and TA2 of the Torbay Local Plan 2012-2030 and the advice contained within the NPPF.

Construction Traffic Management Plan

Prior to the commencement of development, a Construction Traffic Management Plan shall be submitted to and approved in writing by the Local Planning Authority. The approved Construction Traffic Management Plan shall be adhered to and implemented throughout the construction period of the phase of the development that they relate to strictly in accordance with the approved details.

Reason: In the interests of local and highway amenity and residential amenity, and in accordance with Policies DE3 and TA2 of the Torbay Local Plan 2012-2030. This pre-commencement condition is required to protect local amenity and highway safety prior to potentially impacting working commencing.

Car Park Management Plan

The development shall not be brought into use until a Car Parking Management Strategy has been submitted to and approved in writing by the Local Planning Authority. The submitted scheme shall detail the intended means of preventing

overspill parking onto the highway; preventing access to the car park outside opening hours; and otherwise limiting the use of the car park. The agreed strategy shall be employed for the life of the development.

Reason: In the interests of local and highway amenity, and in accordance with Policies DE3 and TA3 of the Torbay Local Plan 2012-2030.

Delivery Times

No vehicular movements nor any loading or unloading of commercial vehicles shall take place on the site except between the hours of 07:00 and 23:00 on Monday to Saturday and 08:00 and 18:00 on Sundays and Bank or Public Holidays. There shall be no waiting of commercial vehicles servicing the development site on Kings Ash Road and the approved spur road at any time.

Reason: In the interests of local and neighbouring amenity, and in accordance with Policy DE3 of the Torbay Local Plan 2012-2030.

Travel Plan

Prior to the first occupation of the development a Travel Plan and Implementation Strategy with SMART targets to seek to meet minimum Policy requirements of 30% modal shift to foot, cycle and public transport, for all users, with appropriate monitoring, reporting and mitigation measures should these targets not be met, shall be submitted to and approved in writing by the Local Planning Authority. The approved Travel Plan shall be fully implemented for the lifetime of the development.

Reason: To ensure sustainable travel modes are duly promoted, in accordance with Policies TA1, TA2 and DE1 of the Torbay Local Plan 2012-2030.

Opening Hours

The opening hours of the food store (Use Class E(a)) (the Lidl Supermarket) hereby approved shall be limited to 0700hrs - 2200hrs Mondays through Saturdays, and 1000hrs - 1600hrs on Sundays and Bank Holidays.

Reason: In the interests of local and neighbouring amenity, and in accordance with Policy DE3 of the Torbay Local Plan 2012-2030.

Smaller Unit Opening Hours

The opening hours of the two smaller ancillary units (Use Class E(a)(b)(c)) hereby approved shall be limited to 0700hrs - 2200hrs on all days.

Reason: In the interests of local and neighbouring amenity, and in accordance with Policy DE3 of the Torbay Local Plan 2012-2030.

External Materials

Prior to the installation of the external materials hereby approved within each building and boundary treatment, a detailed materials schedule for that each building or boundary treatment, either physical or digital, shall be submitted to and approved in writing by the Local Planning Authority. Each building shall be externally finished in full accordance with the approved materials schedule for that building. For the avoidance of doubt this includes exterior cladding, roof materials, windows, doors, rainwater goods, fascias etc.

Reason: To secure an appropriate form of development in accordance with Policy DE1 of the Torbay Local Plan 2012-2030 and Policy PNP1(c) of the Paignton Neighbourhood Plan 2012-2030 and the advice contained within the NPPF.

PD Removal (Non-domestic extensions, alterations)

Notwithstanding the provisions of Article 3, Schedule 2, Part 7, Class A, of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended), or any Order amending or revoking that Order, no extensions or alterations shall be made to any retail unit hereby approved.

Reason: To maintain an acceptable form of development in accordance with Policy DE1 of the Torbay Local Plan 2012-2030 and Policy PNP1(c) of the Paignton Neighbourhood Plan.

Public Art

Prior to the first use of the foodstore hereby approved, details of the public art to be installed within the public realm area (north-east corner of the site) shall be submitted to and approved in writing by the Local Planning Authority. These details shall include dimensions and materials (and illumination if necessary). The public art shall be installed as approved prior to the use of the main retail store for retail purposes.

Reason: In the interests of design and in order to accord with Policy DE1 of the Torbay Local Plan 2012-2030, Policy PNP1(c) of the Paignton Neighbourhood Plan, and guidance contained within the NPPF.

Informative(s)

In accordance with the requirements of Article 35(2) of the Town and Country Planning (Development Management Procedure) (England) Order, 2015, in determining this application, Torbay Council has worked positively with the applicant to ensure that all relevant planning concerns have been appropriately resolved. The Council has concluded that this application is acceptable for planning approval.

Relevant Policies

Development Plan Relevant Policies

C1 - Countryside and the rural economy
C4 - Trees, hedgerows and natural landscape
DE1 - Design
DE3 - Development amenity
DE4 - Building heights
ER1 - Flood risk
ER2 - Water management
ES1 - Energy
SC1 - Healthy bay
SC3 - Education, skills and local labour
SC5 - Child poverty
SS3 - Presumption in favour of sustainable development
SS4 - The economy and employment
SS5 - Employment space
SS11 - Sustainable communities
SS14 - Low carbon development and climate change
TA1 - Transport and accessibility
TA2 - Development access
TA3 - Parking requirements
TC2 - Torbay retail hierarchy
TC3 - Retail development
W1 - Waste management facilities
W2 - Waste audit for major development and significant waste generating developments
NC1 - Biodiversity and geodiversity

PNP1 - Area wide
PNP1(b) - Local green space
PNP1(c) - Design principles
PNP1(e) - Commercial development
PNP1(f) - Towards a sustainable low carbon energy efficient economy
PNP1(g) - Designing out crime
PNP1(h) - Sustainable transport
PNP1(i) - Surface water
PNP2 - Town centre
PNP20 - Great Parks
PNP22 - Western corridor