

<b>Committee Date</b>	18/03/2020	
<b>Address</b>	The Porcupine, 24 Mottingham Road, Mottingham, London, SE9 4QW	
<b>Application number</b>	19/01670	<b>Officer</b> Jessica Lai
<b>Ward</b>	Mottingham and Chislehurst North	
<b>Proposal</b>	Full planning permission for the demolition of the existing public house and erection of an A1 retail foodstore, with associated car parking, reconfigured site access, landscaping, servicing and other associated works.	
<b>Applicant</b>	<b>Agent</b>  Lidl Great Britain	<b>Agent</b>
C/O Agent		Ms Laura Beech  Ms Laura Beech Walsingham Planning Brandon House King Street Knutsford WA16 6DX
<b>Reason for referral to committee</b>	Call-in	<b>Councillor call in</b>  Yes

<b>RECOMMENDATION</b>	<b>PERMISSION</b>

## **KEY DESIGNATIONS**

Biggin Hill Safeguarding Area  
 London City Airport Safeguarding  
 Open Space Deficiency  
 Smoke Control SCA 28  
 Mottingham Local Centre

<b>Land use Details</b>		
	Use Class or Use description	Floor space (GIA SQM)
Existing	Class AA – Drinking establishments with expanded food provision	Total floor area: 620
Proposed	Class A1 – Retail	Retail floor area: 749 Total floor area: 1,380

<b>Vehicle parking</b>	Existing number of spaces	Proposed number of spaces	Difference in spaces (+ or -)
Standard car spaces	16	33 (Total including disabled and parent and children priority spaces)	+17
Disabled car spaces	0	2	+ 2
Parent and children priority spaces	0	2	+ 2
Cycle	0	26	+26

<b>Representation summary</b>	298 neighbouring properties were consulted on the 5 <sup>th</sup> June 2019. A site notice was placed at the site and the proposal was advertised in the press dated the 19 <sup>th</sup> June 2019.
Total number of responses	307
Number in support	57
Number of objections	248
Number of comment	2

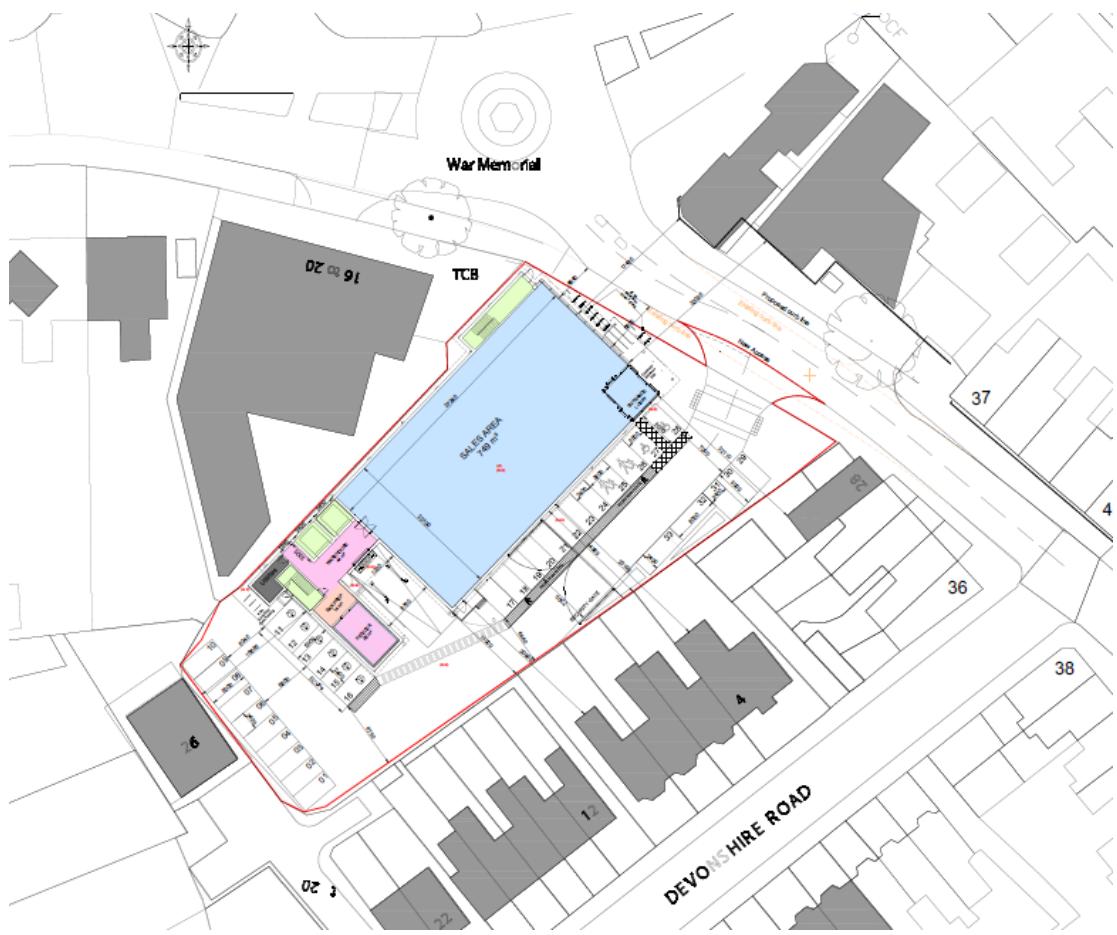
## 1. SUMMARY OF KEY REASONS FOR RECOMMENDATION

- The proposed development would positively contribute to the vitality and viability of Mottingham Local Centre bringing a derelict site back into active use without causing any significant harm to the residential amenities enjoyed by the neighbouring properties.
- The site was included on the Council's Assets of Community Value list between 2013 and 2018 - the listing was removed in 2018 when it expired.
- The site has been marketed since 2016 and local community groups were provided with opportunities to acquire the site. A six month moratorium period commenced in June 2016 and expired in December 2016. The procedures set out under Section 88 (2) of the Localism Act 2011 were followed. No offers for the existing public house to be retained materialised.

- The viability assessment has been assessed and agreed by an independent viability consultant who has confirmed that the site is not viable as a public house.
- Detailed access arrangements and footway dimensions are provided and these address the visibility issues raised by the previous Planning Inspector within their appeal decision in December 2014. Subject to the improvement works to the existing pedestrian crossing, a planning obligation to review and amend the waiting restriction in the area and the planning conditions suggested, it is considered that the proposal would be acceptable.

## **2. LOCATION**

- 2.1. The site (The former Porcupine Inn) measures approximately 2,581sq.m in area and is located on the south-western side of Mottingham Road near to the War Memorial roundabout. The site was first opened in 1688 as a village pub in the hamlet of Mottingham. The existing building is a part single and part two storey building with a former beer garden to the rear and an off-street parking area in the forecourt. The building was constructed in the 1920s after the First World War.
- 2.2. Trading ceased in 2013 and the site has been vacant for 7 years. The property was registered as an Asset of Community Value (ACV) in 2013 for a period of 5 years and this status expired in 2018. At present, the site is secured by wooden panels and it was illegally occupied by travellers in August 2016.
- 2.3. The site is adjoining a motorcycle showroom to the north and residential properties to the south and west. Opposite the site is Mottingham Library. The application property is not a listed building and the site is not located within a conservation area. The War Memorial at the roundabout is Grade II listed.
- 2.4. The site forms part of the Mottingham Local Centre in the Proposal Map. The site is located in a suburban area and surrounded by low rise buildings which range between single to three storeys in height. The site is also surrounded by a mixture of residential and commercial buildings.
- 2.5. Mottingham Road is a classified road (A208/B226) which runs between Orpington and Mottingham connecting the Borough north to the Royal Borough of Greenwich. The public transport accessibility of the site is rated at 2 on a scale between 0 to 6b, where 0 is worst and 6b is Best. The application site is located within Flood Zone 1 and is not subject to surface water flooding. Mottingham Road and its surrounding highway network are subject to surface water flooding. There are two TPO trees in the former beer garden.



### **3. PROPOSAL**

- 3.1. Full planning permission is sought for the demolition of the former Porcupine Inn and erection of a part single and part two storey building to provide a retail unit (Use Class Order Class A1), to be occupied by Lidl.
- 3.2. The proposed retail unit would comprise the following:

*Ground floor*

- Sales area measuring approximately 749sq.m;
- Internal stairs, lifts, utility, freezer area and bakery area measuring 179sq.m

*First Floor*

- Managers office, toilets, welfare, stairs, lift and warehouse measuring 452sq.m

- 3.3. The proposed opening hours will be 08:00 to 22:00 Monday to Saturday, 10:00 to 16:00 on Sunday. The proposed delivery hours will be 08:00 to 21:00 Monday to Saturday, 10:00 – 16:00 on Sunday.
- 3.4. The proposal would also include improvement works to the existing pedestrian island and realignment of the vehicular access and public pavement on Mottingham Road near to the access.

- 3.5. A total of 33 parking spaces including 6 electric charging points (3 active and 3 passive), 2 disabled spaces and 2 parent with children priority spaces would be provided. The parking spaces would be available for the customers for a maximum period of 90 minutes with no return in one hour. 26 cycle storage spaces (6 long stay and 20 short stay) would also be provided.
- 3.6. 6 x 6 metres high lighting columns would be installed in the car park. 8 wall lights and 4 down lighters would be attached on the proposed building. Removal of existing TPO trees with replacement planting and landscaping is also proposed.



