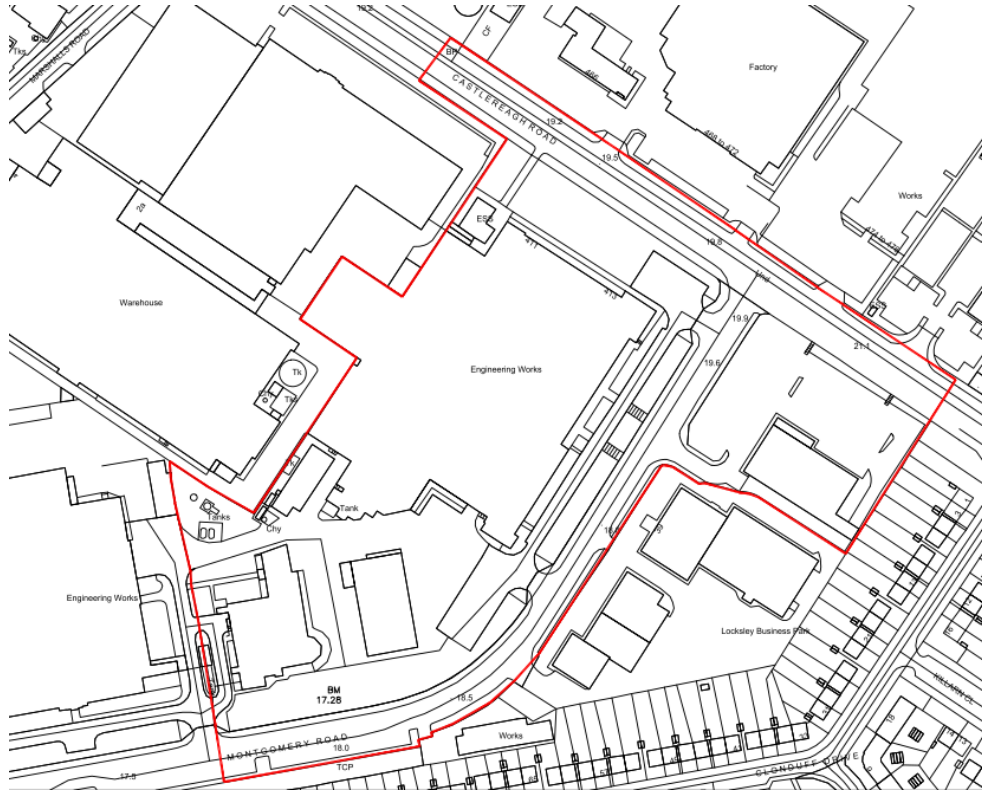


Development Management Officer Report

Summary	
Application ID: LA04/2023/4397/F	Committee Meeting Date: 16 th April 2024
Proposal: Variation of Condition 3 of LA04/2020/1211/F relating to the submission of a Verification Report for Phase 4 of the approved development	Location: No 46 Montgomery Road (former Hughes Christensen site, now Lidl), vacant site between nos 44 and 46, Montgomery Road, and no 41 Montgomery Road (former Lidl), Belfast
Referral Route: Major development (the proposal seeks to vary a condition on a previous permission for Major development and would, if approved, create a new standalone approval)	
Recommendation:	Approval subject to conditions
Applicant Name and Address: Lidl Northern Ireland Nutts Corner Dundrod Road Crumlin BT29 4SR	Agent Name and Address: MBA Planning 4 College House Citylink Business Park Belfast BT12 4HQ
<p>Executive Summary: This application seeks to vary condition 3 of planning permission LA04/2020/1211/F, which grants planning permission for a Mixed use regeneration scheme involving: demolition of vacant buildings Hughes Christensen site; erection of 8No. Class B2 (light industrial) and Class B4 (storage/distribution) unit; extension to, and subdivision of, existing supermarket building to form 4no. Class B4 units (existing retail use to be discontinued); erection of replacement supermarket; provision of new accesses from Montgomery Road and Castlereagh Road; road improvements; car parking, landscaping and associated site works. (Lynas Food Outlet building to be retained).</p> <p>Condition 3 relates to the submission and agreement in writing of a verification report relating to the removal of above and below ground fuel tanks prior to any phase of the permitted development becoming operational. The fuel tanks referred to are located within Phase 4 of the development, south of the new Lidl supermarket built which is within Phase 2. The applicant has stated the removal of the tanks is not relevant to the operation of the supermarket within Phase 2.</p> <p>This application seeks to vary the condition to require that the verification report be submitted and approved prior to any development contained within Phase 4 of the approved phasing plan of the development becoming operational.</p> <p>Consultees have offered no objections subject to conditions. No representations have been received.</p> <p>It should be noted that the granting of a Section 54 application to vary conditions creates a new standalone planning permission. Therefore, should permission be granted, the other original conditions should be repeated as appropriate.</p> <p>Having regard to the development plan and other material considerations, the proposal is considered acceptable. It is recommended that planning permission is granted subject to conditions and an informative referring to the original section 76 obligations which shall continue to have effect without modifications. Delegated authority is sought for the Director of Planning and Building Control to finalise the wording of conditions, and deal with any other matters that arise prior to issuing the decision, provided that they are not substantive.</p>	

