



Lewis Oliver
Principal Planning Officer
Planning Services
Havant Borough Council
Public Services Plaza
Civic Centre Road
Havant
PO9 2AX

26th October 2021

Dear Mr Oliver,

Planning Application APP/20/01221 – Land to the west of B&Q, Purbrook Way, Havant

I write in relation to the above planning application and in response to the Retail Audit (RA) prepared by Stantec, received 19th August 2021.

Following a review of the RA, the following conclusions may be drawn:

- The catchment area of the proposal (approximately a 5-minute drive-time) is acceptable. This includes (part of) Havant and Waterlooville Town Centres.
- Stantec agree the majority of identified sequentially preferable sites are neither suitable and/or available. They warrant no further consideration.
- There is no requirement for undertaking a Retail Impact Assessment (RIA).
- Unit 1 (Dukes Walk, Waterlooville PO7 7HS) (the former Waitrose Unit) requires further consideration for the proposal to pass the sequential test.

This letter responds with additional information regarding the suitability, availability, and viability of the former Waitrose unit for sequential test purposes. It does so under several headings and concludes the application proposals pass the sequential test. There is no reason why planning permission should not be granted on this basis. This letter is supported by the following information:

- Feasibility Plans (drawing ref. AD_001 and AD_002), prepared by One Design (**Document 1**).
- Occupational Review of Former Waitrose Unit (dated 13th October 2021), prepared by ESH Property Advisors (**Document 2**).
- Letter from Mr James Mitchell, Regional Head of Property for Lidl (**Document 3**).

Background

Whilst application of the sequential test is a matter of planning judgement, its meaning is not. The requirement for undertaking a sequential test is made clear in paragraph 87 of the NPPF (last updated on 20th July 2021). This confirms the 'town-centre first' approach and is worded as follows:

"Local Planning Authorities should apply a sequential test to planning applications for main town centre uses which are neither in an existing centre nor in accordance with an up-to-date plan. Main town centre uses should be located in

town centres, then in edge of centre locations and only if suitable sites are not available (or expected to become available within a reasonable period) should out of centre sites be considered.”

Paragraph 91 then states that where an application fails the sequential test, it should be refused.

The sequential test is an express recognition, in national policy, that alternative sites are not always readily available, suitable, or viable within town centre boundaries. The purpose of the test is to direct retail developments to town centre locations where possible having regard to commercial and practical considerations etc.

In summary, applying the sequential test means:

1. First assessing whether there are available sites that are suitable in sequentially preferable locations which are likely to be available within a **reasonable period of time**.
2. Acknowledging the market and locational requirements of the uses concerned.
3. Ensuring the assessment is proportionate and appropriate to a proposal.
4. Being flexible to demonstrate whether more central sites have been fully considered.

Interpreting the need for flexibility the Supreme Court in *Tesco Stores Ltd v Dundee City Council [2012] UKSC 13* held that in defining the term ‘suitable’, reference should be made to the design of the developer’s proposals, subject to a demonstration of flexibility and realism. An assessment must reflect the fact that a retailer operates in the real world. The question is whether an alternative site is suitable for the proposed development, not whether the proposed development could be altered, or reduced, so that it can be made to fit an alternative site.

The principles underpinning the suitability of an alternative site were discussed in the case of *R (on the application of Zurich Assurance Ltd t/a Threadneedle Property Investments) v North Lincolnshire Council [2012]*. At paragraph 62 of the judgement the Court held:

“Working in the real world, the committee were entitled (and indeed, bound) to take into account the evidence that any arrangement in which Marks and Spencer used the TJ Hughes unit (the only available unit in Scunthorpe town centre) would not be commercially viable, and that, because of that lack of viability, Marks and Spencer would not locate to Scunthorpe town centre in the event that this Application for the site was refused.”

These judgements, in effect, establish two key principles when interpreting planning policy:

1. Decision makers cannot interpret planning policy in any way they choose, subject to only the limits of rationality. Interpretation of planning policy is a matter of law and policy statements should be interpreted objectively in accordance with the language used, read always in its proper context (Lord Reed, paragraph 18 in *Tesco Stores Ltd*).
2. Whether a town centre site is ‘suitable’ refers to the suitability of sites for the development specifically proposed yet applying suitable flexibility (paragraph 25 of *Tesco Stores Ltd*).

In a claim for Judicial Review of an out of centre store in Gloucestershire (*Warners Retail (Moreton) Ltd v Cotswold District Council and Others (2016)*), the Court of Appeal considered reasonableness in terms of flexibility, concluding that flexibility is determined on a case-by-case basis. The court held that format and scale inevitably depend on the facts and circumstances, as well as the applicant’s preferences and intentions. However, the sequential test should not become a self-fulfilling activity, divorced from public interest.

The High Court Judgement (*Threadneedle Property Investments and Simons Developments Ltd v North Lincolnshire Council (CO/4764/2021)*) further considered the Supreme Court interpretation. It confirmed the need to take account of the operator's commercial requirements. In the case considered by the High Court, the Court came to the view that 'operator specifics' were relevant in applying the sequential test.

The rulings are clear that there must be realism applied to the sequential test, having regard to the business model of the applicant, commercial realities, and business decisions.

The 'Mansfield Judgement' (*Aldergate v Mansfield District Council & Anor 2016*) clarified further that the sequential test should be considered based on the broad type and format of the proposed land use, allowing for appropriate flexibility in respect of format and scale.

The Judgement confirms that, in applying the sequential test, the decision maker will generally be required to consider the type and format of the proposed development, rather than the requirements of any specific named operator. It identifies that the area and sites covered by the sequential test search should not vary from applicant to applicant according to their identity, but from application to application based on their content.

Reference has been made to an appeal decision known as Mansfield Road, Sutton in Ashfield (Appeal ref. APP/W3005/W/20/3265806). In that case, Asda owned a town centre site known as Northern Bridge Road (NBR) which, they maintained, was sequentially preferable and was both suitable and available. By way of background, it was accepted operationally that, in principle, the NBR site could accommodate the proposed development. Rather, its suitability focused on whether the proposed development would run contrary to a Town Centre Masterplan. This is an important distinction when compared to the application proposals. Furthermore, it is important to acknowledge that each sequentially preferable site, subject of these two appeal decisions represented unconstrained development sites. This is again an important distinction.

Against this background, the parameters of the sequential test should be established having regard to the broad type and format of the proposed land use, allowing for appropriate flexibility in respect of format and scale whilst considering the commercial realities of the respective business model, which in this instance is for a Limited Assortment Discounter (LAD) store. This remains a key consideration in applying the sequential test.

Proposed Development and Site Requirements

The proposed retail unit extends to c.1,899m² gross with a net sales floorspace of c.1,256m², together with car parking for in the region of 131 vehicles. The company's standard store format is c.1,414m² net with c.120 car parking spaces. The proposal for Havant is for a slightly modified (smaller) version of Lidl's standard format. It follows, therefore, that Lidl are already demonstrating an element of flexibility in unit size.

Delivering and maintaining the LAD business model has consequences for the design and layout of Lidl's stores, and therein, their site requirements. To be suitable a site must be capable of delivering a store which can stock Lidl's full product range, carry that range in sufficient depth so that products do not run out and provide for Lidl's stock handling requirements. All are key components of the LAD model.

The restriction a LAD business model places on the ability for Lidl to be 'flexible', in its format remains critical in applying the sequential test. It can't simply be ignored. The Court judgements (Tesco Dundee) affirm this.

There is and remains a distinction between a LAD foodstore and other foodstore operators who may have greater ability to be flexible in both their format and scale for sequential test purposes. In terms of site requirements, these

are set out within our Planning and Retail Statement (2020). For ease, they are replicated below:

- Prominent sites with main road frontage serving a compact catchment.
- A regular shaped site area (ensuring adequate product display and movement of products).
- Accessible sites with strong pedestrian and/or traffic flows.
- Sites that can deliver the following:
 - A customer orientated layout with simple, straightforward access.
 - Car parks which are located close to the store and at ground level for ease of access.
 - Parking spaces which are generously designed and clearly marked.
 - Spacious sales areas with wide aisles for a more comfortable shopping experience.
 - Ample and operationally efficient warehouse space to ensure constant product availability.
 - Logical store layouts with simple merchandising ensuring customers can find the same products in the same place in each store.
 - Sites must be capable of being serviced by an HGV which can enter and leave the site in a forward gear.

Fundamentally, it is necessary for the proposed development to have adequate servicing arrangements, floorplates should not be unduly restricted by columns, the arrangement of the store should allow for appropriate trolley management and security arrangements, stores should also benefit from a high level of store visibility, footfall, and extensive public transport connections. There must also, of course, be confidence in the long-term commercial viability of any location.