#### **4. RELEVANT PLANNING HISTORY**

- 4.1. 87/01716/FUL – granted on 20.07.1987.  
Single storey rear extension.
- 4.2. 89/02541/FUL – refused on 30.010.1989.  
Retrospective full planning application for the use of public house forecourt for stationing of flower stall.
- 4.3. 07/03543/FULL1 – granted on 26.11.2007.  
Erection of a jumbrella and a megasol in outside drinking area at rear.
- 4.4. 13/01377/DEMCON – refused on 24.06.2013.  
Prior approval for the demolition of public house.

- 4.5. 13/04160/FULL1 – refused on 20.02.2014 and subsequent planning appeal was dismissed on the 16.12.2014.

Demolition of the Porcupine public house and erection of a two storey building to provide a retail foodstore comprising 800sqm sales area with ancillary storage, office, servicing area and 35 car parking spaces.

## 5. CONSULTATION SUMMARY

### A) Statutory

- 5.1. Historic England – (Listed building): **No objection**

Historic England do not consider that it is necessary to be notified about this application.

- 5.2. Historic England – (Archaeology): **No objection**

The proposal is unlikely to have a significant effect on heritage assets of archaeological interest. No further assessment or conditions are required.

- 5.3. LB Bromley – Highway: **No objection**

Mottingham Road is part of the B226 and a London Distributor Route. The previous application was dismissed at appeal due to the sub-standard sightlines at the proposed access.

#### *New access*

It is proposed to close up the existing accesses to the site and replace them with a single more central access. In order to achieve the required sightline of 2.4m x 43m to the right of the access, it is proposed to adjust the road alignment by building out the footway in front of the proposed store and reducing the footway on the opposite side of the road. Detailed dimensions have been provided which indicates that a minimum 2 metres footway will remain in front of the library in accordance with the recommended width for a footway in Manual for Streets. This is in addition to the private open space in front of the library. The road marking details have also been updated. There do not seem to be any technical reasons why the road alignment cannot be amended. Should planning permission be approved, the development should be subject to a Stage 2 Road Safety Audit and the applicant will need to enter into a S278 agreement for the highway works to be carried out.

The Stage 1 Road Safety Audit raised a number of issues mostly relating to the detailed design issues, missing information and the crossing of the site access which can be dealt with during the detailed design process. A zebra crossing was initially proposed to replace the existing pedestrian crossing. This has now been superseded and the applicant has put forward the option to widen the pedestrian refuge to 1.8 m deep and 2.25 metres wide which will significantly enhance pedestrian safety.

#### *Servicing*

Servicing and deliveries will take place from 08:00 to 21:00 on Monday to Saturday and from 10:00 to 16:00 on a Sunday. A Delivery, Servicing and Waste Management Plan condition should be attached, should permission be recommended. The swept

path for the delivery vehicles shows vehicles would occupy both carriageways of Mottingham Road. This was considered acceptable in the previous appeal decision and there were large vehicles serving the former pub.

### *Parking*

The parking ratio in the current application is identical to the previous appeal scheme which was considered acceptable. The site is within a low PTAL area with 3 bus routes. The TRICS data indicates that the highest car park accumulation occurs on Saturday with 34 parked vehicles. It is noted that the car park is subject to a maximum stay of 90 minutes. There is a high demand for on-street parking and there is no public carpark in the area. The parking stress survey has been carried out within 500m from the site and a further survey within 200m during the 2 peak periods (17:00- 18:00 Thursday and 12:00 to 13:00 Saturday) was carried out and this indicates the availability of on-street parking spaces are low. There is no mention if people are making linked trips. There is a waiting restriction in the vicinity on Monday to Saturday between 8:30am and 6:30pm. Should permission be recommended, the waiting restriction in the area will need to be monitored and reviewed. This cost (£5,000) should be met by the applicant.

## **B) Local Groups**

### **6. Royal Borough of Greenwich (Planning) – No objection**

The Royal Borough has formally considered the matter and raises no objection. The Council has no further observations to make.

### **6.1. Royal Borough of Greenwich (Councillors John Hills, Matt Hartley and Roger Tester) – Objection**

Objection is raised to the proposal on the following grounds:-

- A significant and unacceptable increase in traffic congestion;
- Increased danger to pedestrians from lorries and cars turning in to and out of the proposed store in particular, a risk to pedestrian using the Library;
- Loss of amenity to local residents from increased parking difficulties and insufficient parking spaces;
- The removal of two protected trees; and,
- An unreasonable loss of business to several local independent businesses who sell food and other products, and the consequent damage to the local economy.

### **6.2. Member of Parliament – Sir Bob Neill MP - Objection**

Objection is raised to the proposal. A similar proposal was refused and dismissed in 2014. The pub was considered as a valued community facility. There are more residents whom object to the proposal than support it. Many within this local community believe that the applicant has cynically and deliberately allowed the site to fall into disrepair in order to make the redevelopment more appealing. The viability assessment indicates that the applicant has received offers in the past 5 years as well as interest registered by the Porcupine Development Committee. The applicant has

refused to positively engage with local residents. The proposal would have an impact on local businesses and result in the removal of two protected trees. The proposal would fail to demonstrate a safe and suitable access can be achieved. The proposal would result in a considerable increase in the volume and character of traffic and the changes of footway would be to the detriment of pedestrian safety. 33 parking spaces would be insufficient. The proposal would have an impact on the neighbouring residents in terms of noise from the car park early in the morning and late at night. The proposal would threaten the character of Mottingham Village and viability of local independent business. Planning permission should be refused.

#### 6.3. Bromley Councillor – David Cartwright - **Objection**

Objection is raised to the proposal on grounds of road safety, traffic congestion, lack of local parking, need for retail unit, loss of local history, surface water flooding, noise and light pollution to the residential properties in the late evening. There are utilities under the public pavement and it is not suitable for heavy vehicles to traverse this area without causing damage to the service main. There has been significant and regular flooding in the area of Mottingham Road stretching from the War Memorial roundabout to Devonshire Road.

#### 6.4. Bromley Councillor – Will Rowlands - **Objection**

Traffic in Mottingham Village is already a problem, in particular during rush hours and school pick up/drop off times. There are often traffic queues from Eltham College to the west of the War Memorial and to the A20 traffic lights at the eastern end of Court Road. Any increase in either parking or delivery will significantly increase these problems. The width of Mottingham Road is not considered suitable to accommodate large delivery lorries. The site is located near to the library and changes in footways are not considered appropriate for local residents and visitors to the shops and library. There are retail stores within 200m from the site. The proposal would have an adverse impact on the existing high street business and small trader. The proposal would also have an adverse impact on noise and light during late evening hours. Policy 23 resists the loss of a local pub and there are no alternatives within 500m from the site. The proposal would cause irreparable damage to the community and the village.

#### 6.5. Mottingham Residents Association - **Objection**

Object to the proposal on the following grounds: (1) Transport and safety of all road users (2) Accessibility; (3) Servicing arrangements; (4) Parking; (5) Vitality and community wellbeing - the need for a night time economy; (6) Environmental issues, and (7) Loss of amenity to residents.

The proposal to reduce the width of pavement outside Mottingham library would be detrimental to the needs of all users including parent, baby and toddler groups and all other age groups. The flower bed is not indicated on the plan. The HGVs will occupy the full width of the carriageway. The reduction of width is not considered acceptable. The minimum width for a parent with a child or people with a pushchair should be 2.7 metres. The depth and width of the existing pedestrian refuge is too small and would not accommodate the multiple shoppers crossing to the entrance to the proposed

store. The siting of the entrance and trolley store will also increase the risk of an accident.

The assumption of pedestrian accessibility within 2km is a reasonable distance to walk is not realistic. The site has a low PTAL rating and shoppers are more likely to visit Eltham and Chislehurst or visit the site by car. The delivery arrangement for Porcupine was a one way system and vehicles leave the site near the entrance nearest to the roundabout. The proposed servicing and delivery arrangement is not considered appropriate and the suggested delivery time would be between 6 to 7 am and 10 to 11pm. The proposal would also cause damage to the existing utilities. The proposal would fail to achieve the required visibility splay. The parking spaces do not provide enough allowance for driver error. HGVs are clearly far too large for the car park. Impact on highway safety should be fully addressed. The proposal would provide inadequate parking spaces and there is a lack of on-street parking in the area. The only free local on-street parking is approximately 200m away on Court Farm Road, mostly occupied by Eltham College sixth formers. The site is too small to accommodate the size of the proposed store and would represent gross overdevelopment. The submitted travel plan focuses on travel for staff members rather than shoppers.

The Mottingham Community has been well served by the support of CAMRA and the Porcupine Development Committee to ensure the future of the Porcupine Inn. There are no public houses within 500m from the site. The site was considered as a community facility and there were local meetings held at this site. Mottingham needs a night time economy to thrive and retain a future as a community.

The CGI indicates the proposal would appear as an intrusive development. The existing building is set in from the road and would result in the loss of 2 protected trees and impact on the wildlife and character of the area. The existing building should be reinstated. The proposal would have an adverse impact on residential amenities in the area, in terms of noise, outlook, traffic and disturbance during demolition and construction.