1.0 Drawings

Site Location Plan



Aerial image



2.0	Characteristics of the Site and Area
2.1	The site comprises two sites either side of Montgomery Road and adjacent to the Castlereagh Road. The northern side of the site comprises the newly built single storey Lidl supermarket with associated car parking and areas of landscaping. This portion of the site also includes free-standing buildings towards the western boundary and areas of hard standing/parking.
2.2	The southern part of the site consists of a previous Lidl free standing supermarket which is single Storey in height and finished in render with a mono pitch roof finished in tiles. hard standing parking areas located to the east and north of the building with a landscaped buffer area around the site periphery. Two Storey dwellings are located adjacent to the site to the south, with two storey business units adjacent to the site to the west.
3.0	Description of Proposed Development
3.1	In March 2022, full planning permission was granted under application LA04/2020/1211/F for a mixed use regeneration scheme involving: demolition of vacant buildings Hughes Christensen site; erection of 8No. Class B2 (light industrial) and Class B4 (storage/distribution) unit; extension to, and subdivision of, existing supermarket building to form 4no. Class B4 units (existing retail use to be discontinued); erection of replacement supermarket; provision of new accesses from Montgomery Road and Castlereagh Road; road improvements; car parking, landscaping and associated site works. (Lynas Food Outlet building to be retained).
3.2	In November 2023, the current application was submitted seeking to vary condition 3 of planning approval LA04/2020/1211/F.
3.3	<p>Condition 3 as approved states:</p> <p><i>“Prior to any phase of the development hereby permitted becoming operational, a Verification Report shall be submitted to and approved in writing by the Council. This report must demonstrate that the remediation measures outlined in the RSK Ireland report entitled 'LIDL NI and Heron Bros / Heron Property, Environmental Site Assessment and Generic Quantitative Risk Assessment, Mixed Use Regeneration Scheme, Montgomery Road, Belfast' dated October 2020 and referenced 602253- R2(02), have been implemented.</i></p> <p><i>The Verification Report shall demonstrate the successful completion of remediation works and that the site is now fit for end-use (commercial). The Verification Report shall be in accordance with Environment Agency guidance. In particular, this Verification Report must demonstrate that:</i></p> <ul style="list-style-type: none"> <i>a) All above ground and underground fuel storage tanks and associated infrastructure have been fully decommissioned and removed from the site in line with Guidance for Pollution Prevention (GPP2) and the Pollution Prevention Guidance (PPG27).</i> <i>b) The ground underlying the tanks has been proven to be suitable to remain in-situ through validation sampling. The remediation works shall be retained thereafter and not removed or altered without the prior consent of the Council in writing.</i> <p><i>Reason: Protection of human health.</i></p>
3.4	It is proposed to vary the wording of the condition to require that the verification report be submitted and approved prior to any development contained within Phase 4 of the approved phasing plan of the development becoming operational. The fuel tanks referred to are located within Phase 4 of the development, south of the new Lidl supermarket built