The former Waitrose unit simply does not meet, or satisfy, these key criteria. If it did meet the key LAD criteria Lidl, or their competitor Aldi, would have no doubt pursued the store. It is highly telling that neither have sought to do so despite both having requirements in the area and progressing live planning applications for alternative locations. In this respect, correspondence recently placed on the planning file for the Aldi application (ref. APP/21/003991) from Harris Lamb, confirms that Aldi have no interest in taking the Waitrose unit as it does not meet their floorspace needs nor their store configuration or customer car parking criteria.

Accordingly, it is not just Lidl who are saying the Waitrose unit is unsuitable for LAD retail. Their principal competitor, Aldi, clearly thinks likewise. Had the Waitrose unit presented a realistic and suitable option to deliver a LAD store Lidl, or Aldi, would have pursued it to steel a march on the other. This assumes greater importance given the expansion plans being pursued by both Lidl and Aldi. They have not chosen to do so which speaks volumes about its suitability, or more accurately, its unsuitability.

None of the LAD key operating criteria present favourably when considering the former Waitrose unit, Dukes Walk, Waterlooville. The same commercial constraints are applicable to any LAD.

Suitability/Availability

There are two distinct stages to the sequential test. The first stage is whether a site is suitable. Only if a site is

suitable is there a requirement to undertake an assessment of availability.

Although the meanings of 'suitable' or 'available' are not defined in the NPPF, guidance is provided in the Judgement of Ousley J in the Aldergate Properties Case. Suitable and available generally means suitable and available for the broad type of development proposed in terms of approximate size, type, and range of goods. However, the 'developer blind' approach is not an absolute rule and neither does it foreclose the exercise of judgement where circumstances may warrant a departure. This was made clear by Ousley in paragraph 43 of his judgement:

"...identity may matter, notably where the town centre needs representation by different retailers, or where town centre sites are being hoarded by developers/retailers who refuse to develop them, but also refuse to sell them...There may be other good reasons too, why a court interpretation of policy should not be expressed in terms which are too rigid."

The suitability of the former Waitrose unit has not, at any point, been excluded from the sequential assessment on the basis that the occupier is Lidl but, rather, on its inherent unsuitability for any form of LAD retail. This is a subtle, yet important, distinction in applying the sequential test.

The 'suitability' and 'availability' of the former Waitrose unit (Dukes Walk) is reconsidered below.

Suitability of Former Waitrose Unit (Dukes Walk)

Our original sequential test appraisal is clear as to the reasons why the former Waitrose unit is not 'suitable' for the application proposals, or a flexible form of them.

There is a world of difference between the suitability of a site and its mere physical ability to accommodate a proposal. The ability of a sequentially preferable site to accommodate a development does not routinely render it suitable for the purposes of the sequential test.

On this point, Stantec comment that *"a purpose-built retail unit formerly occupied by a foodstore operator in a unit larger than the development proposed – with a shared, surface-level car park sounds like it should be suitable for the foodstore proposed"*. This takes a very narrow view of the matter and appears to dismiss the commercial and operational realities of LAD retailing.

Unit Size

We disagree with Stantec that the respective size of the unit is not a strong reason why the former Waitrose unit cannot be considered suitable. It is clear the unit has been designed to form an anchor to Dukes Walk. Based on information available within the public domain the unit has a sales area of c.23,339ft² (c.2,168m²). The sales area is c.9,817ft² (c.912m²) larger than that proposed. Even when allowing for appropriate flexibility in respect of format and scale, there can be no credible assertion the former Waitrose unit (as existing) is suitable for the broad type of development proposed. It far surpasses the modest operational requirements of a LAD.

Stantec appear to acknowledge this point within their letter commenting as follows:

"The applicants first point on suitability is that the former Waitrose unit is larger than that proposed by the application proposal. We are of the view that this is not a strong reason as to why the former Waitrose is not suitable for the development proposed. We understand that the landlord is open to discussing how they can make the unit, or part of it, be reconfigured or adopted to meet the occupier's specification and requirements, including those of a supermarket operator."

The subdivision/reconfiguration point is considered below.

Subdivision

The only basis in which a LAD could, theoretically, occupy floorspace within the former Waitrose is on the assumption the space is successfully subdivided.

In this regard, feasibility plans have been prepared by One Design and are provided at **Document 1** (drawing refs. AD_001 and AD_002). Given any operator would require maximum retail prominence, occupation is focused on the main entrance to the former Waitrose unit.

The following conclusions may be drawn in relation to the physical inability of the former Waitrose unit in accommodating the application proposals, or a flexible form of them, and following the necessary reconfiguration and/or subdivision.

Proposed Store Layout Drawing No. AD_001 (Option 1)

Drawing No. AD_001 shows a proposed Lidl foodstore with a ground level sales floor of c.13,627ft²/1,266m² plus ancillary areas, together with a surplus ground floor Unit (Unit 2) totalling c.7,965ft²/740m² GIA sales floor. The layout shows a lower ground warehouse for Unit 2 of very linear configuration and highly convoluted access arrangements. This space would likely prove impractical for any future retailer.

The configuration, as shown on Drawing No. AD_001, is unsuitable for the following principal reasons:

- The unloading/shared areas are not suitable for a LAD in this arrangement. Their operational efficiencies are significantly reduced owing, in part, to the location of chillers, freezer and bakery preparation areas across multiple floors.
- The shared unloading area affords no storage space for stock handling in contrast to the application proposals.
- Split level servicing does not allow for operational efficiencies in stock handling and staffing levels.
- There is no opportunity for palletised goods to arrive direct to the sales floor (as there is with the application proposal). Rather, servicing and delivery arrangements are convoluted with goods stored and waste processed on different levels.
- Overreliance on shared goods lifts and shared servicing areas (of which a LAD retailer would not retain full operational control).
- Staff access to the bakery preparation area can only be taken direct from the sales floor (rather than a separate and direct access from the delivery area).
- Cash handling procedures are far from ideal in that access would have to be taken across the length of the sales floor to back of house office areas. New stores are designed to avoid this scenario.
- The proposed sales floor is constrained by numerous structural columns. This is not a suitable arrangement for a LAD retailer. LAD retailers require unrestricted trading floorspace, as far as practicable, for operational efficiency and store planning purposes. Multiple columns will lead to operational and merchandising issues.

- There is no requirement for a LAD foodstore to occupy any ancillary space at first-floor level. This would likely be rendered obsolete by proposals for subdivision.
- Owing to the need to achieve the required sales floorspace, or a flexible form of it, an irregular sales floor layout is provided which includes a step in the trading floor. This will compromise merchandising layouts.
- Unit 2 would not benefit from any meaningful retail prominence. Rather, it will face directly onto an existing service yard (Dukes Walk).
- The main sales floor of Unit 2 is of an irregular L-shaped configuration with a disproportionately narrow frontage.
- Unit 2 would have little or no visibility from the main shared customer car park.
- Unit 2 has minimal back of house space (c.100m²) only accessible from shared areas within the unit.
- The shared loading yard for Unit 2 is set at a lower level to, and disjointed from, the sales floor and would require a convoluted route to transport goods through shared internal handling areas, up a shared goods lift, through another shared corridor and then finally into the rear back of house area. This applies equally to both layout options.
- The subdivision arrangements are far from ideal and certainly not common for modern retailing purposes. It results in a far greater risk to items being damaged, or stolen, as well as requiring additional staff to manage deliveries. This is likely to significantly hamper the occupational demand for Unit 2.

Drawing No AD_002 (Option 2)

Drawing No. AD_002 shows a smaller proposed Lidl foodstore with a sales area at ground level of c.11,183ft²/1,039m² GIA plus ancillary areas, alongside a surplus "Unit 2" of c.10,452ft²/971m² GIA with a back of house area located to the rear corner. Like Option 1, the plan shows a lower ground warehouse for Unit 2 of very linear configuration and highly convoluted access arrangements via a shared corridor area at both ground and lower levels.

Whilst the proposed Lidl in Option 2 has a smaller floorspace both units appear of a more regular and rectangular shape. Unit 2 is afforded a wider frontage, yet still lacks any meaningful prominence.

The resultant sales floor of the Lidl in this option would total 1,039 m². It is some 217m² smaller than the application proposals equating to a percentage reduction of over 17%. Even allowing for an element of flexibility, such a reduction in floorspace would not be suitable for the application proposals which, themselves, represent a smaller version of Lidl's standard format. This option would result in a very limited non-food operation with the layout and size precluding a full product range. For this reason alone, the size of the unit renders this configuration unsuitable for sequential test purposes. Many of the constraints identified above apply equally to Layout Option 2.