The proposal to increase the width on the southern footway has no meaningful contribution to highway safety as the width of northern footway would be reduced. The delivery vehicles would have an adverse impact on the roundabout capacity. The wooden bollards are often damaged or demolished by vehicles leaving the roundabout. The assumption delivery vehicles would not block the roundabout is unrealistic. The scales of the drawings are different and cannot be accurate. A light controlled pelican crossing should be investigated, including a safety audit. Delivery should not be close to the residential area. Minor accidents are unlikely to be reported unless they result in major damage or injury. Bromley has a high car ownership. However, Mottingham, Coldharbour, Chinbrook and Downham *are* in the top 10% of deprived households nationally with low car ownership. The parking survey was carried out during bank holiday. There were 21 free spaces on 5<sup>th</sup> September 2019 in the area. The proposal to review parking arrangement after 3 months of operation has no scope to increase parking provision.

A further letter dated 24<sup>th</sup> January 2020 from MRA was received. This letter states that the planning committee report is inaccurate with unsupported assumptions, errors and

omissions. There are barely any differences between the current and previous schemes. The status of the application was not updated on the Council's website until the 22<sup>nd</sup> January 2020 and residents were not notified ahead of the meeting. The viability assessment prepared by Morgan and Clarke was not considered by officers. The site is located on the south-western side of Mottingham Road and is adjoining to a motor cycle show room. Whilst the site was occupied by travellers for a short period of time, this has no bearing on this application. The applicant had made little effort to secure the site at the time and the pub was closed for 7 years. Mottingham Road is subject to surface water flooding including the opposite side of the road and corner of West Park. This is recognised in the Strategic Flood Risk Assessment as Local Flood Area 117, on Flood map C. The objection on highway grounds is higher than the support.

The proposal would result in job losses to the nearby shops. Lidl is not a good employer and is anti-union. They have refused to recognise Usdaw and provide opportunity for Usda to approach their staff about Usdaw's membership. The Prince of Wales public house is located 508 metres from the site and is over the 500 metre requirement set in the Bromley Local Plan Policy. These requirements should not be ignored. The Royal Tavern is currently closed with its future unknown.

#### 6.6. Campaign For Real Ale - **Objection**

Objection is raised on the grounds of loss of the public house which has the potential to be a valued community asset. The proposal would be contrary to the Bromley Local Plan, draft London Plan and the NPPG. The site has been closed and neglected by the owner for more than 5 years. There are no public houses within 500m from the site and the site should have been marketed for at least 24 months as stated in the draft London Plan. Bromley Local plan requires a 12 month time period for marketing activities. There is a general lack of evidence to substantiate the assumption in the viability assessment. This assessment accepts that the pub has been stripped of fixture and fittings and has been damaged in the process. There was no evidence provided which relates to the trading history of the pub before it was closed. The asking price of the pub provided. It can only be concluded that the main reasons the pub is described as unviable is the sale price is unrealistic. The Porcupine Inn has been a valuable community asset and could become so again.

#### C) Adjoining Occupiers

#### 7. Nearby owners/occupiers were notified of the application and representations received are summarised as follows:

##### 7.1. Objections:

###### 1. Transportation and Highway

- Existing roads are not wide enough for current traffic and there is already considerable congestion from Eltham College school;
- Inadequate junction and pavement width;
- Narrow junction and delivery vehicles could cause considerable problems;

- Whilst part of the footway would be widened, the junction is very narrow and increased traffic flow will cause major traffic jams with people turning in and out of Lidl all the time;
- Unsuitable site to have parking and servicing from the rear. Lidl belongs on a high street not a busy junction in a residential area;
- The existing local road infrastructure is not suitable for the size and nature of the proposed development;
- Loss of pavement outside the library is a safety hazard, especially for young children, elderly, people with pushchairs and wheelchairs;
- Increase traffic accident and roads are unsuitable for HGV delivery lorries. There are already a number of road traffic accidents on this roundabout;
- Increased risk of flooding if pavement is narrowed;
- Inadequate car park and would overspill to neighbouring road;
- Site is located near to a busy and dangerous roundabout and is close to local school, Eltham College and a Petrol Station;
- The local road including West Park are already very busy due to its being a main road to A20 and other towns with a petrol station nearby;
- The single road on Mottingham Road would not be able to cope with the servicing and delivery. Orangery Lane is an example where drivers would block the road whilst waiting for space and is a much larger retail unit and car park;
- Increase traffic, congestion, noise and pollution in the area;
- Roads are already dangerous for children to cross as there are no precautions, eg zebra crossings;
- Traffic jam caused by servicing and delivery;
- Impact on highway and pedestrian safety;
- Reduction in pavement width is contrary to Local Plan policy 102;
- The roads of Mottingham were not designed for the amount of traffic that now passes through there on a daily basis so it is dangerous to actively encourage more traffic to the area – unnecessary risk for a supermarket that is not really needed;
- Inadequate parking and people will use the neighbouring streets which already have lots of parked cars for the station;
- There is no suggestion that local people would be employed. This would increase the traffic in the area;
- The site is very small and poorly accessible. The bus stop closest to the site is only served by school buses in certain periods;
- Might require re-routing of services (gas, water and electricity) due to reduction in pavement width;
- No difference from previous application and has not addressed concerns regarding traffic safety and congestion in Mottingham;
- Will not attract local people who will walk to the store, but rather people who will drive long distances so increasing traffic to the area;
- Traffic was monitored during school holidays so is not a true reflection of how busy and congested it gets;
- Increase demand for kerb side parking and reduce parking for small businesses;
- The single road on Mottingham Road would not be able to cope with the servicing and delivery. Orangery Lane is an example where drivers would

block the road whilst waiting for space and is a much larger retail unit and car park;

- The proposal would further reduce the availability of on-street parking spaces;
- Vehicles turning into and out of the site will cause issues (especially large delivery lorries) as the roads are narrow;
- Impractical to suggest people will cycle or walk to Lidl carrying bags of shopping;
- The area is already used as a shortcut to avoid traffic on the A20 so already suffers with bad congestion;
- BP garage already causes a lot of congestion when petrol tankers arrive to deliver petrol;
- Proposed store junction is near to the library and two schools;
- Lorries will struggle to turn safely and risk damaging the war memorial
- Proposed delivery hours are during school drop off/pick up times so the area will be heavily congested;
- Cars already mount the pavement to try and get through at rush hour Mottingham Lane and the proposal would worsen this;
- The car park could be used by people not visiting the store;
- People may use the car park even when they are not using the Lidl store;

## 2. Design

- The proposed building is intrusive and out of keeping with the War Memorial and neighbouring properties. The bright yellow and blue Lidl hoardings and illuminated adverts will not fit into the street scene and will spoil the look of the village and War Memorial;
- Loss of community feel of the village;
- Site is just in front of the war memorial so a supermarket is inappropriate and dignity should be maintained;
- Overdevelopment of the site. The site is not a brownfield site suitable for development but primarily green space in a residential area;

## 3. Loss of community asset

- No evidence to confirm the pub was unviable when it was closed in 2013 and acquired by the applicant in 2013;
- Loss of pub which was highly valued by people in the area and there is no other pub in the vicinity that can serve the local community. Building was a pub registered as an assets of community value providing good services to the local people;
- There is a lack of community facilities in the area. The building could be used as a health centre, doctor surgery library café, social services, a community centre or for infant school expansion;
- Contrary to Policy 23 of the Local Plan as there is no alternative public house within 500m of the site and Lidl have not demonstrated that the existing pub was not viable. The village needs a pub. The proposal would not be an asset for the village;

- There is no information to demonstrate there are no prospective purchasers willing to maintain the existing use. There are many other pubs in the area that have been refurbished and modernised;
- The building is a local, traditional and landmark building and should be protected, renovated and not destroyed. The building is very old and has historical links to Mottingham. The site should be as a pub;
- Contrary to Policy 20 of the Local Plan as Lidl have failed to demonstrate that the demolition of The Porcupine is of benefit to the community; they will provide an alternative facility for the community or that there is no longer a need for the pub;
- Demolition of the pub is contrary to Policy 40 as the pub should be regarded as a non-designated heritage asset. The site could again become a focal point of Mottingham;
- Lidl have allowed the existing pub to become derelict so the proposal is seen as the only viable solution but could still be possible to turn it into something else;
- The proposal could place the adjacent war memorial at risk and would result in loss the of village character;
- Alternative pubs suggested are much further away so would not serve the Mottingham area as a local pub;

#### 4. Need for a new store

- The Council should consider a total regeneration of Mottingham village whereby it can facilitate the supermarket plus small local shops rather than allowing the area to deteriorate further with congestion, parking issues etc;
- There is a Lidl in Eltham High Street and people should visit Eltham High Street instead of Mottingham Village. All buses that serve Mottingham come via Eltham where there is already a Lidl store;
- Many people choose to have their shopping delivered from supermarket. This is more environmentally friendly for people to shop;
- Impact on local trade and wrong location for a busy supermarket. There are already many shops in the area offering 'top up' food items offered by this proposal. If local businesses are forced to close, there will be yet more empty shops;
- The village already has 5 food outlets so this could cause competition and closure of existing stores leaving premises vacant. No need for a new store of its size in the village;
- The building could be used as a restaurant;
- Impact on the vitality and viability of the local centre;
- Any new jobs created will be cancelled out by those lost from local shops which will be forced to close due to the competition from Lidl;
- Site is not suitable for a retail store, contrary to Bromley SPG2 and not in keeping with the character and appearance of the area, the iconic War Memorial and will ruin the amenity of Mottingham Village;

#### 5. Loss of trees

- Removal of TPO trees and green space will impact upon wildlife in the area;
- The proposal would result in environmental degradation;

- Increase flooding due to loss of trees;
- No suggestion of planting around the site to mitigate the loss of existing planting and habitats;

