

**TELFORD & WREKIN COUNCIL**

**PLANNING COMMITTEE**

**14<sup>th</sup> January 2015**

Schedule 1 - Planning applications for determination by Planning Committee

<b>TWC/2010/0332 The Huntsman Inn, Wellington Road, Little Wenlock, Telford, Shropshire, TF6 5BH</b> .....	
Erection of a two storey extension to provide restaurant with accommodation above, erection of 1no. holiday let cottage, 3no. dwellings, associated access and a flag pole (Amended Plans and Additional Information Received) .....	<b>2</b>
<b>TWC/2014/0228 Site of Haybridge Hall Flats, Haybridge Road, Hadley, Telford, Shropshire</b>	
Erection of 4no. bungalows following demolition of Haybridge Hall flats	
***Additional Information Received*** .....	<b>18</b>
<b>TWC/2014/0746 Maxell Europe Ltd, Hortonwood, Telford, Shropshire, TF1 6DA</b>	
Outline application for the erection of a mixed use development comprising of up to 540no. dwellings (Use Class C3), a local centre (Use Class A1) and public open space with associated access and landscaping following the demolition of existing factory (All other matters reserved) *****Addition information received regarding Community Services provision***** .....	<b>24</b>
<b>TWC/2014/0963 Land adjacent The Three Fish, Stafford Road, Newport, Shropshire</b> Erection of a foodstore (Use Class A1) and associated parking, access and ancillary works .....	<b>60</b>
<b>TWC/2014/1060 The Queens Head, Horton, Telford, Shropshire, TF6 6DW</b>	
Outline application for the erection of 2no. detached dwellings with associated access, all other matters reserved .....	<b>119</b>

TWC/2010/0332 The Huntsman Inn, Wellington Road, Little Wenlock, Telford, Shropshire, TF6 5BH  
Erection of a two storey extension to provide restaurant with accommodation above, erection of 1no. holiday let cottage, 3no. dwellings, associated access and a flag pole (Amended Plans and Additional Information Received)

**APPLICANT**

Mr P Morris

**RECEIVED**

18/06/2010

**PARISH**

Little Wenlock

**WARD**

Wrockwardine

**OFFICER**

Valerie Hulme

The Plans Board resolved in January 2011 to grant planning permission for the above development subject to a section 106 agreement that linked the proposed market housing to the operation of the Huntsman Inn (see report overleaf).

The housing element of the project was considered to be a critical element of the overall project necessary to make it commercially viable. The logic for a legal agreement was that the proposal to build new housing at this location was not consistent with Policy CS7 of the Core Strategy. The legal agreement signed on 3 March 2011 contains a number of restrictions /obligations which are set out on separate sheet with the primary restriction being to prevent the landowner from disposing of the dwellings or creating a lease separate from the rest of the development.

Since this time a number of minor material amendments have been made to the scheme:

- A Non material minor amendment, to raise the roof of the one holiday let and three dwellings by 300mm; approved 19/09/2012
- TWC/2011/0279 Minor material amendment to TWC/2010/0332 (Erection of a two storey extension to provide restaurant with accommodation above, erection of 1no. holiday let cottage, 3no. dwellings, associated access and a flag pole) to increase size of public house kitchen, provide external escape route, extract fan to kitchen and underground LPG tank. Full Granted 19/07/2011 with associated deed of variation
- TWC/2013/0384 a minor material amendment to TWC/2010/0332 (Erection of a two storey extension to provide restaurant with accommodation above, erection of 1no. holiday let cottage, 3no. dwellings, associated access and a flag pole) to increase the existing restaurant facilities, provision of a meeting room facility at the mezzanine level, an amended parking layout to both the public house car park, residential units and holiday let, together with revised

elevation treatment to unit 1 (adjacent public house). Full Granted 19/12/2014 with associated deed of variation

Therefore there are 3 legal agreements associated with this application and the above address. The main renovations to the public house have been completed and open. The development to the rear relating to the associated dwellings is well underway.

The council has recently received a request to remove the section 106 agreement and associated deed of variations, and requests this is removed in its entirety as the developer's mortgagee will not approve the loan needed to implement the development on the basis of this legal restriction. The applicants solicitor considers therefore that the existing planning obligations no longer serve a useful planning purpose, noting the change in planning policy and that the S106 inhibits investment to complete the development.

Section 106A of the Town and Country Planning Act sets out the procedure for dealing with the modification and discharge of planning obligations where a formal application is made and formal consultation takes place and there is a right of appeal in respect of a refusal. However the formal procedure only applies where a section 106 agreement has been in place for 5 years so that is not the case here. However, section 106A (1) (a) does allow for a planning obligation to be modified or discharged by agreement between the parties to the Section 106 and this request falls into the category of a request to the Council to agree to the Section 106 agreement being discharged.

The Council can to refuse the request; or where it no longer serves a useful planning purpose agree to discharge the S106 in its entirety; or where the obligation serves a useful purpose by would be served equally well by modifications, then to vary subject to those proposed modifications.

Requests to discharge prior to the 5 year period expiring are rare. The basis upon which the request needs to be assessed is whether the obligations contained in the agreement fulfil a useful planning purpose Furthermore it is considered that the existing obligations do serve a useful planning purpose as it ensures a further income to the public house need to reword this supporting the viability of the facility in this rural location. Issues around funding as suggested by the solicitor are a regular consideration by the authority, however the primary concern is the viability of the public house, which has since been renovated and successfully trading. Thus the concerns over funding relating to the development are limited as those aspects which were to support the renovation and continued opening of the public house have not been used in such a respect. Previous objections are also noted that the public house may be lost however, the proposal have seen significant investment in the public house enabling a viable business. And subsequent application to modify

the public house further would require a separate application and subject to the statutory application and consultation process at that time.

However the critical new material consideration in this case is the introduction of the National Planning Policy Framework (the NPPF) which replaced government policy in place at the time of the Plans Board meeting. At paragraph 49, the NPPF states that policies such as Policy CS7 concerned with housing supply cannot be considered up-to-date if the council cannot demonstrate a five year supply of deliverable housing sites. The council does not currently have a published five year housing supply and thus the weight to CS7 is limited.

If a fresh planning application were submitted at this time for this development without a legal agreement, officers would be minded to approve residential units and the holiday let in this location as it represent sustainable development within this rural location adding to the vibrancy and vitality of the rural area in line with the guidance as set out in the NPPF.

#### Conclusion and recommendation

In conclusion it is therefore considered that on balance taking account of the current planning policy, the obligations of the signed planning agreement no longer serve a useful planning purpose. It is recommended that the Committee AGREE to discharge the s106 agreement signed by the council on 3 March 2011 and its subsequent deed of variations.

\*\*\*\*\*

TWC/2010/0332

The Huntsman Inn, Wellington Road, Little Wenlock, Telford, Shropshire, TF6 5BH  
Erection of a two storey extension to provide restaurant with accommodation above, erection of 1no. holiday let cottage, 3no. dwellings, associated access and a flag pole (Amended Plans and Additional Information Received

#### **APPLICANT**

Mr P Morris

#### **RECEIVED**

18/06/2010

#### **PARISH**

Little Wenlock

#### **WARD**

Wrockwardine

#### **CASE OFFICER**

Anna Robinson

THIS APPLICATION IS A DEPARTURE FROM PLANNING POLICY.  
COUNCILLOR SEYMOUR HAS ALSO REQUESTED THAT IT IS CONSIDERED BY MEMBERS AT PLANS BOARD.

OBJECTIONS RECEIVED: Yes.

MAIN ISSUES: Principle of Development, Retention of Community Facility, Scale and Design, Character and Appearance, Impact on Adjoining Residential Amenity, Highway Safety

**PROPOSAL:**

The Applicant is seeking to reopen 'The Huntsman' Public House which has been vacant for approximately 12 months and is the only Public House in Little Wenlock. This application seeks planning permission for the erection of a two storey extension to the existing Public House to provide a restaurant and guest accommodation above, with a physical link to a new building to the rear comprising 1no. holiday let and 3no. dwellings for rent with associated access; and a flag pole to the front of the Public House.

The scheme has been amended during consideration, and is now accompanied by a Section 106 agreement to ensure the residential units are linked to the Public House in perpetuity.

**SITE AND SURROUNDINGS:**

'The Huntsman' is an established cream-rendered Public House located in a central position in the village of Little Wenlock with access on to Wellington Road. The pub has been extended with a variety of predominantly single storey ad hoc elements attached to the building at the sides and rear, including a restaurant/ function room area. Parking is located to the side, with overflow parking to the rear. The site is bounded by trees and hedgerows.

A narrow lane to the southeast boundary of the site serves residential properties, a playground and playing field to the north of the application site. To the southeast of the access lane is a Grade II Listed Building, The Stone House, and to the northwest boundary of the site is a modern property, No.5 Wellington Road, with field to rear and gated access on to overspill car park. Both of the adjoining dwellinghouses are located some 18 metres from the boundary of the application site. A locally listed property, No.7 Wellington Road is located opposite the existing lane access. There are a variety of housing styles in the area, with traditional properties, including listed and locally listed buildings and modern detached properties in the area.