Together with the unsuitability of the Waitrose in accommodating the application proposals any surplus retail floorspace would not meet with the needs of future retail occupiers. Subdivision to accommodate a LAD (if possible) invariably limits the attractiveness of any remaining retail/commercial floorspace (inc. resultant irregular shaped footprints and extremely poor retail prominence etc). Such deficiencies would be reflected in subsequent passing rents. This matter is considered further within the commercial retail opinion provided by ESH, and which is appended to this letter (**Document 2**). In summary, this makes the following observations:

- There are very few live retail and restaurant requirements for Waterloo with the majority including trade or retail park specific requirements.
- The lack of visibility of Unit 2 is a significant commercial disadvantage, particularly given the locational characteristics of competing locations (i.e., Wellington Retail Park).
- The presence of adjoining leisure operators limits the attractiveness of this location to future leisure operators.
- The level of demand for the nature of space proposed in either scenario would be very weak from a national level.
- Coupled with impractical reconfiguration of the unit, and lack of visibility, it is the opinion of ESH that any proposed 'surplus' space would be effectively unlettable. At the very least, it would remain vacant for a sustained period.
- The proposed space would only likely appeal, at best, to a regional or local covenant, who would be unlikely to offer the financial surety required to justify spending the capital outlay necessary to repurpose the floorspace, following occupation by Waitrose.
- Rental terms would reflect lack of demand from the retail marketplace.

In summary, ESH have appraised the former Waitrose from a commercial perspective and with regard to subdividing the floorspace in the manner suggested. It is the opinion of ESH that commercial terms will significantly reflect the relative lack of operator demand for floorspace at this location. ESH suspect, therefore, that a reason for their company having not seen any marketing details for the former Waitrose unit reflects both the relatively high level of rent passing for the remainder of the Waitrose lease as well as, in Waitrose's case particularly, an acknowledgement that there is unlikely to be either appealing or financially viable options for this space.

Provision of Customer Car Parking

On the matter of parking Stantec appear dismissive of the point. They comment that *"the applicant argues that the limited pay and display car parking would put Lidl at a significant trading disadvantage when compared to its competitors."* The advice from Stantec continues by acknowledging that "whilst not ideal, we are of the view that car parking is not a compelling reason to argue that the former Waitrose unit is not suitable for the development proposed. For example, a foodstore operator may be able to introduce an arrangement whereby customers can claim a refund for parking at the checkouts. We understand from the landlord that the current parking arrangement is under review and that the payment system may be removed all together. According, to the landlord, any occupier of the unit could benefit from a parking payment exemption for their customers as was the case with Waitrose"

Whether Lidl customers could potentially be exempt for paying parking charges would not make this location suitable. Rather the key point is there is no opportunity to provide a dedicated car park for the sole use of Lidl customers. At the current time, customers must rely on a pay and display car park. Without dedicated spaces within the control of the applicant, there is a high-risk shoppers would be deterred from using the store whilst others wishing to use the car park (shared with Dukes Walk and serving the town centre), might also be deterred because the car park is full.

Even allowing for an element of flexibility, it is not feasible to provide dedicated car parking spaces whilst maintaining the requisite public spaces. Sufficient customer car parking is a prerequisite for LAD retailing. This was

a key reason as to why previously vacant units (No. 4 and 5) on Solent Retail Park were dismissed from the sequential test.

In that example, existing parking on the relevant part of Solent Retail Park (c.200 spaces) was shared across 7 individual units. As set out in Havant Parking SPD, the car parking requirements for A1 non-food and A1 food use are 1 space per 20m² and 1 space per 14m² respectively. The level of car parking available at Solent Retail Park is, therefore, c.49% of the minimum parking standards. There a clear and recognised under provision of car parking at this location. Concerns regarding parking were raised in relation to planning application APP/20/00688, which led to that application, seeking to increase the floorspace afforded to food retail, being refused. The application proposals provide in the region of 130 car parking spaces – 65% of the total car parking available on this part of Solent Retail Park (shared across 7 units). It is a location that is grossly underprovided for in terms of car parking to the point it is unacceptable for a food retailer. Accordingly, it is telling that Home Bargains have since taken occupation of the unit.

These arguments apply equally to the former Waitrose unit at Waterlooville. Based on a gross floorspace of c.42,000ft² (c.3,901m²) the former Waitrose would generate a parking requirement of c.278 car parking spaces (1 space per 14m²). The Wilkinsons and Units 1 – 11 Dukes Walk (inclusive) would generate an additional requirement in the region of c.190 car parking spaces. The total level of car parking available at Dukes Walk is just 251. Taking into consideration the individual parking requirements of other uses including the Pure Gym, Public Library and Waterlooville town centre generally the parking capacity of this location is likely to be further underprovided for having regard to the Council's own parking standards. To the contrary, the application proposals are largely policy compliant in terms of car parking provision, having regard to the Council's own parking standards.

SPL consider the provision of an adequate amount of car parking spaces which have a functional and relatively unimpeded relationship between the car park and the trading floorspace a fundamental component of a LAD business model. Given the high proportion of shopping trips undertaken using trolleys, if insufficient accessible car parking is provided then the commercial realities of the LAD business model would not be achieved. For a LAD store to be commercially successful, relative to their competitors, there also needs to be certainty for shoppers that car parking spaces with trolley access to the trading floorspace will be available when they undertake a shopping trip. If there is uncertainty about the availability of car parking spaces, then shoppers are likely to undertake a shopping trip elsewhere.

Put simply, the quantum of car parking available remains unsuitable to accommodate the operational requirements of the proposed development, even allowing for appropriate flexibility in format and scale.

Availability of Former Waitrose Unit (Dukes Walk)

Paragraph 87 of the NPPF states in applying the sequential test to planning applications, only if suitable sites are not available (or expected to become available within a reasonable period) should out of centre sites be considered.

Planning Practice Guidance confirms that when considering what a reasonable period is for this purpose, the scale and complexity of the proposed scheme and of potentially suitable town, or edge of centre sites, should be taken into consideration.

The proposed application scheme, if permitted, could realistically be delivered within a 12-month period. Lidl have a secured position on the site and, subject to receiving planning permission, there are no constraints to its delivery.

Commenting on the matter of availability, the RA prepared by Stantec suggests that it is *“clear that the former Waitrose is available for the development proposed, with the owner of the unit seeking a foodstore operator to occupy the unit”*.

The RA refers to a letter from Columbia Threadneedle Investments, the owner of the unit and which appears to suggest they are working with the leaseholder to identify a new tenant for the premises. The owner is of the view that the unit is suitable for occupation by a supermarket operator either as a whole or in part.

The subtle wording of this letter warrants further scrutiny in the context of the application proposals and to which reference has not been made by Stantec. Importantly, the letter remarks the following:

“Given a commercially viable option we would surrender the existing lease and grant a new lease on market terms.”

The unit is far from “clearly” being available for the development, on the assumption it is suitable (it is not).

The existing Waitrose lease runs until 23rd January 2026. It has over 4 years left on the term. The lease is also subject to 5 yearly rent reviews, with the last one having taken place in January 2021. The initial rent was set at a rent of £533,400 per annum. It is our understanding this increased to £675,000 per annum (Trevor Wood Database) at the last rent review.

The commercial reality of the situation is outlined within correspondence from Mr James Mitchell (Lidl Regional Head of Property), and which has also been appended to this submission. This unambiguously concludes the location is not only not suitable for a LAD operator, such as Lidl, but also that there is no plausible prospect of the unit being available within a reasonable period of time. There is no way for Waitrose to exit the unit without the cooperation of the landlord Columbia Threadneedle. There is no prospect of Lidl combined with any second tenant being willing to offer a rent at anything like the current passing rent. There is no commercial logic to the landlord accepting such a reduction in income given its responsibilities to its investors and shareholders to maximise returns.

The former Waitrose cannot, in any way, be said to be viable for the application proposals, or a flexible form of them. Nor is it considered that the unit will be available (i.e., any lease surrendered) within a reasonable period. Put simply, there is absolutely no incentive for the freeholders of the site to surrender the existing lease at the current time. Thus, there are also practical terms that would preclude the ability of Lidl, or any other LAD retailer, to trade from this opportunity – certainly within a reasonable period. It is, therefore, SPL’s planning judgement that the unit cannot be expected to be available within a reasonable period for the broad type and format of the proposed land use, allowing for appropriate flexibility in respect of format and scale and considering the commercial realities of the applicants’ business model (LAD).

Conclusions

Having regard to the requirements of the NPPF to demonstrate flexibility on issues such as format and scale, we conclude that given the cumulative constraints which are numerous and apparent in delivering a LAD operator in the former Waitrose Unit (Dukes Walk, Waterloooville), it is considered that that the unit is unsuitable for the broad type of retailing proposed having regard to commercial realities.