## 6. Residential amenities

- Air quality assessment highlights that there will be a reduction in air quality resulting from this proposal;
- noise due to late night shopping, deliveries and construction works;
- Increase anti-social behaviour and crime. The car park will make it easy for burglars to access the back gardens of residents to the rear of the site;
- not comply with the London Plan policies in terms of air quality, waste and noise;
- Court Road displays a sign banning 5 ton lorries between 6.30pm-8am, but Lidl propose to deliver 6-7am and/or 10-11pm;
- The stated delivery times are not binding so deliveries could be at any time, which is not suitable for a residential area;
- The proposal would destroy a community asset. The local area does not have the capacity and level infrastructure need to support a large supermarket. There are 3 Lidl stores in the area , Eltham, Bromley and Footscray;
- Increased likelihood of flooding resulting from inadequate management of surface water drainage as more of the local soil and plant cover is replaced by impermeable tarmac and brick, especially with the increase in more extreme weather due to climate change;
- Acoustic fence will not substantially attenuate noise;
- Impact on residential amenities in terms of lighting, privacy, noise and visual impact
- Increase pollution through litter and traffic which will negatively impact upon the two local schools
- The store will be open and receive deliveries at unsociable hours, including Sundays
- Vibrations from delivery lorries would destroy houses in the area with no foundations

## 7. Other

- Housing should be the priority for the empty site;
- No mention of energy saving measures or sustainability in the application. The proposal would only negatively impact the environment.

7.2. Please note the above is a summary of objections received and full text is available on the Council's website.

## 7.3. Support

### 1. Is there still a need for public house/ community use

- The residents association have had more than enough time to find an alternative use for the site and have failed. The pub has been closed for years and is an eyesore in the village. The current empty building is no use to the

community. Nobody has come up with a suitable alternative. Before the pub was closed, it had become unpopular and needed refurbishing. It is time to demolish the building and people should move on;

- The pub has been closed for a number of years and there are a number pf public houses in Eltham and Chislehurst area (The Banker Draft, The Rising Sun, The GPO, The Queens Head, The Bulls head, Rambler Rest, Prince of Wales, Imperial Arms, The Bickley, the Gordon Area, The Crown Tavern etc). There are no larger retail shops in the area and the proposal is needed;
- Most objectors who want the pub to remain never went in there when it was open;
- There is a lack of demand for a pub in this area as existing local ones are not that popular. The proposal will serve as a community hub and make the neighbourhood more lively;
- The pub was closed down as it was not popular and not viable to be kept open. People did not support the pub before should not to support it now;
- In the latter period, The Porcupine was never a thriving pub and was not an asset to the community. It has not proved possible to reopen it as a pub since its closure;
- The reuse of this building as a pub would attract undesirable people in the village;
- The idea of a pub on the site is out of date. No one has suggested a viable alternative so why not make the site a store that will be used rather than retaining it as a derelict eyesore. The proposal would improve the visual appearance of the area;
- The current pub site is an eyesore and could be dangerous. The proposal will improve amenities for the local area;

## 2. Need for a retail shop

- The local shops not sufficient for residents needs as residents have to travel out of the local area to shop. The proposal will reduce carbon footprint because people will be able to shop nearer to home;
- A store selling fresh, affordable produce would be welcomed. High cost convenience stores are of no use to the community who need low cost, high quality good that Lidl can provide. The proposal would be useful for local people who currently have to travel to Eltham or Chislehurst for a large supermarket with reasonably priced food;
- The local shops sell goods for high prices so a Lidl would be more affordable;
- There is no decent local shop in the area. The Co-op and M&S are expensive. Mottingham village should have a decent supermarket;
- The pricing of goods are unreasonable. The proposal would help people on a low wage and not able to drive to the shops;
- There is a need for affordable groceries as many elderly and vulnerable people are non-motorist and are held to local expensive shops;
- This proposal will benefit the young and old, unlike the previous pub;
- The proposal would be great not only for Mottingham but for Bromley as well;
- The proposal will lift the town and contribute to employment with healthy valuable food, fresh baker and convenience good;
- Makes use of a derelict site and more job

- The existing pub has not been used and is run down. The proposal would be a brilliant idea to the area. As a former resident with family ties in the area, I support proposal;

### 3. Provision of parking and improvement to highway

- A number of objections refer to parking. The proposal would provide 33 parking spaces and this may actually help with the congestion in the village;
- Congestion would only be minor and there will be a car park so only minimal impact on roads;
- The pub had a car park that was used by shoppers so there was always traffic in the vicinity;
- The applicant has a track record of making parking and access issues work;
- The proposal will be used mostly by local people who will walk there. If it has longer opening hours, customer visits will be spread out to alleviate some of the parking concerns;
- Smaller delivery vehicles could be used;
- The pavement outside the library is more than what is needed so can afford to be narrowed to allow for this proposal;
- Roads currently cope with deliveries to M&S and BP garage so this will be no different;
- Site is close to several bus routes;

### 4. Improvement and regeneration to the Local Centre and job provision

- The proposal would provide more shopping choice and job opportunities in the area. The proposal would also bring more customers to the small shops in the area;
- As a resident, I will shop locally instead of visiting Eltham. Mottingham is in need of investment such as this proposal;
- The proposal will help older people to shop locally as they cannot manage their heavy bags from Eltham High Street. The proposal will also bring benefits to other closed shops in the village;
- The proposal will increase footfall to other local businesses and help to regenerate the village;
- Other local non-food shops will benefit from increased footfall due to the new Lidl;
- People more likely to shop in the local area than online if the store is available which means more money stays in the borough generating employment and boosting the economy;
- The proposal will encourage more regeneration of Mottingham, which at the moment is quite run down and behind other areas such as Lee and Hither Green;
- The proposal will modernise the area and would provide good opportunity for Mottingham to be improved and invested in;

## 5. Others

- Good for residents with children to have an affordable supermarket nearby selling healthy foods, otherwise they will grow up eating unhealthy/fast foods that are more readily available
- Lidl is a great company with high standards and the proposal would improve local amenity;
- Will help older people to shop locally as they cannot manage their heavy bags from Eltham High Street.

### 7.4 Letter from planning agent dated 18<sup>th</sup> February 2020

The application was withdrawn from the Development Control Planning Committee meeting agenda on the 24<sup>th</sup> January 2020, two working days prior to the scheduled date on the 28<sup>th</sup> January 2020. The applicant is aware that Mottingham Residents Association has requested the application to be deferred.

The current application is accompanied by a viability assessment prepared by David Coffer Lyons (DCL), dated April 2019. This assessment describes the marketing activity that has been undertaken in relation to the site, including the costs that will be involved in refurbishing the public house to enable its reinstatement. A viability appraisal is undertaken by DCL and confirms the property would not be viable on a freehold or free of tie lease basis. This finding was agreed by an independent viability consultant appointed by the Council, which also states that "*The key test with regards to the viability of the pub operation will be realised through the marketing campaign which to date has not correlated to any firm offers from any parties willing to operate the site as a public house. In the absence of any interest from potential occupiers, the site would not be in a position to be reinstated as a public house*".

The MRA made reference to a viability assessment undertaken by Morgan and Clarke. This assessment was carried out during the public inquiry in 2014 six years ago. This assessment does not take into account the marketing activities that have taken place on the site since 2014, including the Community Right to Bid. The 2014 assessment is dated and does not take into account the current condition of the public house or the latest market information available regarding the performance of the local public house section. This document is clearly out-of-date and was recognised by the Council as an independent viability consultant was commissioned to assess the current viability.

The proposal is in line with the Government's retail policy as new retail development should be focused in defined centres which Mottingham Local Centre forms part of. The proposal will generate up to 40 full-time and part-time employment and positions will be at a range of levels of skills and seniority. The proposal is not expected to have an adverse impact on local traders as the site is located within a Local Centre with limited sales floor area. The proposal would attract shoppers and investment to the Local Centre, meeting the need for residents and diversify the uses in Mottingham.

Lidl is a highly reputable employer and places great emphasis on its staff welfare and development and abides by its "Living Wage policy". Lidl is an equal opportunities employer and has a policy of employing local people from all backgrounds to work at their stores. Lidl offers an excellent work ethic including training opportunities for staff

to progress within the company. Lidl also recognises that supporting employees' mental health, both inside and outside the work place is essential and has a number of established tools and initiatives to support their staff.

It is clear that the alternative public house is located around 500m from the site. The distance between the Prince of Wales and the former Porcupine Inn measures approximately 498 metres on google map and this is within the policy requirement. The Council has indicated the distance is 508m. This discrepancy can be explained by the fact that the precise measurement will depend upon exactly where within the two sites the measurement is taken from.