Little Wenlock is located in the rural area of Telford, 2km west of Horsehay and approximately 1.5km east of The Wrekin, which is designated an Area of Outstanding Natural Beauty (AONB) and a Site of Special Scientific Interest (SSSI).

**PLANNING HISTORY:**

W79/0837 Proposal Erection of Extension to Premises to Provide Additional Beer Storage, Full granted (FG)

W80/0679 Alterations and Extensions to Provide Additional Lounge and Dining Room Facilities, FG

W2007/1577 Construction of A Smoking Shelter To Side Of Premises And Replacement Of Side Window With Double Doors (Retrospective), Full refused

The Local Planning Authority has had pre-application discussions regarding the proposed reopening of the Public House and new dwellings. The Applicant was advised that justification would be required to demonstrate that the dwellings constituted an exceptional reason to allow a departure from planning policy.

#### PLANNING POLICY CONTEXT:

National Planning Policy:

PPS1 Delivering Sustainable Development

PPS3 Housing

PPS4 Planning for Sustainable Economic Growth

PPS7 Sustainable Development in Rural Areas

Local Development Framework Core Strategy:

CS1 Homes

CS7 Rural Areas

CS10 Community facilities

CS12 Natural Environment

CS13 Environmental Resources

CS15 Urban Design

Wrekin Local Plan

UD2 Urban Design Criteria

H9 Location of New Housing

H10 Scale of Development

H24 Affordable Housing Rural Exceptions Policy

OL2 Designated Areas

#### CONSULTATION RESPONSES:

Little Wenlock Parish Council initially raised concerns as to whether there would be adequate parking. However following consultation on the amended plans, the Parish Council considers the issues relating to parking and the movement of delivery lorries have been addressed and has withdrawn its objections.

Councillor Seymour supports the proposal.

Councillor Tonks has submitted a letter of support and states the proposal would be beneficial to the area as the plans are in keeping, the development will support the economy, provide employment, support tourism and reinstate a pub where others are closing (e.g. All Labour in Vain in Horsehay).

Property & Design have reviewed the viability report and assessed the figures and commercial argument. Whilst the figures are in their view a little on the negative side thus supporting the proposal, they are prudent, worst case scenarios in a difficult market. It is therefore considered that the evidence and assumptions provided make commercial sense and will aid the retention of the Public House.

Highways Engineers initially raised concerns that the proposed number of parking spaces in the main car park was insufficient, with substandard manoeuvrability. A redesign of the parking layout was requested to provide 32 spaces and provision of disabled parking. In addition the proposed layout made no provision for onsite turning of delivery and service vehicles when using the new access. The applicants have now submitted amended plans and the Highways Engineer considers the revised parking layout is generally acceptable in highway terms subject to parking space No.6 being allocated as disabled space alongside No.5 and spaces 14 and 15 being combined to make just a single space to ensure ease of use. The layout of the parking for the residential units will have little or no effect on the safe operation of the public highway and there are now no objections subject to standard planning conditions C19 Car parking and C20 Parking, loading unloading and turning.

Drainage: no objection subject to Condition B33 Foul and Surface Water and a condition regarding Brownfield runoff rates.

Parks & Open Spaces have raised concerns that the proposal includes residential dwellings immediately adjacent to a children's equipped play area. They consider that although the development will increase the security of the existing provision, it also has the potential to create nuisance because of its close proximity, and may lead to requests for the removal of the play area. In order to avoid this potential issue Officers would accept an exception for holiday lets and have therefore requested that those proposed buildings within this curtilage buffer be holiday lets as opposed to residential dwellings. They are also prepared to accept an alternative which would move the play equipment more than 20m away from the development of permanent residential properties.

In response to Parks & Open Spaces' comments, a verbal response has been received from Little Wenlock Village Hall & Playing Field Committee and Little Wenlock Parish Council who do not consider the relocation of play equipment to be a viable option. They believe the proximity of the new dwellings would aid security by providing natural surveillance and that the level of use is such that there will not be a significant impact from the users of the play area on future occupants of the dwellings.

Ecologist: originally raised concerns as the development involves works to the existing roof space, therefore a survey was initially requested relating to bats and

birds. However following further discussions and submission of additional information, the proposal is acceptable subject to informatives.

Arboriculture: no objection to the proposal as there are no trees considered to be worthy of retention within the site. The application appears to show that parking areas about the existing hedges which will have an impact on the rooting zones of these hedges, therefore care should be taken and hand digging undertaken where necessary.

Shropshire Fire Service: no objection subject to informatives.

#### Original Consultation:

Approximately 50 local residents have made representations, of which 23 support the proposal, with many considering the reopening of the Huntsman PH as a great benefit to the village. Summary of support letters:

- PH has been empty since last Christmas and in boarded up state is poor advert for the area – proposed plans provide long-term future for PH and would be great asset to village
- PH helps keep community together and village life alive
- B&B and Manager's accommodation acceptable
- PH within heart of village and within walking distance of The Wrekin and near to Gorge – tourism opportunities
- Almost unanimous support for proposal at Parish meeting in village
- New housing is acceptable if it ensures viability of PH
- Affordable housing will benefit the local community
- Revenue generated solely from PH is unsustainable
- Should encourage renewable energy elements to dwellings in keeping with national and local policies and aims of Little Wenlock Carbon Reduction Group

Supportive letters have also been received from Wellington Town Council in respect of the proposal and the 'Walkers are Welcome' scheme, stating that walkers and ramblers will benefit from the accommodation and restaurant facilities; and 'The Wild Wednesday Wheelers' (off road cycling group) has pledged its support for the reopening of the PH and houses for rent.

The majority of the 28 objection letters state there is support for the extension to and reopening of the public house but not the erection of the 4 dwellings. Many consider the 2 elements of the proposal should be considered in 2 separate applications. The objections are summarised below:

- proposal conflicts with planning policy – not a suitable settlement or an infill site
- unsuitable access and conflicting residential and commercial use

- proximity of access to existing play area access – child safety
- proposal will exacerbate existing highways safety issues – need traffic calming measures
- lack of parking provision, particularly with regard to area given over to staff parking, functions at the PH and loss of parking to accommodate dwellings
- erection of new dwellings
- question how new dwellings will ensure long-term viability of PH
- work on renovating PH commenced prior to submission of application – questionable whether business reliant on revenue from new dwellings
- queries over local housing needs survey
- question why properties are not all holiday lets
- confusion as to whether properties would be for sale or rent
- properties for short-term lease could adversely impact community spirit
- houses should be low-cost and for local people
- design and scale of properties
- 2 dwellings rather than 4 more appropriate
- impact on adjoining residential amenity
- impact on character
- setting a precedent for residential development and if the pub fails it could be demolished and replaced by further housing
- new dwellings must be for local people and the properties and pub must not be sold separately – income from the housing must remain with the Huntsman Inn in perpetuity
- safety of children being overlooked by occupants of new properties
- at public meeting, applicant stated that PH could not be financed without housing; there was no true debate and concern raised over Parish Council's stance
- should consider Option 3 of Planning Statement – return site to residential use – 2 dwellings with modest PH
- Flagpole unacceptable

Following the receipt of amended plans the Council carried out a second consultation:

4 further letters of support have been received with the following additional comments:

- Little Wenlock has suffered loss of facilities and proposal provides opportunity to re-establish viable PH
- Proposal will enhance village and strengthen local community
- Impact on traffic, parking, noise not significantly different from last time PH open
- Additional facility/ meeting place to village hall
- Employment and tourism opportunities
- Support the proposal but want consideration given to safety at entrance to children's play area

4 additional letters of objection have been received with the following additional ground of objection:

- Support proposal for reopening of PH but not dwellings – contrary to policy and contradicts previous refusals in the village
- With loss of All Labour in Vain, Horsehay for housing, the proposal cannot be justified on basis of local need
- No financial linkage – rental income from houses required to ‘prop up’ PH business
- Design is more in keeping but no justification for housing
- Orientation of dwellings to PH
- Density, urban style and outlook of the dwellings with small amenity space inappropriate to setting
- Not infill site – creation of backland development
- Revised scheme introduces 2no. 4-bed (larger) units thus insufficient parking and only option to park in PH car park
- Houses being built on PH car park – impact on parking, especially if functions at PH and village hall
- Extension of PH and raising roof height – impact on light and outlook of The Stone House
- Applicant will not be resident at the PH as manager

#### PLANNING CONSIDERATIONS:

As outlined in the Applicant’s Planning Statement, the scheme comprises two elements – the extensions and alterations to the Public House to provide bars, restaurant and first floor guest accommodation, and the erection of 4 dwellings, 1 of which would be a holiday let and 3 market houses for rent.