It cannot be said, in any way, that the former Waitrose represents a sequentially preferable opportunity to accommodate the proposed development. The parameters of the sequential test should be established having regard to the broad type and format of the proposed land use which is for a Limited Assortment Discounter (LAD). The sequential test undertaken allows for appropriate flexibility in respect of format and scale, whilst paying due

regard to the commercial realities of the LAD business model. This is fundamental for application of the sequential test.

Stantec note within their response that *“the applicant sets out a number of fundamental operational requirements of Lidl. It should be reiterated that for a site to be considered suitable, the site does not need to be suitable for the requirements of a specific operator. In any event, we consider that a foodstore operator should be flexible enough on the specific requirements raised which would enable a foodstore unit to occupy the former Waitrose unit.”*

As discussed in the introductory sections of this note, ‘Operator specifics’ are relevant in applying the sequential test. The fact that the proposals are for a LAD form of retail cannot be ignored. Clearly, whilst flexibility may be applied against some of the criteria, there are numerous cumulative constraints which are apparent in delivering a LAD operator at this location. This goes above and beyond what can be considered reasonableness in terms of flexibility. There are multiple reasons as to why the former Waitrose is unsuitable for the broad type of retailing proposed and having regard to the commercial realities of LAD retailing. These include:

- The floorspace is far too large for the need the development is expected to serve. Accordingly, the only basis on which Lidl, or any other LAD retailer, could theoretically trade from the unit would be on the assumption the floorspace is subdivided.
- Subdivision does not result in suitable layouts and has a significant detrimental impact upon the commercial attractiveness and, therein, passing rents of any surplus floorspace.
- There remains concern that a LAD store would not have adequate commercial profile and main road frontage following re-configuration.
- Prohibitive passing rents would impact the deep discounter model.
- The physical inability to sub-divide the unit in a suitable manner for any LAD retailer, whilst delivering appropriate surplus retail floorspace attractive to the marketplace – evidenced by the store layout plans and commercial opinion provided by ESH.
- It would not, in any way, be viable or practical for a LAD to occupy the entire unit.
- Overreliance on shared goods lift and servicing areas.
- Absolutely no guarantee that parking would be free.
- Proliferation of structural columns within any sales floorspace – a significant and prohibitive constraint for discount retailers who are reliant on all the space being available for product display.
- Inefficient warehousing/servicing space arranged over multiple floors.
- No opportunity to provide a dedicated car park for the sole use of Lidl customers.
- Concern regarding the general level of car parking provision at this location, having regard to the Council’s own Parking SPD.
- Visibility of a store in this location does not, in any way, have comparable profile as a standalone store on a prominent road frontage (such as the application site).

Therefore, whilst the former Waitrose may be physically and practically able to accommodate the proposed business model, allowing for flexibility in format and scale, it is not considered commercially realistic that any LAD operator would trade from this location for the reasons outlined. A sub-standard store would ensue which in no way meets the applicants' minimum operational requirements. It is important to ensure that any store will be viable and operationally efficient given the vagaries of the retail market and the need to remain competitive, efficient, and constantly evolve the business model to meet with changing customer expectations. This would not be possible at this location as has been demonstrated by the acknowledged commercial failure of the former Waitrose store.

Alongside the suitability, or not, of the unit there are also significant question marks over the availability of the unit certainly within a reasonable period of time.

As such, it is not considered that the former Waitrose unit is a sequentially preferable site, in the context of paragraph 87 of the NPPF and the application proposals wholly satisfy the matter of the sequential test.

Should the Council opt to refuse the application on retail policy grounds this will not have the presumably intended consequence of redirecting this investment to Dukes Walk. Our client cannot countenance the occupation of the unit for a myriad of reasons. To refuse the application will simply deny the local community the many benefits the scheme affords and prevent economic job creating development coming forward.

Yours sincerely,

A handwritten signature in blue ink, appearing to read 'Alastair Thornton'.

Alastair Thornton

Director

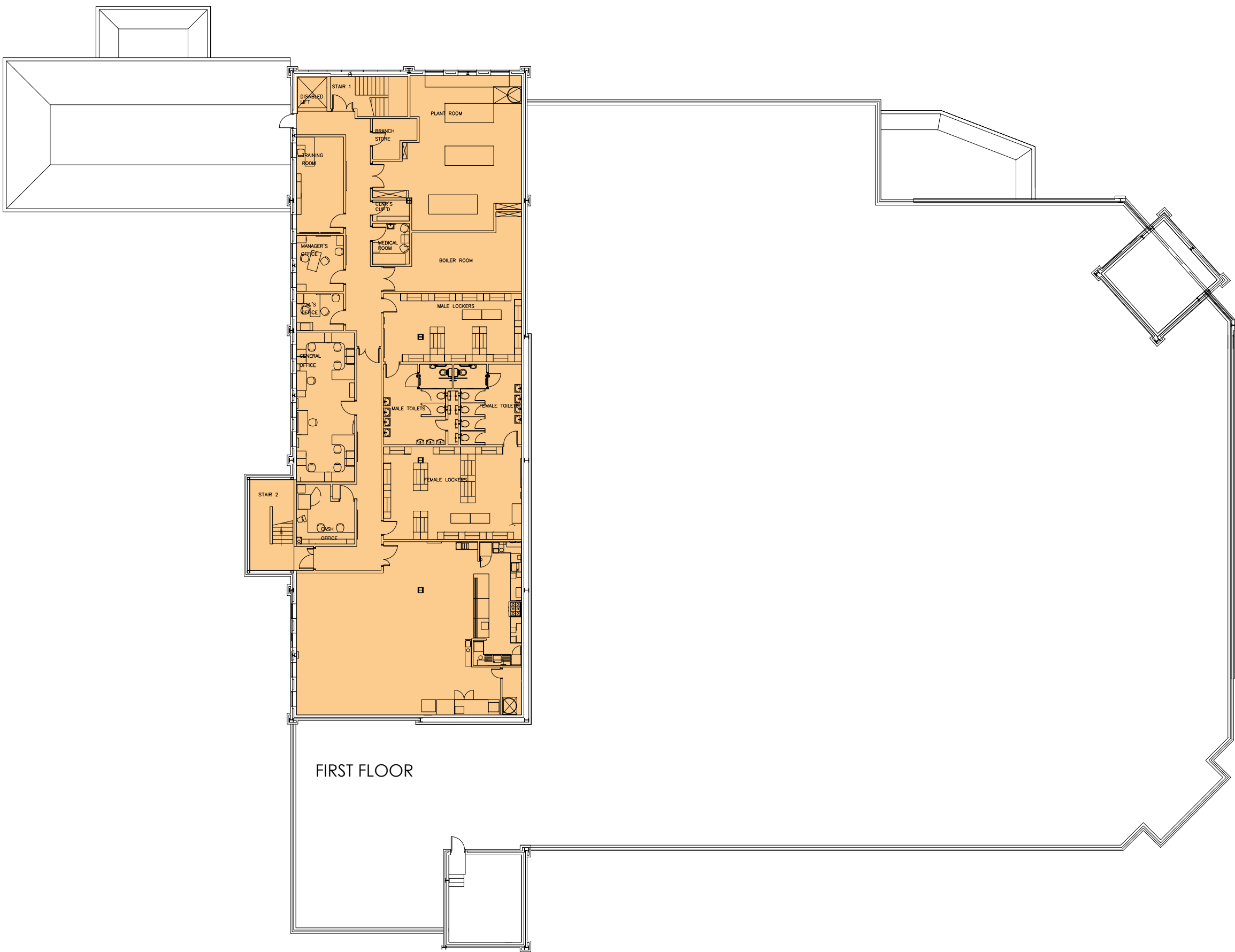
Encs.