## **8. POLICIES AND GUIDANCE**

- 8.1. Section 70(2) of the Town and Country Planning Act 1990 (as amended) sets out that in considering and determining applications for planning permission the local planning authority must have regard to:
  - the provisions of the development plan, so far as material to the application,
  - any local finance considerations, so far as material to the application, and
  - any other material considerations.
- 8.2. Section 38 (6) of the Planning and Compulsory Purchase Act (2004) makes it clear that any determination under the planning acts must be made in accordance with the development plan unless material considerations indicate otherwise.
- 8.3. The National Planning Policy Framework was published on 24 July 2018 and updated on 19 February 2019.
- 8.4. The development plan for Bromley comprises the Bromley Local Plan (Jan 2019) and the London Plan (March 2016). The NPPF does not change the legal status of the development plan.
- 8.5. The 'Intend to Publish' version of draft London Plan (December 2019) is a material consideration in the determination of this planning application.
- 8.6. The draft new London Plan was submitted to the Secretary of State (SoS) on 9 December 2019, following the Examination in Public which took place in 2019. This is the version of the London Plan which the Mayor intends to publish, having considered the report and recommendations of the panel of Inspectors. Where recommendations have not been accepted, the Mayor has set out a statement of reasons to explain why this is.
- 8.7. The London Assembly considered the draft new London Plan at a plenary meeting on 6 February 2020 and did not exercise their power to veto the plan. Ahead of publication of the final plan, the Secretary of State can direct the Mayor to make changes to the plan, and the London Assembly can veto the plan. The SoS has indicated he will respond by 16<sup>th</sup> March 2020 and any update on this will be provided verbally.

8.8. These factors affect the weight given to the draft plan. At this stage, the Council's up-to-date Local Plan is generally considered to have primacy over the draft London Plan in planning determinations.

8.9. The application falls to be determined in accordance with the following policies:

London Plan Policies:

- 2.6 Outer London: vision and strategy
- 2.15 Town Centres
- 3.1 Ensuring equal life chances for all
- 3.16 Protection and enhancement of social infrastructure
- 5.1 Climate change mitigation
- 5.2 Minimising carbon dioxide emissions
- 5.3 Sustainable design and construction
- 5.6 Decentralised energy in development proposals
- 5.7 Renewable energy
- 5.8 Innovative energy technologies
- 5.0 Overheating and cooling
- 5.10 Urban Greening
- 5.11 Green roofs and development site environs
- 5.12 Flood Risk Management
- 5.13 Sustainable Drainage
- 5.16 Waste net self-sufficiency
- 5.18 Construction, Excavation and Demolition Waste
- 5.21 Contaminated Land
- 6.3 Assessing effects of Development on Transport Capacity
- 6.9 Cycling
- 6.10 Walking
- 6.12 Road Network Capacity
- 6.13 Parking
- 7.1 Lifetime neighbourhoods
- 7.2 An Inclusive Environment
- 7.3 Designing Out Crime
- 7.4 Local Character
- 7.5 Public realm
- 7.6 Architecture
- 7.13 Safety, security and resilience to emergency
- 7.19 Biodiversity and access to nature
- 7.21 Trees and woodland
- 8.2 Planning Obligations
- 8.3 Community Infrastructure Levy

Draft London Plan:

- GG1 Building strong and inclusive communities
- HC7 Protecting public house
- SD6 Town centres
- SD7 Town centre network
- SD8 Town Centres: development principles and development plan documents

D1 London's form and characteristics  
D2 Delivering good design  
D3 Inclusive design  
D10 Safety, security and resilience to emergency  
D11 Fire safety  
S1Developing London's Social Infrastructure  
E11 Skills and opportunities for all  
G5 Urban greening  
G6 Biodiversity and access to nature  
SI1 Improving air quality  
SI2Minimising greenhouse gas emissions  
SI3 Energy infrastructure  
SI8 Waste capacity and net waste self-sufficiency  
SI13 Sustainable drainage  
T3 Transport capacity, connectivity and safeguarding  
T4 Assessing and mitigating transport impacts  
T5 Cycling  
T6 Car parking  
DF1 Delivering of the Plan and Planning obligations

Bromley Local Plan 2019:

20 - Community Facilities  
23 – Public Houses  
30 - Parking  
31 - Relieving Congestion  
32 - Road Safety  
33 - Access for All  
34 - Highway Infrastructure Provision  
37 - General Design of Development  
73 - Development and Trees  
95 – Local Centres  
113 - Waste Management in new Development  
115 Reducing Flood Risk  
116 - Sustainable Urban Drainage Systems  
118 – Contaminated Land  
119 - Noise Pollution  
120 - Air Quality  
122 - Light Pollution  
123 - Sustainable Design and Construction  
124 - Carbon Dioxide Reduction, Decentralised Energy Networks and renewable energy

Mayor of London Supplementary Guidance:

Accessible London: Achieving an inclusive environment (October 2014)  
The control of dust and emissions during construction and demolition (July 2014)  
Character and Context (June 2014)  
Sustainable Design and Construction (April 2014)  
Planning for Equality and Diversity in London (October 2007)

## Bromley Supplementary Guidance:

### Planning Obligation SPD

## **9. ASSESSMENT**

9.1. The main issues to be considered in respect of this application are:

- Background and key differences between the appeal and current scheme
- Land use/Principle of Development
- Impact on non-designated heritage
- Design, layout and massing
- Residential Amenity
- Transportation and Highway
- Sustainability
- Design Out Crime
- CIL
- Head of Terms

#### Background and key differences between the appeal and current scheme

9.2. An earlier planning application to redevelop the site and provide a new retail unit (800 square metres of retail sales floorspace with associated facilities and 35 parking spaces) was refused in February 2014 and the following reasons were contested at appeal:-

1. Highway safety (access, serving and parking arrangement);
2. Loss of TPO trees and impact on the character and appearance of the area;
3. Security and crime prevention measures;
4. Impact on character and appearance and residential amenities;
5. Loss of public house and community facility;

9.3. The third reason (security and crime) of this refusal was removed prior to the planning inquiry which was held in September 2014 and this was based on the additional information submitted at appeal stage.

9.4. In December 2014, the subsequent planning appeal was dismissed. The main issues and grounds in dismissing the appeal can be summarised as follows:-

Issue 1: The character and appearance of the area having regard to the loss of protected trees.

It was considered by the Planning Inspector that the loss of protected trees and open space to the rear of the existing building would have a limited degree of adverse effect on the character, appearance and amenity of the area. The impact and harm would be limited and would not be sufficient to bring the proposal into conflict with the London Plan policy and UDP policies and would not weigh against the appeal scheme.

**Issue 2:** The living conditions of adjoining occupiers with particular reference to visual impact, noise and disturbance.

The proposed building considered at the appeal was set back from the neighbouring properties. The site is located within a Local Centre. The operating and delivery hours were considered by the Inspector as controllable through the imposition of an appropriate planning condition should the appeal be allowed. As such the Inspector afforded this matter very limited weight in the appeal scheme and did not dismiss the scheme on residential amenities.

**Issue 3:** The provision of community facilities:

The former Porcupine Inn was considered as an Asset of Community Value and the proposal would result in the loss of valued community facilities. An open marketing exercise would enable all considerations including viability of the site to be taken into consideration. As this was not done as part of the appeal the Inspector considered the proposal to lack evidence of marketing and dismissed the proposal for this reason.

**Issue 4:** The vitality and viability of the local centre

The Inspector considered that the proposed retail use would benefit the local economy and would enhance the vitality and viability of Mottingham Local Centre and this was a consideration that weighed significantly in favour of allowing the appeal. However, as stated above due to the lack of evidence to demonstrate that the loss of this asset of community value was acceptable the appeal was dismissed.

**Issue 5** Highway safety

The provision of 35 parking spaces (1 parking space per 22.9sq.m sales area) was considered acceptable. The access arrangement and junction details including the dimensions of the road, turning area and dimensions of visibility splays were considered as something which should have been provided as part of the application. The Inspector considered that this could not be provided as part of any planning condition if the appeal were allowed. In the absence of these details, the appeal scheme was also considered by the Appeal Inspector to be in conflict with the provisions in the Framework concerning highway safety. The appeal was therefore dismissed for this reason.

**9.5.** The key differences are as follows:-

1. Reduction in sales floor area from 800sq.m to 749sq.m;
2. Reduction of parking spaces from 35 spaces to 33 spaces;
3. Realignment of Mottingham Road with detailed dimensions of the access arrangement, junction details, turning area and dimensions of visibility splays; and;

4. Proposed building would be sited 2.5m closer to the road and there will be a minimum of 4.94 metres distance between the front of the building and the back edge of the pavement; and,
5. Improvement works to the existing pedestrian crossing/refuge and road marking on Mottingham Road.

#### Land use/Principle of Development

##### **Acceptable**

- 9.6. The NPPF indicates that a Local Centre forms part of the Town Centre hierarchy. Paragraph 86 of the NPPF states that main town centre uses should be located in town centres and this is supported by the London Plan and Bromley Local Plan (BLP) which aim to maintain the viability and vitality of Town Centres. For new town centre uses with a floor area below 2,500sq.m, a retail sequential test and impact assessment would not be required.
- 9.7. The principle to introduce a retail use within Mottingham Local Centre is considered acceptable and would comply with the NPPF, London Plan and Local Plan which seeks to promote town centre uses within town centres. The former Porcupine Inn forms part of the Mottingham Local Centre and there is a range of shops and services (26 units) within this local centre. However, the existing range of convenience shops including comparison shops is very limited due to the number of existing retail shops being low and a high number of catering/takeaways within the Centre. There is a healthy range of good and services in the Kinneridge Cross Neighbourhood Centres and Parades. However, this centre is located in excess of 1,300 metres from the site. The site is located near to the adjoining borough and is close to a major town centre (Eltham) in the neighbouring borough with extensive ranges of goods and services including catering and drinking establishments. The provision of an additional retail shop would provide a wider range of convenience and comparison goods and choices in Mottingham Local Centre and would potentially attract shoppers here, instead of the neighbouring borough. The proposal would also provide 40 full time and part time jobs in the Borough and assist to regenerate the derelict site. As such, it is considered that the proposal would improve the attractiveness of the Local Centre and positively contribute to the shopping function of Mottingham Centre. It is considered that the proposal would also comply with the objectives of Bromley Local Plan Policy 95 which promotes an adequate range of shops and services to meet the needs of local communities.
- 9.8. There are concerns regarding job losses in the local area from the residents. The proposal would provide 40 full time and part time jobs and would contribute positively to the overall employment opportunities in the area. Furthermore, it should be noted that the previous appeal decision stated that "*the proposed retail use would benefit the local economy and would change the vitality and viability of Mottingham local centre...This is a consideration which weighs significantly in favour of allowing the appeal*". The provision of a wider range of retail choice is therefore considered acceptable.