#### Retention of Community Facility

PPS4 asserts proposals which deliver sustainable rural tourism and leisure developments that benefit rural businesses, communities and visitors should be supported by Local Planning Authorities, with careful consideration of financial viability and protection of landscapes and environmentally sensitive sites. Tourist and visitor facilities should be located in or close to service centres and villages. In this regard the site is within close proximity to The Wrekin and the reopening of the PH with additional holiday let accommodation, together with improved bar and restaurant facilities is considered to respond to its context and provide facilities that will meet the needs of tourists as well as the local community.

Policy CS10 of the Core Strategy outlines the provision of new or improved community facilities to meet the needs of local residents will be supported; furthermore the loss of such facilities will be resisted. Public houses are listed as community facilities along with churches, schools and village halls. Such community facilities in rural areas often form a focus for community life. The Huntsman is the only Public House in Little Wenlock and has been vacant for more than 12 months.

The reinstatement of the PH is important for the village as there are limited other community facilities. Furthermore there is a duty to support such facilities to prevent its loss.

#### Principle of development

There are no planning policy issues in refurbishment of 'The Huntsman' Public House and the design of the development is considered in more detail later in this section; however the proposed residential development in Little Wenlock is a departure to planning policy contained in the Core Strategy.

The Planning Statement submitted with the application considers the options available for the owner are:

1. to continue to operate at a financial loss
2. to use the first floor living accommodation only with closure of the public house
3. to change the use to an alternative business use
4. to redevelop the entire site; and
5. the proposal as submitted which would reinstate the Public House with improved facilities, and include additional residential units.

Core Strategy Policy CS1 states that housing needs in the rural area will be met by approximately 170 new dwellings over the period from 2006 – 2016. At the current time, the threshold has been met from dwellings already built or having received planning permission. Furthermore, Policy CS7 states that development within the rural area should be limited to meet the needs of the area, and be focussed on the 3 key settlements of High Ercall, Tibberton and Waters Upton. Outside these settlements development will be limited and within the open countryside strictly controlled. The local policies are based on national guidance contained in the Planning Policy Statements. This is supported by national policy which outlines new development shall be located in or on the edge of existing settlements and service areas where housing, employment, services and other facilities are provided close together, in order to create sustainable communities.

Little Wenlock was listed as one of the 13 suitable settlements in policy H9 of the Wrekin Local Plan. H9 has now been superseded by Policy CS7 in the Core Strategy in 2007, which removed this village. Within the suitable settlements in the rural area Policy H10 of the Wrekin Local Plan states that development will be permitted where the proposal involves one or two dwellings on a suitable infill plot within the existing built up frontage and would not lead to the loss of open space or an extension of the village into open countryside.

The principle of open market residential development on this site in Little Wenlock would therefore be contrary to the aims of the Core Strategy Policy CS7 and would also propose more than 2 dwellings on a site to the rear of the prevailing built up

frontage along Wellington Road, contrary to Policy H10; although there is not a definite building line. Therefore, officers considered the proposal should constitute affordable housing in accordance with policy H24, or all units should be holiday let accommodation.

The Applicant has subsequently submitted a Viability Report to address these alternatives. The report has considered the proposed scheme and holiday lets and affordable housing. The Viability Report outlined the 3 dwellings for rent would provide additional housing choice and affordable accommodation for local people so that they can remain in the rural area. The assessment was that if all the units were holiday lets, the income would be marginally lower than the projected income if the properties were rented, and the provision of affordable housing would not generate any significant long term income to support the business. Furthermore, it is asserted that many banks would not support and provide funding for such a business proposal. There have been a number of failed efforts to make the PH a successful venture and the report outlines that the additional revenue from the properties would ensure that the Applicant would have sufficient income generation to support a successful business at The Huntsman. Therefore, the report concludes the best option for the Applicant is the current proposal. This has been corroborated by the Council's Property & Design Department, having scrutinised the financial projections in the report.

There must also be regard to the current economic climate and the closure of many Public Houses and other facilities like village shops within the rural area which are sometimes the sole facility in villages. The retention of the Huntsman is considered to be a benefit to the local community and the revenue from the proposed dwellings will help to sustain the business.

Local concerns have been raised that the dwellings could be sold off if the Public House closes in the future, and that in permitting housing, a precedent will be set that would enable redevelopment of the site for further residential development.

The Council has thoroughly evaluated the revised application and concludes that the submitted evidence adequately demonstrates how the long term survival of the Public House would be achieved by the proposed development of 3 rented and 1 holiday let units. While this new build element of the application would be a departure to the Core Strategy Policy CS7 the principle of the development is supported by officers subject to the Applicant entering into a Section 106 agreement to control the development and ensure that the dwellings are tied to the Huntsman in perpetuity, and if the Public House was to close, it has been agreed that the 3 dwellings would revert to holiday let accommodation which would comply with existing policies.

### Design Issues & Impact on Adjoining Residential Amenity

Core Strategy Policy CS15 outlines how the design of development will create and sustain safe places and strengthen local identity, positively influencing the appearance and use of the local environment. Wrekin Local Plan Policy UD2 asserts that development must respect and respond positively to the context, and enhance the local environment through high quality design, and it will be assessed in relation to its scale, form, proportions, materials and access etc.

The application comprises extensions and alterations to The Huntsman Public House, replacing existing modern ad hoc elements to the side and rear which will be demolished. The floor area of the Public House will be increased; with additional first floor accommodation providing 3 bedrooms adjacent to the Manager's flat; however the ground floor area would be slightly reduced in size. Whilst the scale of the building has increased, the roof of the two-storey element is lower than the ridge of the original building, reducing the overall mass and ensuring this element is not overly prominent in the street scene. The single storey elements to the side elevations comprise a new glazed entrance from the car park and repositioned kitchen and cellar. The overall design of the extensions and alterations is acceptable and in keeping with the character and appearance of the building. Materials and detailing can be dealt with by planning condition. The development includes window openings to the side elevations of the 2-storey element, particularly on the west elevation facing The Wrekin. These alterations will not have an adverse impact on adjoining residential amenities of No.5 Wellington Road or The Stone House in terms of light, outlook and overlooking due to the separation distance between the buildings and the retention of the existing boundary treatments.

The parking layout to the PH has been redesigned to address initial highways comments and ensure sufficient provision and manoeuvring space within the site. The garden areas to the proposed dwellings have been reduced in size and the garden boundary treatments revised to accommodate the required parking and turning space. The plans indicate delivery vehicles have adequate turning space within the separate access leading to the dwellings.

The initial plans of the dwellings proposed two pairs of semi-detached stone-clad cottages with steep roof pitches that were more than 10 metres in height. The design and form of the cottages and in particular the height was not considered to be in keeping with the character of the area, and the roofs of the dwellings would have been visible above the roofline of the PH. Moreover, in addition to the lack of supporting information to identify why the houses were suitable in this location, the layout of development did not demonstrate any link between the PH and dwellings, giving the appearance of 2 distinctly separate elements to the site.

The revised design proposes a single building, linked to the rear of the Public House and is of the form of a converted barn with hipped, lowered roof. The position of the

dwellings remains the same as the cottages, with additional revisions to amenity space and parking provision. A separate access from the PH car parking is proposed to serve the dwellings. The 2 central units are now 4-bed properties with first floor accommodation above the archway (covered parking for units 2 and 3). The design includes simple proportioned doors, windows and small dormer windows to the front and rear with first floor windows on the side elevations. The amended design of the dwellings is considered to be a more appropriate and cohesive form of development in relation to the PH extensions and the rural setting.

The roof of the building is lower than the roofline of the PH and whilst it will be visible in the streetscene, it is at the rear and follows the building line of the PH, thus it will not be overly prominent. The lowered roof height of the dwellings and the orientation of the building to the north of adjoining dwellings will ensure that there is not a significant impact on light or outlook on adjoining properties. Given this separation distance, the position of the dwellings and retained landscaping, the development will not have a detrimental impact on the adjacent Listed Building.

The parking layout to the units is not ideal; however it is considered there is sufficient provision with 2 parking spaces per unit, and there will be no adverse impact on highway safety.

The rear garden areas are relatively small in relation to the surrounding properties in Little Wenlock; however they are considered to be of an adequate size and include external storage facilities for each unit to enable control over domestic paraphernalia in a visible location, given the gardens adjoin the car parking area of the PH.

The proposed boundary treatment is 1m post and rail fencing as officers considered the urban 1.8m high close-boarded fencing in this location would be highly visible and not appropriate in this rural location. The screening to the boundaries of the PH site are to be retained in addition to the sufficient separation distance between the proposed dwellings and adjoining properties; therefore despite the position of the first floor windows; the proposal will not lead to loss of privacy or overlooking of existing residential properties.