	which is within Phase 2. The applicant has stated therefore the removal of the tanks is not relevant to the operation of the supermarket within Phase 2.
4.0	Planning Assessment of Policy and Other Material Considerations
4.1	Development Plan – operational policies Belfast Local Development Plan, Plan Strategy 2035
4.2	Development Plan – zoning, designations and proposals maps Belfast Urban Area Plan (2001) BUAP Draft Belfast Metropolitan Area Plan 2015 (v2004) Draft Belfast Metropolitan Area Plan 2015 (v2014)
4.3	Regional Planning Policy Regional Development Strategy 2035 (RDS) Strategic Planning Policy Statement for Northern Ireland (SPPS)
4.4	Other Policies Belfast Agenda
4.5	Relevant planning history The most relevant planning history is summarised below. LA04/2023/3493/DC – Discharge of Condition 8 – Condition not discharged 18 th July 2023 LA04/2022/1016/DC – Discharge of Condition 7 – Condition not discharged 17 th October 2022 LA04/2022/1015/DC – Discharge of Condition 5 – Condition discharged 20 th July 2022. LA04/2020/1211/F - Mixed use regeneration scheme involving: demolition of vacant buildings Hughes Christensen site; erection of 8No. Class B2 (light industrial) and Class B4 (storage/distribution) unit; extension to, and subdivision of, existing supermarket building to form 4no. Class B4 units (existing retail use to be discontinued); erection of replacement supermarket; provision of new accesses from Montgomery Road and Castlereagh Road; road improvements; car parking, landscaping and associated site works. (Lynas Food Outlet building to be retained) – Permission granted 4 th March 2022.
5.0	Consultations and Representations
5.1	Statutory Consultees DAERA Regulation Unit – No objection
5.2	Non Statutory Consultees BCC Environmental Health – No objection
5.3	Representations The application has been neighbour notified and advertised in the local press. No written representations have been received.
6.0	PLANNING ASSESSMENT
6.1	Development Plan Context
6.2	Section 6(4) of the Planning (Northern Ireland) Act 2011 states that in making any

	<p>determinations under the Act, regard is to be had to the local development plan, and the determination must be made in accordance with the plan unless material considerations indicate otherwise.</p>
6.3	<p>Section 45(1) of the Act states that in determining planning applications, the Council must have regard to the local development plan, so far as material to the application, and to any other material considerations.</p>
6.4	<p>The Belfast Local Development Plan (LDP) when fully completed will replace the Belfast Urban Area Plan 2001 as the statutory Development Plan for the city. The Belfast LDP will comprise two parts. Part 1 is the Plan Strategy, which contains strategic and operational policies and was adopted on 02 May 2023. Part 2 is the Local Policies Plan, which will provide the zonings and proposals maps for Belfast and has not yet been published. The zonings and proposals maps in the Belfast Urban Area Plan 2001 remain part of the statutory local development plan until the Local Policies Plan is adopted.</p>
6.5	<p>Operational policies – the Plan Strategy contains a range of operational policies relevant to consideration of the application. The main policies for consideration in this case are Policies</p>
6.6	<p>Proposals Maps – until such time as the Local Policies Plan is adopted, the Council must have regard to the land-use zonings, designations and proposals maps in the Belfast Urban Area Plan 2001, both versions of the draft Belfast Metropolitan Area Plan (v2004 and v2014) (draft BMAP 2015) and other relevant area plans. The weight to be afforded to these proposals maps is a matter for the decision maker. It is considered that significant weight should be given to the proposals map in draft BMAP 2015 (v2014) given its advanced stage in the development process, save for retail policies that relate to Sprucefield which remain contentious. The relevant zonings/designations are set out below. The site is within the development limits of Belfast in the BUAP, and both versions of draft BMAP 2015. Part of the application site is zoned in the 2004 version of draft BMAP 2015 as an area of Existing Employment/Industry under designation MCH 13. The application site fronts onto an arterial route. Part of the application site is zoned in the 2014 version of draft BMAP 2015 as an area of Existing Employment under designation MCH 10.</p>
7.0	<p>Key issues</p>
7.1	<p>The principle of development has already been established through the planning approval LA04/2020/1211/F to which this proposal relates. The key issue to be considered in the assessment of the current application is the submission and agreement of the verification report for Phase 4 only of the approved phasing plan (18A/ drawing no 01-07 rev A).</p>
8.0	<p>Verification report</p>
8.1	<p>Condition 3 of the approved development requires decommissioning and remediation of fuel tanks at the existing site prior to any phase of the permitted development becoming operational.</p>
8.2	<p>The approved plan, 18A, shows 4 phases of development including demolition. The fuel tanks referred to are located within Phase 4 of the development, south of the new Lidl supermarket built which is within Phase 2. The applicant has stated the removal of the tanks is not relevant to the operation of the supermarket within Phase 2. This application seeks to vary the condition to require that the verification report be submitted and approved prior to any development contained within Phase 4 of the approved phasing plan of the development becoming operational.</p>