*Whether adequate marketing has been carried out and whether the proposal would result in a loss of public house/ community facilities*

- 9.9. Draft London Plan Policy HC7 (Protecting Public House) states that applications that proposal result in the loss of public houses with heritage, cultural, economic or social value should be refused unless there is authoritative marketing evidence that demonstrates that there is no realistic prospect of the building being used as a pub in the foreseeable future.
- 9.10. Bromley Local Plan Policy 23 (Public House) resists the loss of a public house except where:-
- a. there is an alternative public house within a 500 metre walking distance of the site and if the public house is located within a local parade or shopping centre, the diverse offer of that parade or centre is not significantly affected by the loss; and,
  - b. where it can be demonstrated that the business is no longer financially viable as a public house, including the submission of evidence of active marketing as a pub for a substantial period of time.
- 9.11. Where the above criteria are met any change of use must be sympathetic to the design, character and heritage value of the original building if it is considered to be a positive contribution to the local area.
- 9.12. In addition, Bromley Local Plan Policy 20 (Community Facilities) and supporting Paragraph 3.1.24 state that redundant pubs will also be required to comply with the community facilities policy. Planning permission will not be granted for a proposal that would lead to the loss of community facilities unless alternative enhanced provision is to be made in an equally accessible location for the community it serves or it can be demonstrated that there is no longer a need and 6 months marketing has been provided.
- 9.13. A public house can constitute a community facility in planning policy terms. It is noted that the former Porcupine Inn was the only public house within the Local Centre before the last operator vacated the site in March 2013. The site was also registered on the Council's Assets of Community Value (ACV) list in July 2013. It should be noted that the 5 year period as an ACV has lapsed in July 2018 and the site has remained vacant in the past 7 years without any positive contribution to the Local Centre, community or the area. The proposal would result in the loss of a public house and was highly valued by the local community. In assessing the acceptability of new development, consideration should be given to the current planning policy requirements and Paragraph 24 of the previous planning appeal decision (December 2014) which states that "*An open marketing exercise would enable all considerations such as land acquisition costs, repairs and refurbishment cost, operating cost and profiles, along with any development potential of the land to the rear of the existing building, to be factored into the assessment. Without providing such an opportunity for the market to have a say about the prospects of a public house on this site, I am not satisfied that the evidence before the Inquiry established whether such a use would be viable or not*".

- 9.14. Paragraph 3 of the planning appeal decision also states that "*The Porcupine Inn closed down in March 2013. The site was acquired by Lidl in the same month for £1.1m, without being put on the open market*".
- 9.15. Since planning permission was dismissed in December 2014, the applicant has considered a range of options for the site. In 2016, the applicant decided to dispose of the site and commenced marketing the site. The Council was notified of the applicant's intention to dispose of the site. A 6 month moratorium period (commenced in June 2016 and expired in December 2016) and the procedures set out under Section 88 (2) of the Localism Act 2011 were followed. This provided local community groups with the opportunities to acquire the site for re-occupation as a public house, or other community uses. However, the acquisition bid for the site from the local community (The Porcupine Inn Development Committee which operates under the name of Greenwich Co-operative Development Agency) did not materialise. There were no successful undertakers.
- 9.16. The applicant has continued to market the site after the expiry of the moratorium period in December 2016. The applicant has advised that there were no offers received from pub operators. The majority of the offers received were for housing or commercial development.
- 9.17. Following a review of the marketing results, the applicant has instructed a leisure property specialist Davis Coffer Lyons to commence a further open marketing exercise in November 2018. The property was advertised by Davis Coffer Lyons, advertisements were placed in the Morning Advertiser and a sales board was erected at the site. The site has been offered for sale locally and London-wide in appropriate publications and through an authoritative specialised agent. As such, it is considered that reasonable measures to market the site have been taken.
- 9.18. The applicant has received an offer to rent by a pub operator. However, this offer did not materialise after viewing the property. The applicant has also received offers for a care home and supermarket development. There were no other offers for pub uses received.
- 9.19. This application is accompanied by a viability assessment which includes an appraisal of refurbishment costs and the condition of the former public house site and viability tests. This viability assessment has been assessed and endorsed by an independent viability consultant appointed by the Council. It is considered that the refurbishment cost and business modelling assessment made by Davis Coffer Lyons are not unreasonable. The independent viability consultant has also advised that the property has been marketed for 12 months which reflects the demand of its land use. In the absence of any interest from potential occupiers, the site would not be in a position to be reinstated as a public house.
- 9.20. Overall, it is considered that the site has been marketed for a prolonged period of time since 2016 and there were no firm and successful offers received to bring the site back into its former use. In view of the viability assessment which has been reviewed by an agreed independent viability consultant, it is considered that the property has been extensively marketed and the site would not be viable for its former use. As such, it is considered that the loss of public house would be justified

in this instance. The viability report prepared by Morgan and Clarke Chartered Surveyors was a viability assessment carried out in 2014 associated to the previous planning appeal. The findings of this dated report were reflected in the previous planning appeal decision. The current application is accompanied by an updated viability assessment including an open market exercise in line with the comment raised by the previous Planning Inspector.

- 9.21. Furthermore, the Prince of Wales Public House (154 Mottingham Road) remains as the nearest alternative public house located approximately 508 metres south from the site. This is marginally over the 500 metres requirement set in Bromley Local Plan Policy 23. On balance, it is considered that there are alternative choices of public houses in the local area and this is considered acceptable.

#### Impact on non-designated heritage

##### **Acceptable**

- 9.22. NPPF Paragraph 197 states that the effect of an application on the significance of a non-designated heritage asset should be taken into account in determining the application. In weighing applications that directly or indirectly affect non-designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage assets. This is consistent with Bromley Local Plan Policy 40 which states that where non-designated heritage assets are highlighted as at risk of harm from a planning application, clear demonstrable reasons or evidence of their significance will be required. Where the Council agrees that such assets are worthy of protection, proposals to replace such a building will be assessed against the NPPF, taking into account the scale of harm or loss and the significance of the heritage asset.
- 9.23. The site is not located within a Conservation Area and the building is not listed. The site is located approximately 14 metres south from the Grade II Listed War Memorial. Mottingham was originally a hamlet in Eltham Parish, in Blackheath, Kent. The County of London was created in 1889 and Mottingham was excluded from the new county and the area transferred from Kent to Greater London in 1965, which now forms part of the London Borough of Bromley. The site has a history of public house use. However, the original building was demolished and rebuilt due to bomb damage in the First World War. The design of the existing public house mimics the post war houses on West Park and does not pose any significant architectural value.
- 9.24. The principle to demolish the building with a replacement building was considered acceptable by the Planning Inspectorate. Paragraph 10 of the previous appeal decision states that, "*I have no reason to find that it would not be an appropriate replacement building in terms of its effect on the street scene*". The Council's conservation officer has reviewed the planning appeal decision, heritage statement and condition of the existing building, it is considered that the existing building does not pose any special architectural merits or have any significant heritage value. The Council's conservation officer has also considered that the proposal would not have an adverse impact in the area and the setting of the listed memorial. Historic England has advised that there is no requirement to be consulted.

- 9.25. The applicant has acknowledged the historic use of this site as a public house. A commemorative information board in recognition of the site history is proposed. It is considered that the details of the commemorative information board should be secured by a planning condition.

Design, layout and massing

**Acceptable**

- 9.26. The proposed building is contemporary and is designed with a pitched roof. The proposed building would comprise of two floors with a storage area and a manager's office above the sales area on the ground floor with a maximum height measuring 9.4 metres. The external finishes of the building would consist of clear glazing, bricks and tiles to match the surrounding properties.
- 9.27. The proposed building would be sited away from the residential properties on Devonshire Road to ensure adequate distance between the proposed building and the neighbouring properties can be maintained without causing any adverse impact on residential amenities.
- 9.28. The proposed site layout plan indicates that the vehicular access to the site would be sited away from the War Memorial roundabout. The northern vehicular access would be removed and new replacement planting would be provided near to the new access. The disabled and parent and child parking spaces would be located near to the building door.
- 9.29. Overall, it is considered that the design, layout and massing of the proposal would be acceptable and would not appear out of keeping with its surrounding area.

Residential Amenity

**Acceptable**

- 9.30. Paragraph 170 (e) of the NPPF states planning decisions should contribute to and enhance the natural and local environment by preventing new and existing development from contributing to, being put at unacceptable risk from, or being adversely affected by, unacceptable levels of soil, air, water or noise pollution or land instability. Development should, wherever possible, help to improve local environmental conditions such as air and water quality, taking into account relevant information such as river basin management plans. This is consistent with Bromley Local Plan Policy 4 which seeks to protect existing residential occupiers from inappropriate development. Issues to consider are the impact of a development proposal upon neighbouring properties by way of overshadowing, loss of light, overbearing impact, overlooking, loss of privacy and general noise and disturbance.
- 9.31. No. 4 to No. 26 Devonshire Road, No. 28A Mottingham and the residential flats located on the northern side of Mottingham Road would be the nearest residential properties impacted by the proposal.