#### Impact on Surrounding Area

In terms of the proximity of the dwellings to the play area and playing field and the Council's Parks & Open Spaces' concerns, the dwellings are orientated with the side gable of the holiday let property facing the playing field and the properties overlooking the play area to the front. Whilst the concerns are noted and the separation distance is not 20 metres as outlined in the guidance; it is not considered that the erection of dwellings in this location will lead to the loss of the community facility, in this instance play and recreation facilities. Given the relative proximity of the development, the dwellings will provide natural surveillance of the play area and playing field.

### Other Issues

As already iterated, the majority of neighbour objections related to the proposed dwellings rather than the extensions and alterations to the PH, with the residential development being contrary to planning policy and concerns that the Huntsman would close, the dwellings would be sold off, and eventual redevelopment of the site. However the developer has demonstrated through the submission of the viability report and in entering into a Section 106 agreement that the dwellings are appropriate in this instance and that the Local Planning Authority can control the development.

With regard to concerns that the introduction of a new access and the erection of dwellings on the overspill car park will have a detrimental impact on highways safety, the Highways Engineer has confirmed that the access arrangements are acceptable and that there is a satisfactory level of parking provision for the PH and dwellings, although the layout is not ideal.

It is noted that other public houses in the vicinity have closed; however with regard to the All Labour in Vain, this is located in Horsehay, within the urban area of Telford and there are other Public Houses in the vicinity. The All Labour in Vain is not one of the only community facilities in the area, whereas the loss of The Huntsman in Little Wenlock would have a greater impact on the vitality of the village. Furthermore, Policy CS10 has been tested at appeal and the Planning Inspector considered the policy is to support rural facilities rather than urban.

The concern that the development of dwellings in the car park would introduce a conflict of uses and adverse impact on future occupants' amenities is noted; however occupants renting these properties or staying in the holiday let accommodation will be aware of the location adjacent to the PH prior to moving in.

The properties are a higher density and with smaller garden sizes than the prevailing development in Little Wenlock; however this is a self-contained development that is intended to provide modest residential accommodation for holiday let and the rental market which is intended to be 'affordable' and enable local people to remain in the village and rural area.

With regard to the flagpole, located at the front of the site, Highways have no objection to its location and it will not impact on highway safety. Neighbour concerns have been raised regarding the proposed flagpole in relation to noise and disturbance from ropes rattling, and that a simple pub sign would be more appropriate; however it is considered that the flagpole and flag are of an acceptable design, visually appropriate, and in keeping with the character of the building, and will not have a significant detrimental impact on adjoining residential amenity. The

applicant would require separate advertisement consent if the flag displayed on the flagpole is not a National flag and for the signage on the building.

### Conclusion

The principle of the development has been demonstrated through the financial report and is considered to be acceptable. Additional information has been submitted to establish that the proposed dwellings within the grounds of the Public House are an appropriate exception to justify departure from planning policy, and will help to sustain and ensure the viability of the Public House. The amended design and appearance of the dwellings is now considered in keeping with the context of the site, the physical link accompanied with the Section 106 agreement will ensure the Public house and dwellings are not leased or sold separately.

The extension and alterations to the Public House are considered acceptable in scale and design, in keeping with the character and appearance of the existing building.

Neither the proposed holiday let, residential units or alterations to the Public House will have a detrimental impact on adjoining residential amenities by reason of the separation distance and existing screening to the boundaries.

The proposal will reintroduce and support a valuable community facility to the settlement, providing tourist accommodation and residential properties for rent, complying with Policy CS10.

**RECOMMENDATION:** to GRANT PLANNING PERMISSION subject to the Applicant entering into a Section 106 Agreement to tie the proposed market dwellings to The Huntsman Public House and then delegate to Head of Housing & Planning to GRANT PLANNING PERMISSION subject to the following conditions:

- |    |          |   |
|----|----------|---|
| 1  | A04      | Time limit – Full with no reserved matters                                      |
| 2  | B06      | Samples of materials  |
| 3  | B07      | Sample brick panel  |
| 4  | B11      | Details of doors and windows  |
| 5  | B13      | Details of enclosure  |
| 6  | B14      | Landscaping design  |
| 7  | B33      | Foul and Surface Water  |
| 8  | B custom | Drainage condition  |
| 9  | B custom | No development shall commence until revised details of parking layout submitted |
| 10 | C10      | Hedge protection  |
| 11 | C19      | Car parking   |
| 12 | C20      | Parking, loading unloading and turning  |
| 13 | C38      | Development in accordance with deposited plans                                  |
| 14 | D01      | Removal of Permitted development rights   |
| 15 | D04      | Garage – restriction on use in rural area                                       |

**REASON FOR APPROVAL:**

The Local Planning Authority considers the principle of the development has been adequately demonstrated to ensure the long term survival of the Public House. The proposed development shall be retained in perpetuity by the Public House, and shall not be sold as individual residential units. The scale, design and form of the development is considered acceptable and in keeping with the character and appearance of the existing Public House and context of the site and area, with sufficient parking provision, amenity space to the dwellings and retention of landscaping. The development will not have a detrimental impact on adjoining residential amenities or highway safety.

TWC/2014/0228 Site of Haybridge Hall Flats, Haybridge Road, Hadley, Telford, Shropshire  
Erection of 4no. bungalows following demolition of Haybridge Hall flats \*\*\*Additional Information Received\*\*\*

**APPLICANT**

The Wrekin Housing Trust

**RECEIVED**

14/03/2014

**PARISH**

Hadley and Leegomery

**WARD**

Hadley and Leegomery

**OFFICER**

Vincent Maher

OBJECTIONS RECEIVED: Yes.

**MAIN ISSUES:**

Merit of demolishing the building; design issues and impacts on neighbouring residents; highways and servicing.

**THE PROPOSAL:**

Erection of 4no. bungalows following demolition of Haybridge Hall flats. The application site is a large and distinguished Victorian building on substantial grounds surrounded by a later, post war retirement village comprising a number of bungalows. The building has been vacated for some time and is clearly in a poor state of repair.

Permission is sought to demolish this building and replace it with a terrace of four x two bedroom bungalows. Each would have a floor area of about 65 square metres and a modest rear garden. The terrace would measure about 5.5m in height and about 35m long. Each house would have a modest front and rear garden. The useable rear garden of the northernmost dwelling would be around 7 square metres and the largest of them would be about 12.8 square metres.

In addition to the submitted plans, the following information relevant to this case has been submitted with this application:

Design and access statement

Arboricultural study and tree protection assessment

Historical mapping and land use documentation

Geo-Environmental report

Ecological Survey

Reports to justify demolition including a building condition report and a viability study of the existing building

## PLANNING HISTORY:

None.

## PLANNING POLICY CONTEXT:

National Planning Policy Framework (the NPPF) – the NPPF is not the development plan for Telford and Wrekin but it is a material consideration in this case because all of the borough's development plan policies have to be reviewed in the light of this national advice.

Specific consideration needs to be given to the government's commitment to: sustainable development (paras 7 and 14): delivering a wide choice of quality homes (paras 47 to 55); and requiring good design (paras 56 to 68).

### Saved Wrekin Local Plan policies

Policy UD2 – Design Criteria

Policy UD3 - Urban Design Assessments

Policy H9 – Location of new housing

Policy H23 – Affordable Housing

Policy HE25 – Buildings of Local Interest

### LDF Core Strategy policies

Policy CS1 – Homes

Policy CS9 – Accessibility and Social Inclusion

Policy CS14 – Cultural, Historic and Built Environment

Policy CS15 – Urban Design

## SUMMARY OF CONSULTATION RESPONSES:

Cllr Pat Smart – Hadley and Leegomery Parish Council: Object

- Application to demolish Haybridge Hall devoid of sensitivity and care for Hadley's history.
- Wrekin Housing Trust aware of how much this building means to local people, yet they are determined to ride rough-shod over the community's wishes and expectations. Former owners of building helped to drive Hadley's industrial basis and Colonel Patchett was one of the many benefactors who gave community its moral compass through his altruistic leadership.
- Highly industrial nature of Hadley must be credited with prosperity of today's borough towns. For these reasons, Haybridge Hall should be retained as monument to significant presence of these entrepreneurs in lives of our community.
- These may not be strict planning reasons for retention, but the loss of this iconic building would never be accepted as either necessary or desirable. Application should be refused.

Hadley and Leegomery Parish Council: Object

Want application to be determined by Planning Committee unless officers minded to refuse permission.

- Haybridge Hall has a long history. Development represents loss of building of local interest – one of few pre-war buildings in area. Contrary to Local Plan Policy HE2, Core Strategy Policy CS15 and NPPF.
- Conservation officer recommends its inclusion on list of buildings of local interest.
- Restrictive covenant on the site when land given to the Council (requiring it to “convert the property into homes for the aged and ..... at all times thereafter use the property for the purpose and maintain it in a fit and proper state of repair and decoration”).
- Wrekin Housing Trust has been entrusted with a local heritage asset and must not be permitted to destroy it.
- Building should be retained to allow our children to see what life was like many years ago.