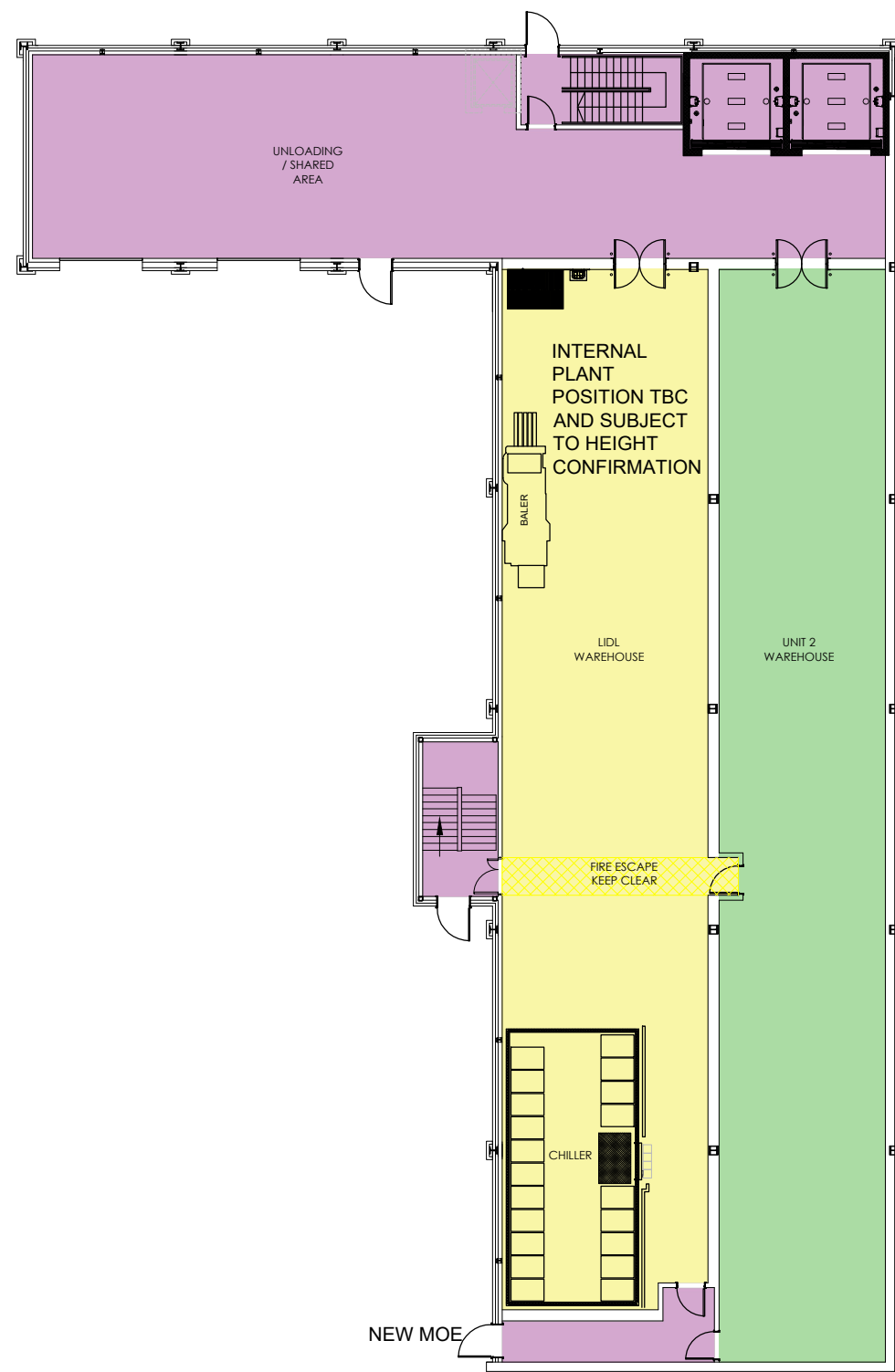
Land to the west of B&Q, Purbrook Way, Havant
Planning Application APP/20/01221

Document 1

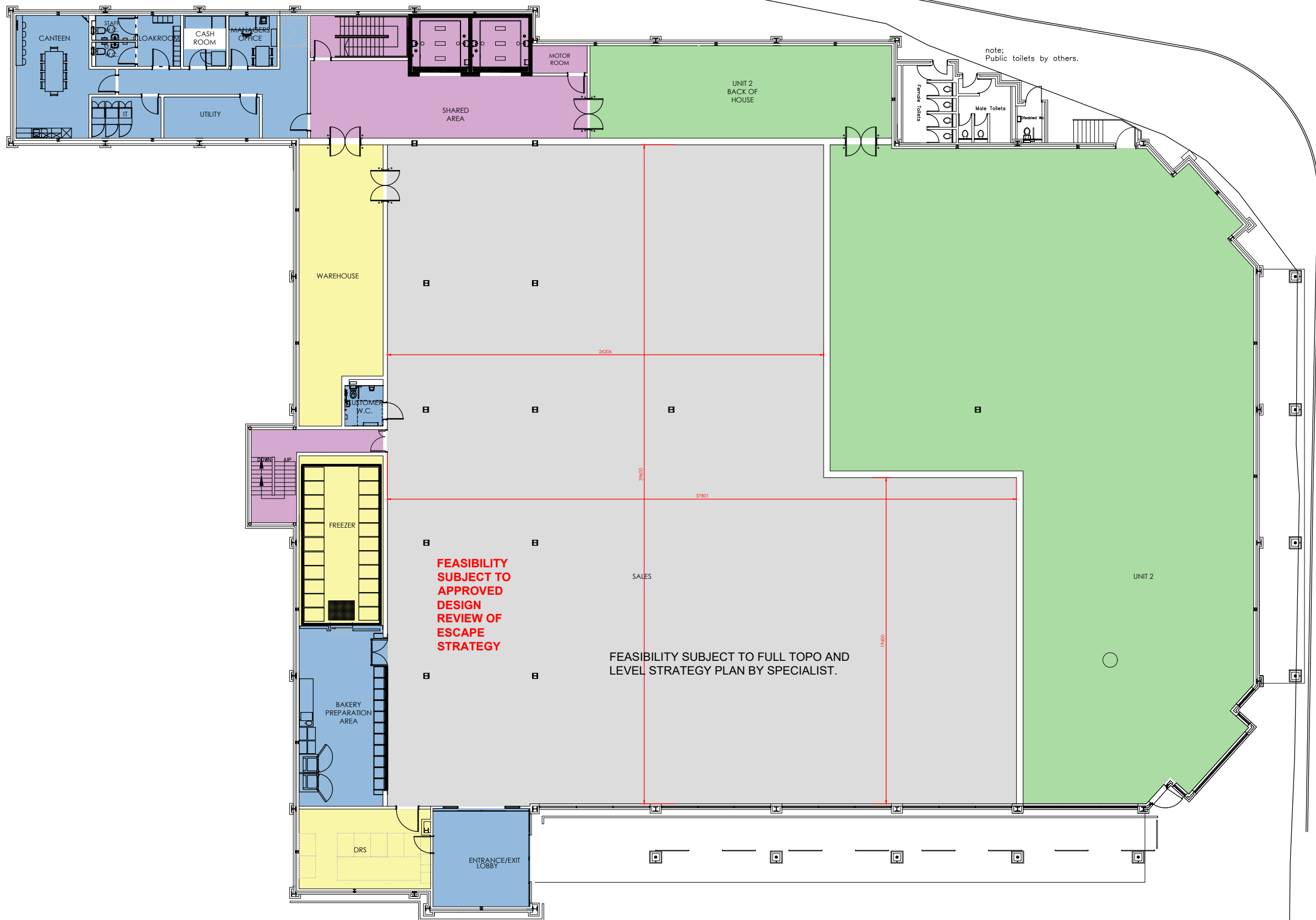
Feasibility Plans (drawing refs. AD_001 and AD_002)



FIRST FLOOR



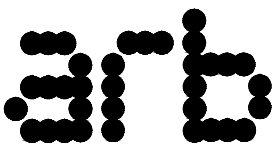
LOWER GROUND FLOOR



GROUND FLOOR

SCHEDULE	
LIDL	
LOWER GROUND FLOOR	
Warehouse (Inc. Freezer/Chiller & Storage)	280 m²
Shared Areas inc. delivery & vertical circ.	250 m²
Unit 2 Warehouse	236 m²
GIA INCLUDING INTERNAL WALLS	796 m²
GROUND FLOOR	
Sales Area	1266 m²
Warehouse (Inc. Freezer/Chiller & Storage)	167 m²
Ancillary	217 m²
Shared Areas inc. vertical circ.	132 m²
Unit 2 Sales	740 m²
Unit 2 Back of House	100 m²
GIA INCLUDING INTERNAL WALLS	2689 m²
FIRST FLOOR OFFICES	
GIA INC. VERTICAL CIRC. & INT WALLS	566 m²

RIBA Chartered Practice



Architects Registration Board



DIMENSIONS TO BE CONFIRMED ON SITE PRIOR TO START OF WORKS AND ODA TO BE INFORMED OF DISCREPANCIES IMMEDIATELY. NO DIMENSIONS TO BE SCALED FROM THIS DRAWING. ALL MATERIALS AND WORKS ARE TO BE CARRIED OUT IN ACCORDANCE WITH THE LATEST REVISION OF THE APPROPRIATE BRITISH STANDARDS OR EURO CODE. PLANNING APPROVAL, CURRENT BUILDING REGULATIONS AND CODES OF PRACTICE. PARTY WALL ACT - NOTICES UNDER THE PARTY WALL ACT ARE TO BE SERVED BY THE PROPERTY OWNER OR APPOINTED THIRD PARTY BY PROPERTY OWNER. HEALTH AND SAFETY - CDM 2015 REGULATIONS APPLY TO ALL CONSTRUCTION WORKS TO BE CARRIED OUT AND APPLY TO DESIGNERS, CONTRACTORS AND THE CLIENT, AS SUCH ALL PARTIES HAVE DUTIES UNDER THESE REGULATIONS.