### *Air quality*

- 9.32. The application is accompanied by an Air Quality Assessment which has been reviewed by the Council's Environment Health department. The site is located outside the Council's Air Quality Management Area. There are no sensitive ecological receptors identified. Key pollutants associated to the proposal have been identified as dust generated by construction activities, and nitrogen dioxide (NO<sub>2</sub> and NO<sub>x</sub>) and fine particulate matter (PM10) predominantly associated to the road traffic during construction and operational phase. Air quality monitoring data has been collected as part of this assessment which indicates that the impact of the proposal is low and the receptors is negligible. The proposed development would not require any on-site combustion plant such as gas/fuel boilers or Combined Heat and Power (CHP) units and power would be supplied by the National Grid or solar panel.
- 9.33. The Air quality Assessment concludes that overall the air quality assessment has considered the likely impact of the proposed development on local air quality and on the proposed receptors being introduced into the area. Their assessment concludes that with the implementation of the recommended on-site mitigation measures, it is considered that air quality would not pose a constraint to the redevelopment of the site. The Council's Environment Health has considered that the submitted details are adequate and acceptable.

### *Noise and vibration (plant and car park)*

- 9.34. A revised Noise Survey and Impact Assessment in line with the NPPF, NPPG and British Standard 4142:2014 (BS4142) was submitted with the application and has been reviewed by the Council's Environmental Health. The noise baseline data was collected at 13:15 hours on 1<sup>st</sup> April 2019 and finished at 10:15 hours on the 3<sup>rd</sup> April 2019. The details of parking layout, specification and details of the proposed external plants and 2.4 metres high acoustic fence are provided in assessing the impact of the proposal. The proposed opening hours would be limited between Monday – Saturday, 08:00 – 22:00, Sunday 10:00 – 16:00 and delivery hours be limited between Monday – Saturday, 08:00 – 21:00, Sunday 10:00 – 16:00. It is demonstrated that the noise associated to the external plants and traffic of the proposed store would be within the environmental limit and would not have an adverse impact on the neighbouring residential properties on Devonshire Road.
- 9.35. The Council's Environmental Health Officer is satisfied with the assessment and is recommending planning conditions to restrict (1) the use of the site as retail (Class A1), (2) installation and maintenance of acoustic fence prior to the first occupation of the unit, (3) opening hours be limited between Monday – Saturday, 08:00 – 22:00, Sunday 10:00 – 16:00 and (4) delivery hours be limited between Monday – Saturday, 08:00 – 21:00, Sunday 10:00 – 16:00 should be secured by planning conditions.
- 9.36. Noise and vibration during construction would be controlled through the implementation of measures to be set out within a Construction Management Plan (CMP) secured through condition.

### *External lighting*

- 9.37. External lighting is considered to be essential for the car park and servicing delivery in particular, during evening hours and the winter season. 6 x 6 metres high lighting columns would be installed in the car park and would not be facing the neighbouring properties. 4 recessed down lighters and 8 wall mounted lights would be installed on the building. The lighting layout plan including the Lux value is provided which confirms the lighting levels at the site boundary will not exceed 5 Lux, except on the site access road. The proposed lighting will not cause excessive glare to the neighbouring residential properties

*Outlook, sense of enclosure and privacy*

- 9.38. The proposed building would be visible from the rear and side of the neighbouring properties on Devonshire Road and Mottingham Road. However, the back to side distances between the proposed building and the neighbouring properties on Devonshire Road ranges between 16.7m and 23.1m. As such, it is considered that adequate distances between the buildings can be maintained.
- 9.39. The impact on residential amenities was considered acceptable when the previous scheme was considered at appeal. Paragraph 17 of the appeal decision states that *“The foodstore and its parking and servicing would change views of the appeal site from neighbouring properties. However, given the setback distances of the proposed building from residential properties and taking into account that this is a designated local centre, where some development could be expected to take place. I do not consider that any harm to the outlook from nearby residential dwellings would be a consideration that would weigh against the proposal. Similarly, with appropriate boundary treatment, reasonable standards of privacy for this area could be maintained”*.

### Transportation and Highway

- 9.40. The Draft London Plan sets a maximum parking standard for retail use in outer London at a ratio of 1 parking space for every 50sq.m retail floor area (GIA). The proposed gross internal floor area measures 1,380sq.m and a maximum of 28 parking spaces should be provided to accord with this. The proposal would provide 33 parking spaces and would be above the maximum standards set in the draft London Plan. There is no parking standard set for non-residential development in the Bromley Local Plan. The Council's highway officers have advised that the site is within a low (rated at 2) Public Transport Accessibility Area with 3 bus routes serving the area. The proposed parking ratio in the current application would be 1 parking space per 23sq.m and would be the same as the appeal scheme, which was considered acceptable by the Planning Inspectorate.
- 9.41. The Transport Statement indicates that the average dwell time/ turnover of parking spaces is 25 minutes. Parking stress surveys have been carried out in roads up to 500m from the site and a further analysis of parking availability within 200m of the site during the peak periods (17:00 – 18:00 Thursday and 12:00 – 13:00 Saturday) which indicates that there is a high demand for on-street parking in the area. The provision of 90 minutes free parking may attract visitors making linked trips in the area and could undermine the dwell time of the parking spaces.

- 9.42. A car park management strategy is submitted which indicates that the parking spaces would be provided for their customers only. Appropriate signage will be placed at the entrance and within the car park. The customers' free parking period is on a maximum basis and no vehicles can return to the site within a one hour period. A number plate recognition system will be used to monitor the use of the car park. A car park usage and management will be carried out after a 3 to 6 months monitoring period. Given that the car park will be monitored and the usage will be managed and reviewed by the applicant, it is considered that adequate level of parking spaces can be provided. There is no parking restriction near the entrance of the site on Sunday. The Council's highway officers consider that the waiting restriction in the area should be monitored and reviewed, prior to its first occupation. The cost to monitor, review and amend the waiting restriction/amendment of traffic order shall be met by the developer. The final decision on the need for amendments should be made by the highway authority.

#### *Access and highway improvement works*

- 9.43. Adequate visibility is essential to ensure highway safety. There are two existing vehicular accesses to the site and it is proposed to remove the existing accesses and replace these by a single and central access. Table 7.1 and Figures 7.18 in the Manual for streets set out the recommended values for junction distances (X and Y values) and in line with the road speed limit. A visibility of 2.4m x 43m should be provided at the access junction.
- 9.44. The sightline to the right (east) is restricted by the existing building line with restricted visibility. This was highlighted by the Planning Inspectorate in dismissing the previous scheme. The previous appeal scheme indicates the visibility splay would achieve 2.4m x 30m to the east and was not considered adequate and would not be appropriate for the access details to be considered at planning condition stage. Paragraph 37 of the previous appeal decision states "*I do not consider that the access arrangements shown on the proposed site plan 4974 PL 02 G would be acceptable....the details would need to be determined as part of any permitted development proposal.*
- 9.45. The current proposal would achieve the required visibility splay of 2.4m x 43m and this is supported by detailed footway dimensions confirming its size, position and distance. The sightline to the right is restricted by the existing building line and in order to achieve the required visibility, the footway near the entrance of the site on both side of the road will need to be adjusted.
- 9.46. The width of the existing southern footway measures between 1.88m and 3.05m. It is proposed to increase the width of the southern footway by between 0.6 and 1.35. The width of the proposed southern footway would measure between 2.89 and 3.59m. The average width would be increase from 2.47m to 3.27m.
- 9.47. The width of the existing northern footway measures between 2.81m and 3.76m. It is proposed to reduce the width of the northern footway by between 0.53m and 1.29m. The width of the proposed northern footway would measure between 2.02m and 3.23m. The average width would be decrease from 3.16m to 2.78m;

- 9.48. Footway provision is an essential factor in encouraging or hindering walking. The proposed realignment works would have an impact on the pedestrian walking environment due to the proposed changes. However, the width reduction on the northern footway is not considered to be significant. It should be noted that the existing flower bed adjacent to the library would be retained. The distance between the front door of the library and back edge of the footway would measure approximately 5 metres. Furthermore, it should be noted that the pedestrian flow is varied during the day. Mottingham Library is closed on Tuesday, Thursday and Sunday. The library opens on Monday 930 to 1300 and 1400 to 17.30, Wednesday 9:30 to 15:00 and Friday between 930 to 1300 and 14:00 to 20.00. As such, it is considered that adequate distance can be maintained.
- 9.49. As part of this application, it is proposed to improve the existing pedestrian facility in line with the recommendation of the Stage 1 Road safety report. The Council's highway officers were consulted and there was no objection to the proposed access, realignment of the footway and improvement of the existing pedestrian crossing. The Council's highway officers have also advised that the store shall not be occupied until the required works are completed. The development shall be subject to a Stage 2 Road Safety Audit prior to commencement of work and a Stage 3 Road Safety Audit prior to the first occupation. The waiting restriction in the area should be monitored and reviewed as an amendment of the traffic order to include Sunday may be required.