National Grid: Comment

Identifies apparatus in vicinity.

Ecology: Comment

Recommend bird boxes and informatives.

Shropshire Fire Service: Comment

Refers to its standard advice on fire safety guidance.

Drainage: Comment

Recommends foul and surface water drainage conditions and control of surface water discharge.

Built Heritage and Conservation: Object

- Haybridge Hall merits inclusion on Local Interest List. Building of significant local value although there are some inappropriate additions.
- The Wrekin Housing Trust has many other historic buildings.
- Development will result in reduction of units for supported living. Supports extension to building instead of façade retention.
- Loss of building would require clear and convincing demonstration and this has not been achieved here.

Highways: No comment.

Arboriculture: No objection

Recommends conditions for tree retention and protection, pre-meeting to control demolition, tree replacement programme.

Neighbour consultation

Two rounds of consultation with the public has generated 34 letters of objection raising the following points:

- Oppose demolition of building. We are not in an era of municipal vandalism. Demolition a travesty, inconsistent with our “Rich in Heritage” slogan.
- Should keep Hadley’s history. Best building in Hadley, shame to lose it.
- Don’t destroy our heritage – too many/ other Hadley heritage buildings lost.
- Colonel Patchett should be acknowledged. Tribute to the Industrial Revolution.
- Benefactor - Graham Murphy – left this building to the people of Hadley. It should remain as such.
- Wrekin Housing Trust have failed to invest in building.
- Not necessary to demolish/ cost of demolition should be used to renovate existing building.
- Funding should be made available to restore it.
- Local people upset if building demolished – strong feelings of attachment to the building.
- Could build bungalows somewhere else. Could demolish other buildings.
- Replacement building a monstrosity.
- Use building for weddings/ functions instead.
- Restrictive covenant breached because building has not been maintained.

The Friends of Apley Wood’s objections to the development echo those stated above. They advise further that:

- Wrekin Housing Trust have used other historic buildings (e.g., the Old Hall in Madeley) to accommodate vulnerable people.
- Demolition would be contrary to NPPF principles of sustainable development.

#### PLANNING CONSIDERATIONS:

This planning application raises the following main issues:

- Whether this building should be demolished.
- Design of the new development and impacts on neighbouring residents
- Highway impacts.
- Impacts on local infrastructure.
- Responses to other consultation responses received.

#### Whether the building should be demolished

The building to be demolished is architecturally distinguished due to its grand front façade, considered to be from the later Victorian era with Italianate features. The conservation officer considers the building to be of architectural quality and confirms it represents one of the few surviving structures that represent the origins of the settlements of Hadley and Haybridge prior to the overwhelming post-war development of the area. She advises that it is worthy of going on to the local list of heritage buildings. It is fair to say that the contribution of the building to its context derives from how distinct it is in its surroundings.

The applicant has submitted a number of documents that seek to justify the demolition of the building. In summary the applicant has sought to demonstrate that restoration of the building to allow its conversion back into flats would not be financially viable.

It is a fact that the council has not designated this building on the local list of buildings of local interest. However, the council's expert has stated that it is worthy of inclusion on the local list and, therefore, it is important to consider to have regard to - but not apply strictly - the criteria for buildings on the register set out in Local Plan Policy HE25. The policy states that the council will normally resist development involving their demolition or has an adverse impact on their character, form or setting. Core Strategy Policy CS14 seeks also to protect the borough's cultural, historic and built environment assets, including its locally listed buildings.

In these circumstances, it is incumbent on the developer to demonstrate that a replacement building can be justified in design terms. The following discussion will indicate why the developer has failed to do so.

Design issues including impacts on neighbours

The thrust of national and local planning policy (Local Plan Policy UD2 and Core Strategy Policy CS15) is that new development should respond positively to its context and positively influence the appearance and use of the local environment.

This threshold requires development to improve its surrounding context. The bungalow design has clearly been to take account of the other bungalows in the development. However, the replacement development of four bungalows cannot be said to meet the policy challenges set out above. Specifically, the replacement building has the following design defects relative to what it seeks to replace:

- The replacement building does not have the same presence as the original building.
- It is lacking in architectural detail and not a worthy replacement of the existing building. Put simply, it is development that could be sited anywhere.
- At least one of the gardens is cramped and provides little seating out area for its future residents.

The proposal would result in fewer dwellings being provided on the site. Given the government's requirement in the NPPF to boost significantly the supply of housing and the site's proximity to public transport, the application site should be considered for more - rather than less - intensive development. Failure to use the redevelopment opportunity here to boost significantly the supply of housing while acknowledging the architectural merit of original building counts as a further (albeit marginal) factor against its acceptability. On the other hand, it is accepted that the new units would be wheelchair accessible and built to modern day standards of

energy efficiency that would be of benefit to the development's future residents.

The development would be sited close to a number of trees but the council's arboricultural expert has advised that appropriate controls would protect his concerns.

#### Highways impact

Five parking spaces are shown with the development. This appears reasonable given the proposed end user of the bungalows and the site's proximity to bus services to Wellington and other local facilities.

#### Other matters

Some residents have referred to a restrictive covenant on the site. The enforcement of a restrictive covenant is not a planning matter.

#### CONCLUSION

This is a finely balanced case. The applicant has provided information showing that it would be unviable to restore the building. The NPPF places great emphasis on understanding viability issues in new development. Officers have done so in this case but find the replacement building to be of such an ordinary level that it fails to meet national and local plan policy tests.

#### Recommendation

Based on the conclusions above, it is recommended that the Committee **REFUSE PLANNING PERMISSION** for the following reason:

1. The proposal would result in the loss of architecturally distinguished building. The replacement bungalow development fails to respond positively to its context and fails to influence positively the appearance and use of the local environment. As such it falls short of policy expectations set out in national planning policy as well as Core Strategy Policy CS15 and Local Plan Policy UD2.

TWC/2014/0746 Maxell Europe Ltd, Hortonwood, Telford, Shropshire, TF1 6DA  
Outline application for the erection of a mixed use development comprising of up to 540no. dwellings (Use Class C3), a local centre (Use Class A1) and public open space with associated access and landscaping following the demolition of existing factory (All other matters reserved) \*\*\*\*\*Addition information received regarding Community Services provision\*\*\*\*\*

**APPLICANT**

J Ross Developments Ltd, Nick Scott

**RECEIVED**

11/12/2014

**PARISH**

Eyton upon the Weald Moors, Hadley and Leegomery

**WARD**

Apley Castle, Ercall Magna

**OFFICER**

Gareth Thomas

Main Issues: Principle of development at this location, Town Centre Uses, Green Network, housing need, highway and traffic issues, surface water and foul drainage, open space and play provision, ecology and wildlife habitats, pollution and amenity considerations

**PROPOSAL:**

The application seeks outline planning permission for up to 540 dwellings, of which 15% would be affordable together with a new Local Centre consisting of maximum of 700 sq m of commercial (retail) floorspace. The proposal includes the provision of highway and infrastructure including a new access off Queensway, formal and informal open space, including a combined NEAP and LEAP and associated landscaping.

Other than access, all other matters – appearance, landscaping, layout and scale are reserved for subsequent approval. The application is accompanied by the following documents:

- Planning Statement and section 106 Heads of Terms
- Design & Access Statement
- Parameters Plans (Density, Building Heights, Landscape, movement/Access and Character Areas
- Desk Top Archaeological Assessment and further Geophysical Study of archaeology
- Desk Based heritage Assessment
- Affordable Housing Statement
- Viability Assessment
- Illustrative Masterplan
- Landscape and Visual Impact Assessment
- Tree Survey and Arboricultural Impact Assessment

- Phase 1 Ecological Appraisal
- Transport Assessment
- Open Space Assessment
- Air Quality Assessment
- Noise Assessment
- Flood Risk Assessment and Drainage Strategy
- Statement of Community Involvement

The application seeks to demonstrate that in principle, the proposals have taken account of public comments following the pre-application community engagement exercise; the proposals have identified correctly the amount of development, the uses for the site including areas of open space and leisure/recreation facilities and the likely proposed built form across the site. The applicants also suggest that the proposed mix of housing including affordable housing is an appropriate response to meeting the housing needs of the Borough having regards to viability and that the whole will be sensitively integrated into the fabric of this equally sensitive rural-urban fringe location and one of the gateways into Wellington.

The proposed development will be served by two access points onto Queensway, one existing, which currently serves the Maxell premises and a new principal access comprising a new roundabout onto Queensway. The design of the proposed roundabout access includes a two-lane exit on the A442 arms that will help influence consistent lane usage on its approach in order to enhance capacity. Both access routes will be designed internally to form a loop road. The application is accompanied by a Transport Assessment, which the applicant suggests has properly taken into account highway impacts arising from the proposed access arrangements. The proposal will provide mitigation for off-site highway impacts, including the making of financial contributions towards the enlargement of the Shawbirch Roundabout. It is expected that such contribution and works to the Shawbirch Roundabout will combine with other developer contributions and recent Government funding under the LEP process that will lead to the upgrading of a number of pinch points on the existing highway network.