Notes



Rev	Description	Date	Rev by	Chk by
-----	-------------	------	--------	--------

Revisions

Client
LIDL GREAT BRITAIN LTD. Foxes Park,
Brownhill Way, Nursling,
Southampton, SO16 0AW.
Project
WAITROSE, WATERLOOVILLE

Drawing
PROPOSED BUILDING PLANS

Project No: 21196
Drawing No: AD_001

Purpose of Issue
SKETCH SCHEME

Scale @ A1
1:250

Drawn
LMC

Checked

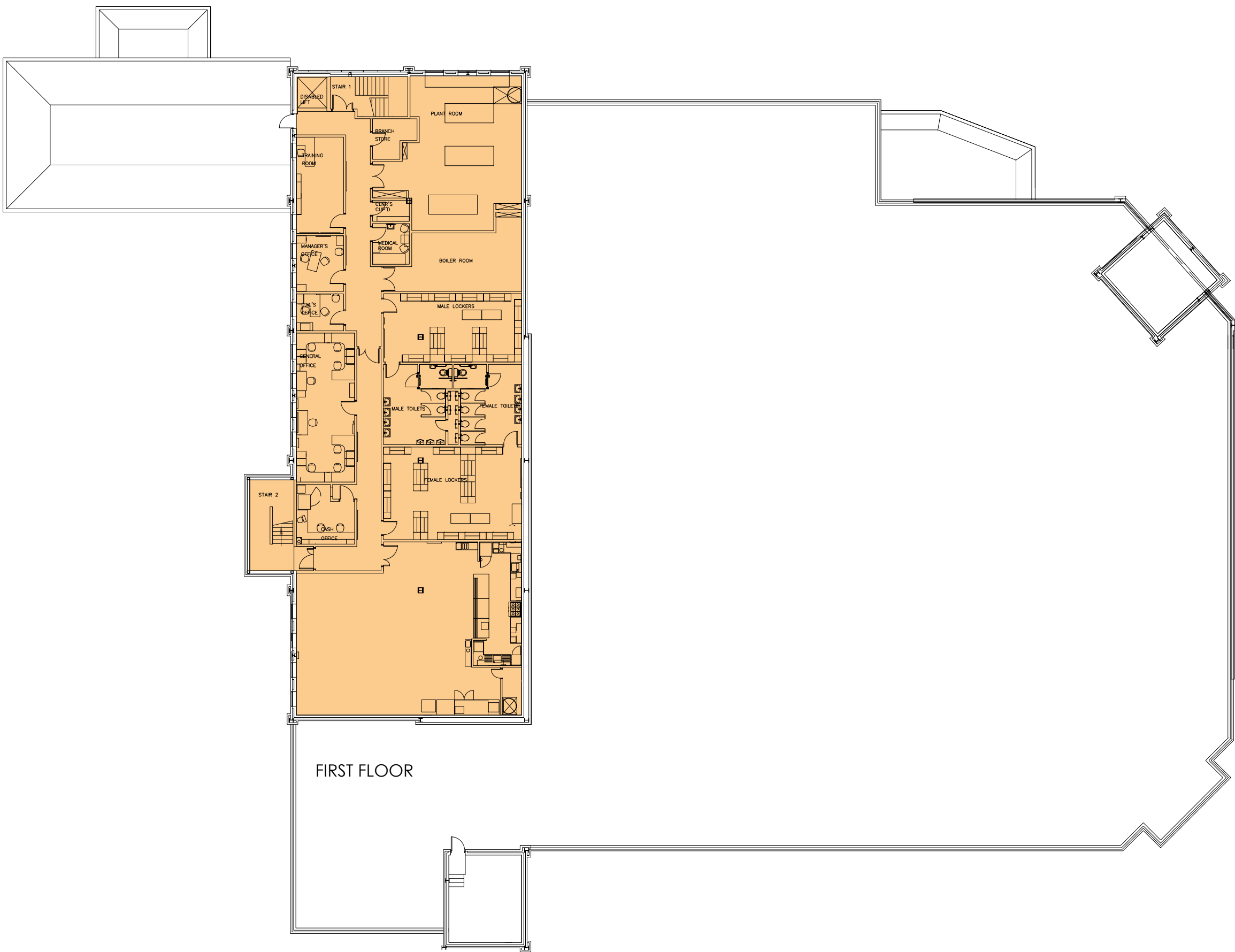
Revision
-
Date
SEPT 2021

DO NOT USE FOR CONSTRUCTION

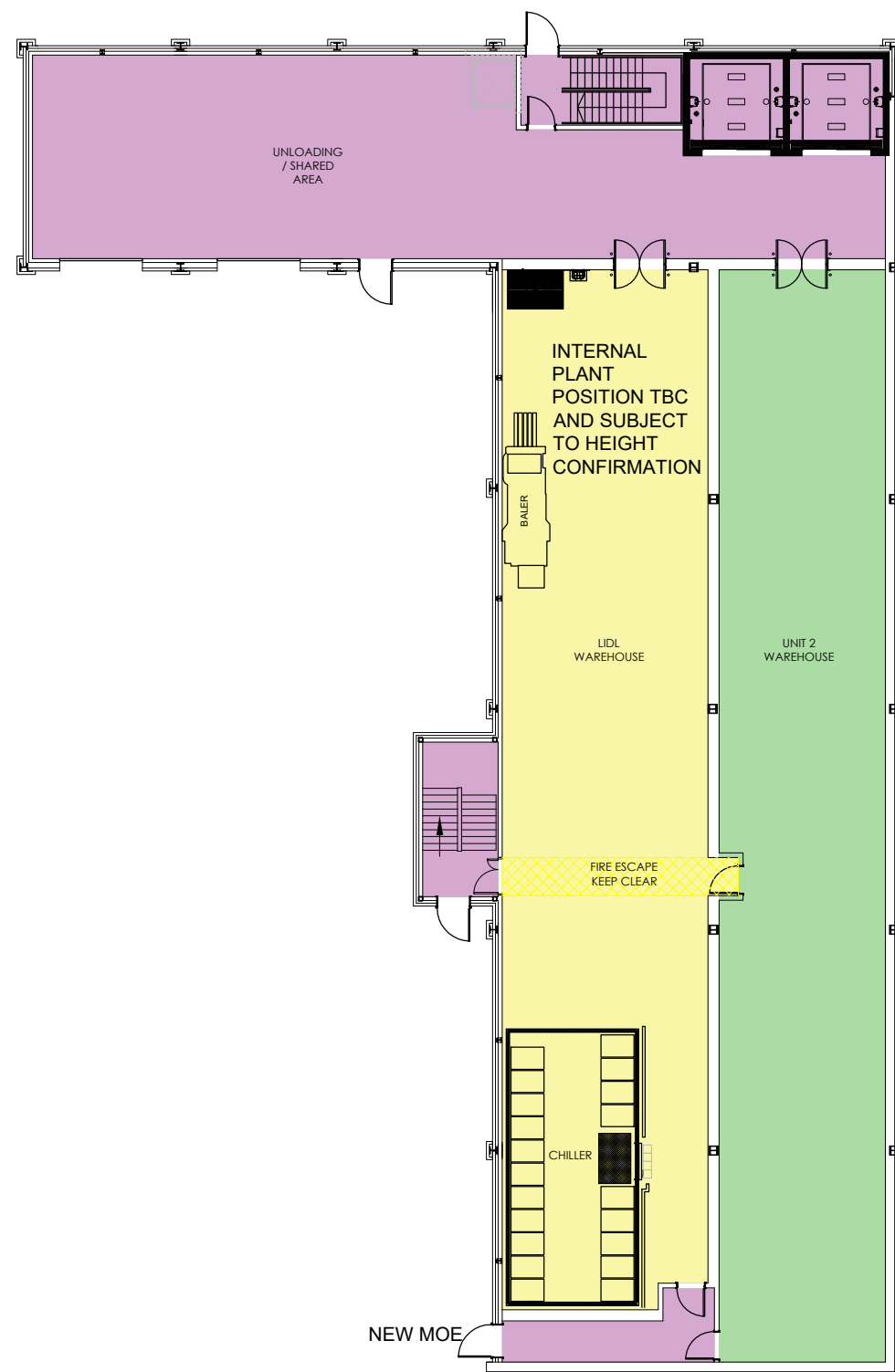


One Design Architects Ltd, Unit 5 Mercury Quays, Ashley Lane, Shipley,
West Yorkshire, BD17 7DB
Tel: 01274 591188
www.onedesignarchitects.com mail@onedesignarchitects.com
Registered in England & Wales No: 08355643