#### *Servicing and roundabout capacity*

- 9.50. The servicing and delivery hours will be carried out during the opening hours and up to twice per day. Given that the site is adjoining to residential properties, early or late deliveries would not be supported. It should be noted that the servicing and delivery hours of the previous appeal scheme included earlier hour deliveries, before 8:00am. The current servicing and delivery hours will be carried out during sociable hours.
- 9.51. The swept path for the delivery vehicle will occupy both carriage ways of Mottingham Road and this was considered acceptable in the previous appeal. The site was occupied as a public house with large vehicles servicing the site. Should planning permission be agreed, a delivery, servicing and waste management plan should be secured by a planning condition.
- 9.52. A roundabout capacity assessment at the junction of West Park and Mottingham Road has been carried out. This assessment indicates that the junction would operate within its capacity with minimal queues during the period hours. The Council's highway officers have reviewed this assessment and have advised that there is no information to contradict this finding.

#### Trees

- 9.53. A Hawthorn tree (Category U) and an Oak tree (Category B/C) located to the rear of the building are the subject of a Tree Preservation Order (TPO), which has been in place since November 2013.

- 9.54. The site and the TPO trees were inspected by an arboricultural consultant in 2018. The Hawthorn tree has been subject to decay since 2013 and this was documented in the previous appeal decision (Paragraph 12) which states “*it was evident from my site inspection that the part of the tree close to the ground where its two main limbs divided is decaying, which could limit how long it could be retained, particularly as part of its limbs overhang the boundary fence of the adjoining residential property*”.
- 9.55. The oak tree is located close to the boundary with the motorcycle showroom building and with the branches overhanging the neighbouring properties it has been lopped in an unprofessional manner resulting in splits and decay. The condition of the oak tree was also documented in the previous appeal decision (Paragraph 13) which states “*It is located close to the boundary with the motorcycle showroom property, and it appears that the adjoining occupier has in the past removed limbs that overhang the boundary. This has not been done sensitively, which has damaged some branches, and give the tree a misshapen crown*”.
- 9.56. The principle to remove the TPO trees and the provision of adequate replacement planting along the frontage of the site was established, when the previous scheme was dismissed. Paragraph 14 of the previous appeal decision states “*the loss of protected trees is a consideration which at least to some degree, weighs against the appeal. But this would not be sufficient to bring the proposal into significant conflict with the UDP policy NE7 or London Plan 7.21 which seeks to retain existing trees of value, but also provides for replacement following the principle of right place, right tree.*”
- 9.57. Paragraph 15 of the previous appeal decision also states “*the loss of protected trees and open space to the rear of the existing building would, to some extent, have an adverse effect on the character, appearance and amenity of the area. However, this would not be sufficient to bring the proposal into any conflict with the aim of the London Plan policies 7.4 and 7.5 and UDP polices BE (i) (ii) or (iii). I do not consider that any harm to the character and appearance of the area resulting from the appeal scheme would weigh much against the proposal*”.
- 9.58. The proposed landscaping plan indicates that 4 replacement trees (*Crataegus monogyna stricta*) and new shrub (*Viburnum tinus*, *Choisya ternate*, *Ilex aquifolium*, *Symporicarpus albus*, *Laurus noblis* and *Mahonis aquifolium*) would be provided within the site. It is considered that adequate replacement planting can be provided and biodiversity can be maintained within the site.
- 9.59. The Council’s tree officer has advised that 10 replacement trees were provided in the previous appeal scheme. It is recommended that a minimum of 12 replacement trees should be provided and at least 50% of the replacement trees should be planted at a location visible from the road. It is considered that the details of the replacement trees of sufficient quantity and quality can be provided within the site and these details can be secured by a planning condition.

## Sustainability

### *Carbon emission*

- 9.60. Policy 5.2 Minimising Carbon Dioxide Emissions of the London Plan states that development should make the fullest contribution to minimising carbon dioxide emissions in accordance with the hierarchy; Be Lean: use less energy; Be clean: supply energy efficiently and Be green: use renewable energy.
- 9.61. The anticipated on-site regulated carbon dioxide emission (Building Regs 2013 Compliant Development) is 59.27tCO<sub>2</sub> per annum. A range of renewable technologies have been investigated and solar photovoltaic (PV) array is considered to be the most appropriate. The proposed sustainability measures would achieve a 36% carbon saving on site. The Council energy officers are satisfied with the proposed sustainability measures and the proposal would comply with the policy requirement achieving over 35% carbon saving.

### *Drainage*

- 9.62. Mottingham Road and the surrounding highway network are subject to surface water flooding. In line with the National Planning Policy Framework and relevant policies, new development should utilise sustainable urban drainage systems unless there are practical reasons for not doing so, and should aim to achieve greenfield run-off rates and ensure that surface water run-off managed as close to its source as possible.
- 9.63. A Drainage Assessment and Surface Water Drainage Strategy has been submitted and this demonstrates that the surface runoff from the development will be controlled the lifetime of the development without any increased flood risk in the area.
- 9.64. The current surface water discharge for the development ranges from 11.3 litres per second for the 2 year event to 28.9 litres per second for the 100 year event. The proposed sustainable urban drainage strategy for the site will include the provision of a modular storage and a permeable paving system to be located within the car park with a peak flow restricted to 5.6 litres per second. Permeable paving will provide approximately 17sq.m storage. The proposed attenuation tank will provide approximately a further 101sq.m of storage required to retain the 1 in 100 plus 20% climate change event. This represents a reduction of surface water flow of more than 50% when compared to the existing surface water discharge for the 2 year event and significantly less when compared to the existing 30 year and 100 year events. A bypass petrol interceptor is proposed to treat pollutants which arise from car park run-off prior to discharge.
- 9.65. The Council's Sustainable Drainage officer has reviewed the proposed measures set out in the submitted drainage assessment and surface water drainage strategy. It is recommended that the detailed designs should be secured by a planning condition, prior to any work commencing on site. Thames Water has advised that the site is located within 15 metres from their waste water assets and there are public sewers crossing or close to the site. An informative should be attached advising the presence of their assets. Development would be expected to demonstrate what

measures will be undertaken to minimise ground water discharges in the public sewer. Any discharge of groundwater into a public sewer will require consent from Thames water and an informative should be attached. It is recommended that a petrol /oil interceptors be fitted in the car park

#### Design Out Crime

- 9.66. Bromley Council Policy 37 and London Plan Policy 7.3 are relevant with regards to secure by design. The policy notes that the Council will require developments to demonstrate that they have incorporated design principals which contribute to community safety and security, particularly in an area with a relatively high level of crime.
- 9.67. A security gate will be installed in the car park and attached on the flank wall of the proposed building. The security gate will be used outside the opening hours. The Metropolitan Police was consulted in respect of the current application and recommended that a standard planning condition requiring the development to achieve Secured by Design accreditation be attached.
- 9.68. It should be noted that this part of the proposal is identical to the previous appeal scheme which was endorsed by the Metropolitan Police's Design Out Crime Officer and did not form a planning reason at appeal stage in 2014. Paragraph 2 of the planning appeal decision states "*LBB advised by email dated 1<sup>st</sup> August 2014 that its Plans Sub Committee agreed not to contest the appeal on its third reason for refusal, which concerned crime prevention. This was on the basis of revised drawings showing a proposed gate and potential security measures agreed between the appellant and the Metropolitan Police's Design Out Crime Officer*".
- 9.69. Subject to the secured by design planning condition, it is considered that this part of the proposal would be acceptable.

#### CIL

- 9.70. The proposal will be liable for the Mayor of London's Community Infrastructure Levy (CIL). Based on the Mayor's CIL charging schedule and the information provided as part of the application, the Mayoral CIL is based at £60 per square metres at the present time.

#### Head of Terms

- 9.71. S106 Legal Agreement: - £5,000 financial contribution to review and amend traffic waiting restriction in the area.
- 9.72. S278 Highway works: - (1) Improvement to the pedestrian crossing; and (2) Realignment of footway.

## **Conclusion**

- 9.73. Subject to the planning obligations and planning conditions, it is considered that the proposal is acceptable and would not impact detrimentally on the character of the area, retail function, highway safety or residential amenities. Marketing details and a viability assessment have been provided and confirm the lack of market demand for a public house at this site. As such, it is considered that the proposal would be acceptable and planning permission be granted.

**RECOMMENDATION: PERMISSION subject to a S106 Legal Agreement, S278 highway works and the following planning conditions:**

### **Standard condition**

- 1. Time limit of 3 years for commencement**
- 2. List of drawing numbers**

### **Pre- commencement**

- 3. Construction management plan**
- 4. Details of materials**
- 5. Stage 2 Road Safety Audit**
- 6. Review of waiting restrictions in the area and amendment of traffic order**

### **Prior to occupation**

- 7. Installation of security gate**
- 8. Stage 3 Road Safety Audit**
- 9. Replacement planting and trees**
- 10. Car park management plan**
- 11. Servicing and delivery plan**
- 12. Sustainable water drainage**
- 13. Details of replacement trees**
- 14. Carbon emission measures**
- 15. Details of commemorative information board**

### **Compliance conditions**

- 16. Opening hours: - 08:00 to 22:00 Monday to Saturday and 10:00 to 16:00 on Sunday**
- 17. Delivery hours: - 08:00 to 21:00 Monday to Saturday and 10:00 to 16:00 on Sunday**
- 18. Parking to be provided as approved**

**Any other planning condition(s) considered necessary by the Assistant Director of Planning**

### **Informatives:**

- 1. Road safety Audit shared by prepared and in agreement with the Council's Highway.**
- 2. Code of Practice for Construction Sites**
- 3. Fire Brigade**
- 4. Thames Water**