An important gesture and provision by the applicant is the offer of a large swathe of land adjoining Queensway and the Shawbirch roundabout, which is shown on the amended red line drawing. The exact land take is still the subject of final discussions with the local highway authority. However, the provision of this land for highway improvements will assist in the delivery of improvement works on the northern strategic highway corridor but quite possibly at the expense of developable area of land within the application site.

This new local shopping centre would be located at the north east corner of the site adjacent to the Shawbirch Roundabout thus providing the opportunity for a commanding corner frontage development onto Whitchurch Road and Queensway.

The proposed local centre area comprises approximately 1.2ha and will be accessed from the proposed new roundabout from Queensway. It is intended to be complementary facility to the existing services in Wellington and this is reflected in the size of the proposal. It is envisaged that the local centre would include a neighbourhood foodstore of around 400sqm gross (A1), and additional retail units of around 300sqm (A1). There is also the potential for a Pharmacy or additional healthcare services to be provided within this new centre, subject to requirements.

A Screening Opinion request under Regulation 5(1) of the Environmental Impact Assessment Regulations 1999 was issued on 18th November 2013 indicating that the application did not fall as an EIA development requiring an Environmental Statement.

As part of the proposals, the applicant has submitted a viability appraisal to demonstrate that the development can justify 15% affordable housing provision, which is significantly lower than the Council's policy requirement (38%). The case that is made for a lower contribution is that there are significant costs associated with the surrender of an ongoing lease with Maxell and the release and variation of restrictive covenants (five in number) that will be necessary to enable delivery of the scheme. There is also a very sizeable section 106 contribution requirement covering secondary/primary education contributions, highway and public transport contributions, open space and recreation contributions.

Because of the complexity of existing land ownership and land and property issues, the District Valuer was commissioned to undertake an independent evaluation of the viability assessment. The viability assessment contains sensitive and confidential information, which the applicant has asked should not be made public. However it has been accepted that the District Valuer's conclusions and basis of his assessment should form part of this officer report. This is detailed later.

## SITE AND SURROUNDINGS

The site area amounts to 24.57 hectares and is situated some 2km to the north of Wellington and within the settlement of Apley Castle in the Hadley & Leegomery Parish area. The site is broadly square in shape with some irregularity to the southern boundary. The northern boundary fronts onto Queensway (A442) and to the west the site fronts Whitchurch Drive. Importantly to the east and south, the site merges into Apley Wood, a newly designated County Wildlife Site, which contains Apley Pool. Both these resources are very well regarded as important recreational space and wildlife corridors and features. Beyond the southern boundary lies the Apley Castle residential area and Severn Hospice.

Part of the site presently contains the large factory premises of Maxell. Maxell as a company has significantly reduced the scale of their operations at this site such that

they now occupy only 88,000 sq ft of the overall premises. Maxell has agreed to surrender their lease and relocate. This is happening as this report is being prepared. The applicants, meanwhile and in addition, have relocated their prefabricated buildings manufacturing company to the site in preparation for the relocation of that business to a site elsewhere in Telford. The applicants purchased the site some years ago with the intention to build a meat processing and abattoir facility at this site for the benefit of one of its constituent companies. It made enquiries at the time to the Council who in turn confirmed that the Maxell building could be used as an abattoir without the need for planning permission. However the company's plans generated considerable local reaction, which culminated in the company seeking an alternative location at Hortonwood. The abattoir has since been built at that location.

Other than the area contained by the existing Maxell factory buildings and associated access and car parking, the remainder of the site is in agricultural use. The buildings in fact take on the appearance of an island surrounded by grazing and arable fields, which is designated as Green Network. The land rises from north to south and more gradually from west to east falling towards Apley Pool and Wood with Apley Farmhouse to the south-east. The woodland forms an important backdrop to the south and east boundaries. The factory buildings are partially screened from the north by the presence of mature and semi-mature native and ornamental trees. The Apley Woods and Pool areas are well used and there is evidence of pedestrians (walkers/dog walkers) spilling into the rough grazing areas to the east of the factory complex.

## SUMMARISED CONSULTATIONS

Standard consultation responses.

Hadley & Leegomery Parish Council

The Parish Council has considered this application and taken account of the views expressed by local interest groups, residents and local school governors. The Council appreciates the changes that have already been incorporated by the applicant in response to comments from a wide range of sources as the master planning process has developed, however it wishes to make the following comments:

Sustainable Development

The National Planning Policy Framework is founded on the principle of achieving sustainable development. The issues raised below are considered vital to contributing towards a sustainable development.

Number/Density

The Council believes that a lower number of properties than the proposed 540 should be negotiated. The Shaping Places Local Plan proposed housing and employment sites consultation put forward a number of 500 homes on a mixed development for this site, and the local community wishes to see less than that. If

500 was considered appropriate for the local plan, then this should be an absolute maximum.

#### Buffer zone – Apley Woods

Following on from the need for a reduction in the number of properties is a request for a larger buffer zone between the development and Apley Woods. A 20 metre zone is proposed by the developer but the local conservation groups wish to see a greater distance to protect the ecology of the woods. Earlier stages of the master plan indicated a 30 metre buffer, and the council asks that a larger buffer zone is negotiated.

#### Parking for woods and pool

The Council appreciates that the developer has made provision to retain an element of parking (15 to 20 spaces) for visitors to Apley Woods and Pool but believes that a larger number is needed. Many visitors to the woods are from outside the immediate area and when the existing parking spaces are lost there will be a big impact on local residential roads – Peregrine Way and Apley Castle in particular - from parked vehicles. The Council asks that an increase in the allocated parking for public open space and Apley Woods is negotiated. It would appear from the master plan map that it would be possible to double the parking area on the public open space area

#### Doctors

The Council is pleased to see that the local centre proposals indicate that a doctors' surgery would be possible subject to demand. The Council is of the view that demand certainly exists with all local surgeries having long waiting times for appointments and asks that negotiations are opened with the relevant health service agencies to develop a viable proposal for a new surgery as part of the development.

#### School places

The Council shares the concerns of local residents and school governors that there appears to be a severe lack of strategy for ensuring that sufficient school places, particularly primary school, are available to meet the demands that will arise from all of the developments which are currently under construction or have planning consent. The proposal for a further 540 homes on the Maxell site will further increase demand and at the moment the nearest schools are at capacity. The LEA has said that there are sufficient school places in Telford, but the available spaces are across the whole borough and not close to this development or others nearby. This not only places a burden on parents who would have to travel an unacceptable distance to take children to primary school, it also goes against the principles of sustainability by adding to traffic volumes and pollution. Bearing in mind the time that it takes to bring a new school online, plans need to be made now to provide a new primary school to accommodate the additional numbers of pupils that will be generated by the developments currently being built and those in the planning process. There is an opportunity to include a new school on the Maxell site, and this should be considered.

The NPPF says that “The Government attaches great importance to ensuring that a sufficient choice of school places is available to meet the needs of existing and new communities. Local planning authorities should take a proactive, positive and

collaborative approach to meeting this requirement, and to development that will widen choice in education. They should:

- give great weight to the need to create, expand or alter schools; and
- work with schools promoters to identify and resolve key planning issues before applications are submitted.”

Highways Section (Local Highways Authority - TWC): Significant ongoing discussions have taken place and the final views of the LHA will be provided in an update report to Committee. However, the initial views expressed on 17th October 2014 have informed ongoing discussions and any outstanding issues that remain are summarised as follows:

The Transport Assessment describes the site in the context of its surroundings and argues that it is a sustainable location for development. In this regard the site is seen as part of the urban conurbation and there are certainly opportunities to link into sustainable travel modes but it cannot be assumed that this will be the case. The census journey to work data for Apley and Shawbirch area suggests walking, cycling and public transport usage is not high. Taking public transport the site is not directly served and the existing services are at the extremes of the ideal distances for use or are being run on a trial basis with no certainty that they will exist in the future.

As mentioned above the development mix in the TA is slightly different to the Application. The site is to be accessed at two points from the A442 at a new roundabout and at the existing ghost right turn priority junction. The LHA has no objections in principle to this. Advice has been given on the design of the roundabout and it is noted that there has been a Stage 1 Road Safety Audit on the design.

There is no Travel Plan accompanying this submission so this will need to be conditioned out on any Consent. In such absence, no conclusions can be reached on how this site will promote sustainable travel.

The TA suggests the site will link into the existing footway/cycleway provision. The accompanying plans indicate connectivity on the A442 frontage, links to the Silkin Way to the southern end of the site by the bridge and a link across Whitchurch Drive with a TOUCAN. Any points of connection should be on the obvious desire lines and the layout should lead users to those points. At the moment the land use plan places the retail/community area on the Shawbirch Roundabout. This would represent an obvious desire line. I do not think this submission gives due consideration to the safe movement of pedestrians and cyclist at the roundabout. Any measures that might be promoted will have an effect on the capacity of this junction where there are already concerns about its operation.