8.3	Phase 1 relates to demolition and consultees have confirmed phase 3 does not require any remediation. Having regard to the advice from BCC Environmental Health and DAERA Regulation Unit as well as the Plan Strategy, it is considered that the proposed variation of condition 3 relating to the agreement of a verification report for phase 4, and not phase 2, is acceptable. The variation of condition 3 will create a new standalone planning permission and it will be necessary to repeat the conditions on the original permission as appropriate, with the exception of those already discharged subject to the variations granted by this decision.
8.4	<p>The proposed wording of condition 3 is as follows:</p> <p><i>Prior to any development within Phase 4 as shown on drawing number 01-07 rev A becoming operational, a Verification Report shall be submitted to and approved in writing by the Council. This report must demonstrate that the remediation measures outlined in the RSK Ireland report entitled 'LIDL NI and Heron Bros / Heron Property, Environmental Site Assessment and Generic Quantitative Risk Assessment, Mixed Use Regeneration Scheme, Montgomery Road, Belfast' dated October 2020 and referenced 602253- R2(02), have been implemented.</i></p> <p><i>The Verification Report shall demonstrate the successful completion of remediation works and that the site is now fit for end-use (commercial). The Verification Report shall be in accordance with Environment Agency guidance. In particular, this Verification Report must demonstrate that:</i></p> <ul style="list-style-type: none"> <i>c) All above ground and underground fuel storage tanks and associated infrastructure have been fully decommissioned and removed from the site in line with Guidance for Pollution Prevention (GPP2) and the Pollution Prevention Guidance (PPG27).</i> <i>d) The ground underlying the tanks has been proven to be suitable to remain in-situ through validation sampling. The remediation works shall be retained thereafter and not removed or altered without the prior consent of the Council in writing.</i> <p><i>Reason: Protection of human health.</i></p>
9.0	Section 76
9.1	A Section 76 was attached to the original permission. The Development has commenced, and ownership has not changed. The variation in this application does not materially change the original permission and the condition to be amended does not go to the heart of the permission, in line with case law set out in <i>Peel Land and Property Investments Ltd v Hyndburn Borough Council</i> , a further Section 76 is not required. The original Section 76 remains in effect and is required to be complied with; an informative will be added to any approval to this effect.
10.0	Recommendation:
10.1	Having regard to the development plan and other material considerations, the proposal is considered acceptable. It is recommended that planning permission is granted subject to conditions. Delegated authority is sought for the Director of Planning and Building Control to finalise the wording of conditions, and deal with any other matters that arise prior to issuing the decision, provided that they are not substantive.
11.0	Draft Conditions:
11.1	It should be noted that the other original conditions will be repeated as appropriate as approval of this Section 54 variation of condition application will create a new standalone

planning permission. One condition of the original approval LA04/2020/1211/F has been discharged and final wording will make reference to this.

1. Prior to any development within Phase 4 as shown on drawing number 01-07 rev A becoming operational, a Verification Report shall be submitted to and approved in writing by the Council. This report must demonstrate that the remediation measures outlined in the RSK Ireland report entitled 'LIDL NI and Heron Bros / Heron Property, Environmental Site Assessment and Generic Quantitative Risk Assessment, Mixed Use Regeneration Scheme, Montgomery Road, Belfast' dated October 2020 and referenced 602253- R2(02), have been implemented.

The Verification Report shall demonstrate the successful completion of remediation works and that the site is now fit for end-use (commercial). The Verification Report shall be in accordance with Environment Agency guidance. In particular, this Verification Report must demonstrate that:

- e) All above ground and underground fuel storage tanks and associated infrastructure have been fully decommissioned and removed from the site in line with Guidance for Pollution Prevention (GPP2) and the Pollution Prevention Guidance (PPG27).
- f) The ground underlying the tanks has been proven to be suitable to remain in-situ through validation sampling. The remediation works shall be retained thereafter and not removed or altered without the prior consent of the Council in writing.

Reason: Protection of human health.

ANNEX	
Date Valid	14/11/23
Date First Advertised	15/12/23
Date Last Advertised	(as above)
Date of Last Neighbour Notification	15/01/24
Date of EIA Determination	N/A