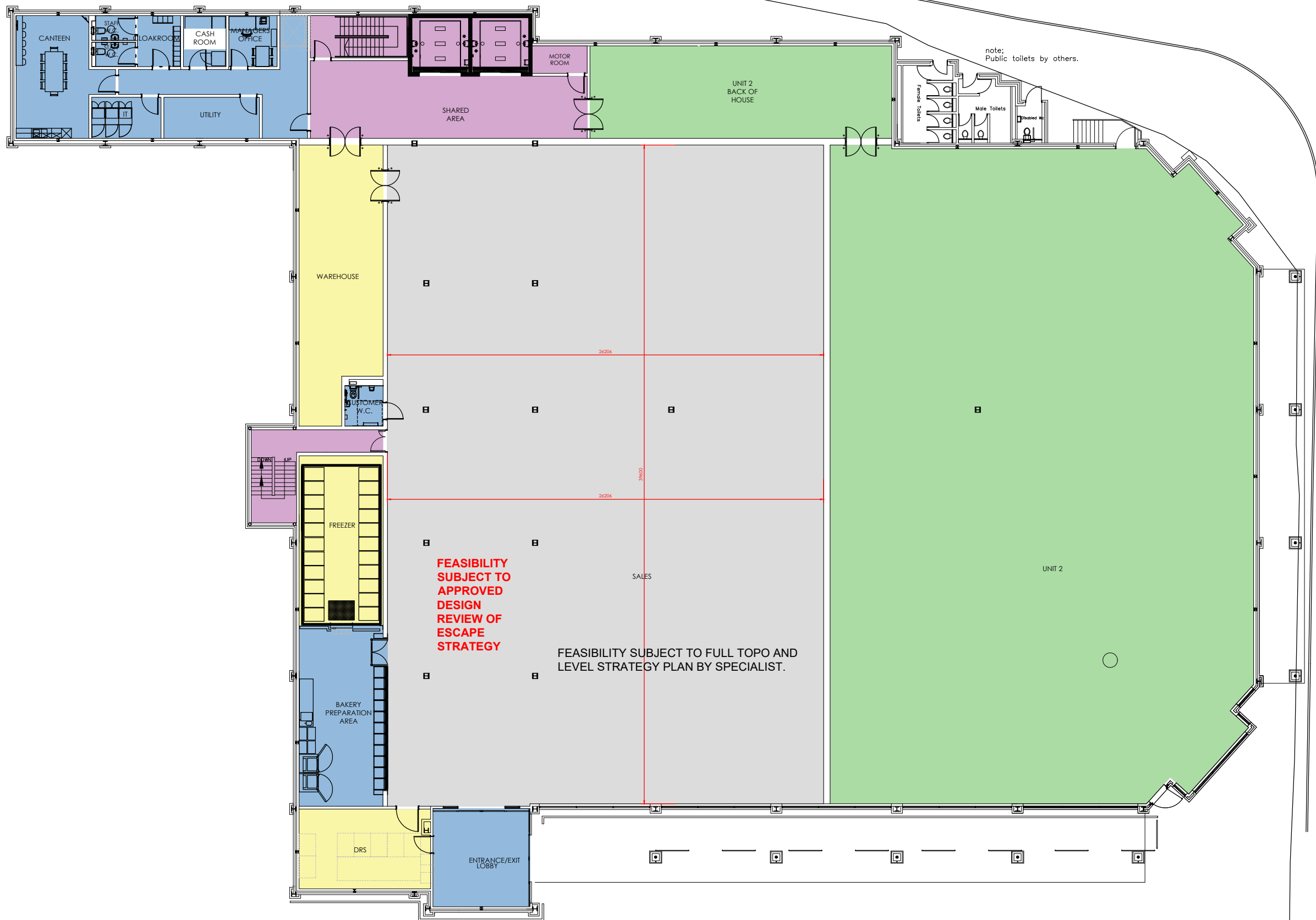
Architectural



FIRST FLOOR



LOWER GROUND FLOOR



GROUND FLOOR

SCHEDULE	
LIDL	
LOWER GROUND FLOOR	
Warehouse (Inc. Freezer/Chiller & Storage)	280 m²
Shared Areas inc. delivery & vertical circ.	250 m²
Unit 2 Warehouse	236 m²
GIA INCLUDING INTERNAL WALLS	796 m²
GROUND FLOOR	
Sales Area	1039 m²
Warehouse (Inc. Freezer/Chiller & Storage)	167 m²
Ancillary	217 m²
Shared Areas inc. vertical circ.	132 m²
Unit 2 Sales	971 m²
Unit 2 Back of House	100 m²
GIA INCLUDING INTERNAL WALLS	2689 m²
FIRST FLOOR OFFICES	
GIA INC. VERTICAL CIRC. & INT WALLS	566 m²





Land to the west of B&Q, Purbrook Way, Havant
Planning Application APP/20/01221

Document 2

Occupational Review of Former Waitrose Unit
(dated 13th October 2021)

Mr J Mitchell
Lidl Great Britain Ltd
Foxes Park
Brownhill Way
Nursling
Hants
SO16 0AW

13th October 2021

Dear James

RE: WATERLOOVILLE – FORMER WAITROSE FOODSTORE – OCCUPATIONAL VIEW

I have carried out a desktop appraisal and provide our views on the likely demand and terms that would be achievable in the current market, should the former Waitrose unit be subdivided to provide space for a Lidl, if considered suitable, with a surplus unit being created alongside. You have provided me with two subdivision options (Drawings “AD001” referred to as “Option 1” and “AD002” referred to as “Option 2” for the purpose of this note).

Context:

I have appraised the former Waitrose unit using our market knowledge and usual tools/records at our disposal. These include Google street view; subscription services to our occupier requirement database, retail warehouse supply database and Promis/PMA town reports. The subject property is generally a poorly located, edge of town centre retail parade. It is situated to the southern end of the town centre and doesn't have prominence onto any major routes, being accessed via Curzon Road to the north and from Stakes Hill Road to the south. By contrast, the successful Wellington Retail Park on the northern edge of the town centre has the benefit of fronting the main roads (the A3 and Hambledon Road) and roundabout junction. On the subject scheme, the main parade of smaller shops aren't particularly visible from the scheme's car park given the design which incorporates a covered walkway that screens much of the tenant signage. Waitrose, as the former anchor tenant, has also ceased trading. I understand from press reports at the time this was due to the store not being commercially sustainable to maintain. The car park also operates as a Pay & Display with a maximum 2hr limit, whereas Wellington Retail Park offers free parking for up to 3 hrs. There are pedestrian routes into the town centre from both ends of the subject scheme. The streets immediately to the rear of the scheme, however, are largely service roads for the town centre shops and other commercial units as well as for the subject scheme.

Potential Waitrose Subdivision:

We've been provided with two subdivision option drawings:

“**Option 1**” shows a Lidl foodstore with a ground level sales floor of 13,627 sq ft GIA plus ancillary area, with ancillary area at lower ground levels alongside a surplus ground floor unit (“Unit 2”) of 7,966 sq ft GIA sales floor with a back of house area immediately alongside, albeit offset to the rear corner, of 1,076 sq ft, providing 9,042 sq ft level footprint overall. Whilst this plan shows a small lower ground warehouse area

Partners:
Nicholas Howe MRICS
Tim Hornor MRICS ACI Arb
David Cooke MRICS

Adam Patrick MRICS
Jamie Naughton MRICS
Karl Norman MRICS

Associates:
Lauren Chew MRICS
Tim Wagstaff MRICS
Chris Fenton MRICS
Giles Pickford MRICS

for Unit 2 of 2,540 sq ft GIA we have largely discounted this due to its very linear configuration and highly convoluted access arrangements via a shared corridor area at both ground and lower levels, meaning that this space wouldn't be entirely secure nor convenient for operators to use.

The main sales floor of Unit 2 is of an irregular "L-shaped" configuration with a proportionately narrow frontage and would, therefore, have only minimal visibility if any onto the important car park. The unit would therefore only likely be visible from the relatively low footfall offered by the pedestrian walkway.

"Option 2" shows a smaller Lidl sales area at ground level of 11,184 sq ft GIA plus ancillary area, with further ancillary area at lower ground level alongside a surplus "Unit 2" of 10,452 sq ft GIA with back of house area immediately alongside, again offset to the rear corner, of 1,076 sq ft, providing a unit of 11,528 sq ft GIA level footprint overall. Again, we've discounted the lower ground warehouse area for Unit 2 for the same reasons above.