As previously mentioned the site does not have the best access to public transport. The route that passes closest to the site is the extended 25 service but this is only being run by Arriva on a trial basis. Please note any stops along Whitchurch Drive will need lay-bys.

The scope of the assessment is as generally agreed with the LHA. The LHA has asked that some adjacent developments be considered in this assessment. The TA discusses the possibility of reducing retail trips. This has not been discussed or agreed with the LHA and this is acknowledged. But the TA is based on 'total trips', which gives a robust assessment.

The TA has been asked to assess a number of junctions around the site. The Applicant has not assessed any of the study junctions where the impact from the development is below 5% of the total junction flow. This approach has not been agreed by the LHA. This was also not acceptable to the Highways Agency resulting in the holding objection.

Following the above comments, the LHA commented again on 4th December 2014, as follows (summary):

Ongoing discussions have taken place in relation to the need for S106 contributions associated with the development. The calculations were based on the trip generations included with the submitted TA. Since that time the Applicant has identified that the trips contained in the TA were rather onerous and so they have resubmitted this information. The new trip information assesses 540 dwellings in line with the application being sought (original TA assumed 600 dwellings), it nets out trips associated with the existing factory use being removed from the site and discounts retail trips in accordance with guidelines. All of this is acceptable to the LHA.

The upshot of this additional assessment which has also been agreed by the HA, is that the total trips generated by the development is lower than originally assumed. The impact at the various study junctions is therefore also reduced. The following section 106 contributions are therefore sought:

- A contribution to the improvement of the Shawbirch Roundabout of £112,350.
- The applicant is required to provide frontage land to enable the works necessary to meet the highway improvements anticipated in the wider LEP scheme
- There is also a contribution strategy for the Leegomery Roundabout which a number of sites have paid into. Based on the revised trips hitting that junction the contribution has been revised to £46,200.
- The Developer has offered a TOUCAN crossing (£50,000) and two bus stops (£30000).
- Travel Plan monitoring contribution of £5000.

Highways Agency: Initial Holding Objection pending receipt of further assessments; this has now been undertaken and Highways Agency has no objection

Education (TWC): No objection. Given the number and type of dwellings we would seek a contribution towards education facilities in the vicinity of the development. Advise that financial contribution of £1,276,742 is necessary for primary education and £622,323 for secondary education. Total contributions sought: £1,899,065

Parks and Open Space (TWC): Size of development is considerable and would normally generate the need for the creation of an onsite NEAP and LEAP, amenity open space and sports facilities.

The applicant has worked alongside the council's Parks & Open Spaces section to identify a centrally located area for children's play and other facilities which are highlighted in the planning statement. These are:

- A large equipped area for children's play (serving a wide age range)
- An outdoor gym
- Wheeled sport
- A Multi Use Games Area
- Activity equipment
- Activity trail

The proposed children's play provision as identified above would therefore effectively combine to create a combined LEAP/NEAP provision and cater for all age groups.

Subject to agreeing the detailed design of these facilities in any reserved matters (should the application be approved) P & OS can confirm the combined LEAP/NEAP as identified above is acceptable to meet the needs arising from this development. It is important for the LEAP/NEAP facility to be built prior to the sale of any overlooking property to ensure future residents are fully aware of the provision prior to purchase.

It should also be noted that the details of any SuDS scheme may be identified as a hazard for children particularly if this is proposed within the central LEAP/NEAP and any access routes; and the design will need to consider the safety of children who will be nearby.

There is a significant amount of land identified as Green Network which is included within the development. However, there are a number of benefits provided onsite which are welcomed, such as an onsite walking / activity trail (this route needs to be confirmed, as a circular route around the development is not clear), the securing of controlled drainage for Apley Pool, the landscape buffer zone to Apley Pool, car parking for and access to Apley Wood. The access path to Apley pool needs to be DDA compliant if possible.

The proposed offsite improvements will be anticipated to be significant and will need to be agreed in the S106 prior to commencement of development. The offsite improvements to Apley Wood / Pool highlighted in the application include:

- Footpath improvements
- Refurbishment of disabled fishing pegs
- New fencing
- Interpretation board
- Plug planting.

The applicant should consider providing some onsite art provision.

There is to be significant Public Open Space proposed within the development. A number of references in the application refer to Telford & Wrekin Council as proposed to adopt the POS within the development. In order for the Council to adopt, there will be a requirement of a commuted sum for maintenance and this will be required to be identified within any S106 agreement.

Arboricultural Officer (TWC): No objection subject to conditions including the submission and approval of detailed landscaping scheme, tree protection measures, agreement to soils levels and Arboricultural Method Statement. A number of vistas have been proposed to be created on the eastern area of the site to facilitate views onto Apley Pool. Although having no objections to this, the Council's Tree & Woodland Officer should be notified prior the commencement of proposed remedial tree works so that the nature and extent of the work can be agreed.

TWC Drainage Section: The drainage principals for the site set out in the FRA are acceptable in principle and are supported by TWC. The reserved matters application should include an updated drainage strategy and detailed drainage design setting out in detail how the site will be drained. The proposed central swale system and above ground attenuation features are integral to the design of the site and should be included in any future submission. Recommend conditions requiring approval of surface water drainage to include an updated drainage statement and detailed drainage layout plan that retains the proposed swale features with the detailed drainage design calculations to demonstrate that the site can be restricted to the rates of discharge set out in the FRA and that all attenuation features are capable of dealing with all rainfall events up to and including the 1 in 100 year event +30% for climate change. Agreements setting out the future ownership and maintenance of each of the drainage features serving the site should be agreed by the LPA.

Strine Internal Drainage Board maintains water carrying structures into which this site drains. The IDB request, therefore, that any surface water drainage scheme proposed for this site is approved by the Local Planning Authority. The IDB also

request that the rate of run off from the site does not exceed green field rates. The Strine drainage system is already under considerable pressure and can struggle for capacity when heavy rainfall events occur. For this reason the IDB also seek evidence that there is a long term plan for maintenance of foul & clean water drainage on the development site. There needs to be clearly designated responsibility for drainage, so that any issues with misconnections or failing SUDS features can be resolved quickly and effectively.

Environment Agency: No objection subject to Standing Advice as the proposed site appears to fall within Flood Zone 1 based on our 'indicative' Flood Map for Planning (Rivers and Sea).

Severn Trent Water: no objection subject to the inclusion of the following condition. 'The development hereby permitted should not commence until drainage plans for the disposal of foul and surface water flows have been submitted to and approved by the Local Planning Authority. The scheme shall be implemented in accordance with the approved details before the development is first brought into use. This is to ensure that the development is provided with a satisfactory means of drainage as well as to reduce of creating or exacerbating a flooding problem and to minimise the risk of pollution.'

Shropshire Archaeological Services (SCC) No objection: Taking the results of the geophysical survey into account, that there has been sufficient pre-determination evaluation of this site – trial trenching will not be required. It is recommended that a programme of archaeological work be made a condition of any planning permission for the proposed development. The programme of archaeological work should take the form of an archaeological watching brief on destructive groundworks associated with the development.

Planning Ecology:

The Planning Ecologist agrees with the conclusions and recommendations contained within the ecological study and findings that the site is considered to be of low ecological value with no BAP species present. The following elements are supported:

- Retention of the lime tree
- A 'Meadow area for Ghost Moth' in the east of the site - Ghost moth is a Biodiversity Action Plan species.
- Although common spotted orchid is not a BAP species, it is a notable species on the site and the report recommends that the orchid is translocated to an area of open green space during landscaping.
- The provision of Woodland edge mix to comprise of native species, in particular around Apley Home Farm and along the eastern boundary

- Attenuation features / linear wetlands' along the northern, western and eastern boundaries. These should be planted with a wetland species mix and include hibernacula/refuge for amphibians, reptiles etc.
- Native tree planting to enhance landscaped buffer, species to include Oak, Beech, Lime. To be planted in informal groups.
- Existing trees to site boundary and beyond to be selectively removed / thinned out / pruned subject to agreement by the LPA
- The factory building was inspected for bats in August 2013. No potential access points were identified externally. The report concludes that the building has no potential to support roosting bats.
- Bat survey identified that bat activity was concentrated around Apley Pool and along the connecting woodland corridors. No bats were observed or recorded around the buildings
- In terms of great crested newts, the Habitat Suitability Index (HSI) assessments undertaken calculated all three pools as having 'poor' suitability to support great crested newts. No further consideration of great crested newts is therefore required.