The main sales floor of Unit 2 on this option is of more regular, rectangular shape and has a wider frontage than Option 1 above, but even so, we estimate that Unit 2 would still lack any visibility from the customer car park.

It is important to mention that on both subdivision options for Unit 2, the shared loading yard is set at a lower level to, and disjointed from, the sales floor and therefore would require a very convoluted route to transport goods from the waggons through a shared internal handling area, up a shared goods lift(s), through another shared corridor area and then finally into the rear back of house area within the demise of Unit 2. Clearly this is far from ideal and certainly not common for modern retailing purposes. It results in a far greater risk to items being damaged or stolen as well as requiring at least one, if not more, members of the store staff to take considerable time to manage goods deliveries, which in practice means a significant combined loss of time away from the shop floor not selling items, helping customers and/or restocking shelves. This alone is likely to significantly hamper the occupational demand for Unit 2, particularly regarding retailers.

Likely Demand:

There are very few published live retail and restaurant requirements for Waterloooville, the majority being trade or retail park specific requirements from the likes of Toolstation, Connection Flooring, Formula One Autocentres, B&M Bargains and KFC drive-thru. Whilst B&M have been known to take high street/district centre format units elsewhere we believe in this instance they would be put off by the lack of visibility Unit 2 would have and the presence of stronger competition provided by the dominant Home Bargains on the Wellington Retail Park nearby. Even with the presence of additional way-finding or elevational signage, we do not believe this would sufficiently incentivise the likes of B&M to occupy Unit 2 and they rarely now take new units that are as small as that proposed either.

There are leisure requirements from Snap Fitness and JD Gyms, but these can be discounted for this exercise given the presence of a modern Pure Gym which would preclude those national gym operators from setting up right next to such dominant competition.

British Heart Foundation have a published requirement for a large format charity shop and theoretically might be persuaded to consider space within the subject scheme where it technically available and typically seek units of 5,000-15,000 sq ft GIA. They are however already situated in a small store on The Precinct immediately to the rear of the subject scheme which may influence their corporate decision to relocate.

We are of the opinion that the level of demand for the nature of space proposed on either option above would be very weak from a national level. When combined with the awkward configuration of Option 1 above and/or the lack of visibility offered by both Options 1 & 2, we believe the proposed space would be effectively unlettable or at least vacant for a considerable time, likely years, if it were speculatively created.

We believe the proposed space would only likely appeal, at best, to a regional or local covenant, who would be unlikely to offer the financial surety that any landlord/head lessor would need to warrant spending the capital outlay required to construct the proposed Unit 2.

Likely Terms:

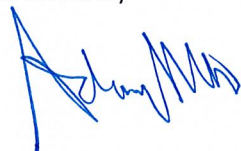
Given our views outlined above, the likely commercial terms will significantly reflect the relative lack of demand for Unit 2. However, in the event an occupier such as British Heart Foundation could be persuaded to take the relatively better configured "Option 2" then we would estimate best terms would likely be: a 10-year internal repairing and insuring lease subject to a schedule of condition; inclusion of a 5-year tenant-only break option (possibly incorporating an additional tenant break option at the end of year 3, given the uncertain trading environment offered by the unit's poor location, prominence and loading arrangements); a rent in the region of £5.00/£5.50 per sq ft exclusive of business rates, service charge and insurance i.e. approximately £60,000 pa exclusive and would require a minimum initial rent free period in the region of 12-18 months.

Beyond this, from a local/regional demand perspective, we'd be assuming demand would be limited to operators such as a soft play centre, health clinic, community leisure or charity occupier who would typically pay lower rents than outlined above and offer a weaker financial covenant.

We suspect that a reason for our company not having yet seen marketing details from the current scheme owners reflects both the relatively very high level of rent passing for the remainder of Waitrose' lease as well as, in Waitrose' case particularly, an acknowledgement that there is unlikely to be either appealing or financially viable options for this space on a subdivision basis given its location and awkward configuration.

I trust this is of assistance but if you would like to discuss the above any further, please let me know.

Yours sincerely



ADAM PATRICK
Partner



Land to the west of B&Q, Purbrook Way, Havant
Planning Application APP/20/01221

Document 3

Letter from James Mitchell, Regional Head of
Property for Lidl



Strictly Private and Confidential

Mr L. Oliver
Principal Planning Officer
Planning Services
Havant Borough Council
Public Service Plaza
Civic Centre Road
Havant
PO9 2AX

Lidl Great Britain Limited

Foxes park
Brownhill Way
Nursling, Southampton
SO16 0AW
www.lidl.co.uk
22nd October 2021

Dear Mr Oliver,

RE: Planning Application APP/20/01221 – Land to the West of B&Q, Purbrook Way, Havant

My name is James Mitchell and I am the Regional Head of Property for Lidl GB responsible for the Havant application. I have worked on the development of food stores for Lidl for 18 years.

This letter supplements a piece of work provided by our consultants Simply Planning which seeks to respond to the Policy Team objection to the application on sequential test grounds, namely the presence of the vacant Waitrose unit at Dukes Walk.

Simply Planning's work strongly reiterates the myriad of reasons why we consider the Waitrose unit unsuitable even demonstrating a reasonable degree of flexibility. It is perhaps telling that despite the presence of a vacant town centre located former food store both Lidl and Aldi are currently pursuing alternative locations within the same catchment. This in itself is evidence of the fundamental unsuitability of the unit for limited assortment discounter occupation.

I will not go over the same points in this correspondence as this letter is more intended to detail the commercial reality / availability constraints of the unit as I see them.

Waitrose vacated the unit in June 2020 citing the site as no longer commercially viable. Media reports carried the following comment from Waitrose;

Waitrose & Partners regional manager, David Coltman, said: 'We have taken great pride in being part of the Waterlooville community so the closure of the shop is not something we take lightly, but have sadly not been able to find a way to make the shop commercially sustainable in the long term. 'Our priority is our partners working there who will be fully supported throughout the process and we will identify opportunities for those wishing to remain with the business wherever possible.'

In essence the location failed to the extent of Waitrose closing the store.

Since that time the unit has been vacant with no marketing and no evidence of any redevelopment plans. Despite being vacant Waitrose are of course still bound by the terms of their Lease and will continue to bear the cost of the unit. The key Lease details are noted below;

Current Rent - £675K pa.

Expiry Date - 23/01/2026.

No remaining break options.

There is no way for Waitrose to exit the unit without the cooperation of the Landlord Columbia Threadneedle. The Landlord will stand to benefit from just under £3M of rental income between now and Lease expiry as well as the Tenant being liable for all other outgoings and business rates.

It is telling in the Threadneedle letter attached to the Policy Team consultation response that they choose their words very carefully in speaking about a willingness to surrender. They say;

'Given a commercially viable option we would surrender the existing lease and grant a new lease on market terms'.

In terms of commercial viability, it is my informed view (and that of expert agent ESH) that the unit is significantly over rented. The plausibility of taking a surrender and being able to sub-divide and relet the unit and achieve a similar annual rental income is remote at best. When you add to this the capital investment required to bring this tired unit up to full 'FRI' condition as well as sub-divide for reoccupation this prospect becomes even more fanciful. I would estimate based on experience Landlord costs of £1.5M - £2M to carry out required works.

As we have been at pains to point out this unit is not considered suitable but if we imagine for a moment it is there is no prospect of Lidl combined with any second tenant being willing to offer a rent at anything like the current passing rent. Indeed, I would estimate that would be less than half the £675K pa the Landlord currently benefits from. There would be no commercial logic to the landlord accepting such a reduction in income given its responsibilities to its investors and shareholders to maximise returns.

This is a failed unit and location for food retail, the unit is unsuitable for many reasons as well as being too large. Any second unit has significant limitations as detailed in the ESH letter with few retailers having a requirement for Waterlooville and certainly not for this specific unit.

For the reasons above it is my view that the Landlord will take the Waitrose rent for the remainder of the term (quite understandably) and will only actively seek to remarket or redevelop near the Lease expiry date.

The Lease does not expire for over 4 years so even if a redevelopment was possible any revised unit/scheme is not likely to be available for 5/6 years, certainly not a reasonable period of time.

I would therefore reinforce our position that this unit is not only unsuitable but also unavailable. There are no circumstances where Lidl will occupy this unit. Should our application be refused this will not have the effect of redirecting the planned expenditure to Waterlooville town centre, rather this will be lost along with the many other economic, social and job creating benefits of our proposed scheme.

I trust you will take my thoughts in to consideration in your ultimate determination of the application and would welcome the opportunity to discuss should you wish.

For and on behalf of Lidl Great Britain Limited



James Mitchell

Regional Head of Property

[07971 440054](tel:07971440054)

James.mitchell@lidl.co.uk