Recommendations:

1. Any trees which are to be removed to allow the development and trees which are selectively thinned as part of the ongoing management are retained as deadwood in suitable locations on the site or within Apley Wood.
2. To ensure that the habitats on site are retained, enhanced and managed appropriately in the future, a fully costed biodiversity management plan should be produced, which sets out the management requirements, actions and responsibilities. The management plan should include details on the following elements:
  - translocation of the common spotted orchid(s);
  - planting scheme (species, densities etc.);
  - maintenance of planting (mowing regimes, selective thinning etc.);
  - management of the area in the east of the site for ghost moth;
  - treatment of deadwood;
  - maintenance of wildlife boxes (and their replacement as necessary);
  - creation of refugia and/or hibernacula around the attenuation features; and
  - creation of hedgehog passes under garden fences.
3. Section 106 contributions:

The development proposal should include a sufficient financial contribution to the future management of Apley Wood Local Wildlife Site (which is owned and managed by Telford & Wrekin Council) to ensure that the site can sustainably managed and its biodiversity and amenity value maintained in the long term.

Urban Design (TWC): The Urban Designer considered the original submission and, although this is an outline application, has made suggestions that a matrix setting out the character for the site should be clarified to define the existing and intended character of the site and to establish a separate but complementary set of design

principles. She helpfully suggested an approach where the three primary character areas shown on plan are supported with an overall vision statement, highlighting what sort of place is envisaged and what the common or unifying elements might be for each area before being further sub divided if necessary to respond to particular location or features of the site; in addition, the character areas could also be renamed so they are more place specific from the outset; she suggests:

1. Local Centre: this is the “urban fringe” and effectively a “gateway” to the development and the wider area: it features two points of arrival and a transitional edge between what exists and the new development; it will be predominantly single sided and potentially feature a high degree of landscaping which complements the relatively low level of engineering.

- Shawbirch/Apley Gateway: retail focus and key public realm with potential landmark building: is this envisaged as having a residential element as well?
- Queensway: arrival space, open overlooking the fields to the north; potentially greener and more open due to the presence of existing grass verge?
- Whitchurch Drive: west facing edge: potentially more urban than the north since it faces existing development?

2. Central Court /Core – this is a prime residential area should be suburban in the character matrix and arranged in fairly formal streets linking a series of formal/informal landscaped spaces such as a play area which is to be a key focus for this character area. Whilst there are opportunities to create smaller “squares” or spaces along the avenue, these will need to be landscaped and better. However both sides of the “Avenue” should be in this character area to create an appropriate streetscape; if necessary, the Avenue could vary in terms of its width, materials, landscape, etc.

3. Woodland: suburban or semi-rural emphasis, with less continuous streetscape, feeling more open, green with larger detached dwellings arranged to capitalise on internal and external views. This could be separated into two:

- East: focusing on the pool and adjacent open space; development possibly set 90 degree to the contours to frame views down to the pool.
- South: strong woodland feel with views overlooking the fields to the north: development arranged parallel to the contour of the land in terraces.

In conclusion the Urban Design Officer advised that the character areas and characteristics, as well as the overall vision for placemaking, needed to be reviewed and better defined to create the overall sense of what is being envisaged at this location. This has been done and further submissions have been submitted and the Urban Design Officer’s views have been taken into account. The Urban Design Officer is satisfied subject to final strengthening of the Character Areas Matrix and Members are advised that the above character areas are now depicted in the

masterplan and can be conditioned to help create a sense of place in the Reserved Matters that will follow if outline permission is granted.

Cllr Karen Blundell: As the Borough Councillor for Apley Castle I wish to 'green card' the application to be heard by the Plans Board committee and wish to speak at this meeting. Although not against the development per se I feel there are a number of areas of concern including density levels together with the height of dwellings, noise levels especially as the acoustic report incorrectly refers to the A5223," as a busy dual-carriageway which runs from the west towards the southern site boundary." There is mention in the planning statement of good public transport links " Access to public transport is good with several bus services operating from local bus stops on Whitchurch Road" I believe residents would definitely dispute this. I have serious concerns about the infrastructure as the local schools do not appear to have capacity for the extra primary and secondary pupils. The new Charlton school is being built with capacity to accommodate the current level of pupils, where do we expect the additional pupils to go? As this development is close to Apley woods the visitor car park should be larger to ensure that the viability of the woods are not compromised, as Apley woods will soon be enveloped by development from all sides. I have further concerns which I have already raised with the planning department, but I will also raise these at the meeting.

Telford & Wrekin Local Access Forum The site of the proposed development has a Definitive Public Right of Way (highway) (footpath) just to the east of it leading around the outside of Apley Woods from the Apley Home Farm entrance. There are also new routes suggested on the plan. The new Public Rights of Way should be minimally of bridleway status as this would allow the lawful use by cyclists, which footpaths do not, and it would join up with the existing network, promoting sustainable transport in and around the site. It would also allow a safe and non-motorised route for the public to use and enjoy with good connections to Apley Woods and the surrounding network of paths. Any new route should be of a suitable surface to be used as a multiuser route. This should enable the less-able and those with limited mobility to pass freely. There should be no restrictive furniture/kissing-gates placed on the route. In summary all routes, both new and existing, in and around the site should be created or upgraded to bridleway status and placed on the Definitive Map and Statement. I strongly recommend that the developers engage with the Highway Authority and the Local Access Forum at the earliest opportunity to see that the matters of the PRow are resolved before development begins. The Local Access Forum can advise the developers of suitable designs, width, and surfaces.

West Mercia Police - Crime Prevention Design Advisor. I do not wish to formally object to the proposal at this time. However there are opportunities to design out crime and /or the fear of crime and to promote community safety. Therefore should this proposal gain planning approval, I request that the following planning condition

be placed upon the said approval. The applicant should aim to achieve the Secured by Design (SBD) award status for this development.

### Third Party Representations

A significant level of objection has been received from local residents; a petition was also lodged against the development. The following section provides a summary of the objections received. Members can view the full text online.

Petition signed by 47 residents – concerned supporters of Apley Woods urge TWC to sympathetically consider the impact of the woods that a development of this size will cause. “We” care about the wildlife, flora and fauna in the woods; the additional footfall will seriously erode the pathways and create new ones. Actions – ask that a space is given for a larger buffer zone between the edge of the wood and proposed buildings providing a green corridor for wildlife.

- Many objectors refer to the sheer scale of development proposed and its effects on the local natural area. Neither the local woodland or the existing amenities can support this influx of residents. Volunteers work tirelessly to protect Apley Woods – the extra footfall and pollution will cause detrimental impact
- 540 new homes will generate at least 1500 new people living in the area. There are already 1050 homes either under construction or planned for the Apley Castle area. There is simply no need for additional housing.
- Development of this scale should await an adopted Neighbourhood Plan or Local Development Plan
- This development is not sustainable given the local infrastructure is already overloaded.
- The existing road infrastructure is at capacity, particularly at peak periods; whilst the additional roundabout is a good idea in theory, it is so close to an existing major roundabout that it will just increase congestion
- The road leading to the hospital and BRJ School is already gridlocked in the morning.
- Car parking problems already exist at the Hospice and the PRH
- The existing medical practices in the area are at capacity
- The existing primary and secondary schools are at capacity and there are no plans for additional schools in the area for the next 5 years.
- Apley Pool - the water that runs off the existing Maxell site is filtered before it enters Apley Pool. The new plan will produce more surface water will this be filtered? The parking spaces allocated for visitors to Apley Wood is too few as they will also be used by the fishermen as well as the resident's visitors
- Impact on ecology. Moreover, the LPA should oppose developments that threaten the woods and wildlife
- Scheme does not accord with the local development plan which designates site for part employment, part Green Network & will damage the green network.

- Our local MP Mark Pritchard, and the Parish Council have listened to our concerns and are therefore also against such high level development & want to preserve this area.
- The development also has no ready access to public transport
- Opportunity should be taken to have an extensive buffer between houses and woodland and better integrate into the wood.
- Already a new pub built locally

Friends of Apley Wood: Apley Woods is an area of council-owned woodland adjacent to the former Maxell site. We are a volunteer group which actively works with TWC in the management, protection and conservation of the flora and fauna in the woods which is only now showing signs of recovery following many years of neglect and 20 years of ever increasing fringe development. This recovery process is already threatened by additional planned fringe development so an additional large scale development, as proposed, can only serve to significantly increase and compound the potential for and likelihood of negative ecological impacts on flora and fauna.

Apley Woods with its 56 acres of meadows, pools and woodland dates back hundreds of years. The woods provide an invaluable habitat for a wide variety of wildlife, including approximately 30 species on the NERC\* list, e.g., song thrush, Noctule bat, hedgehog and Ghost moth; and as such, are regarded as being of principle importance. Consequently, in line with our objectives, we will now be working towards establishing Apley Woods as a designated Local Nature Reserve. Indeed, Apley Woods is one of the few remaining relatively open natural spaces in this area and, as such, must be regarded as a special area of natural beauty, interest and heritage.

This site is an irreplaceable resource for biodiversity - an important part of our cultural heritage. The housing density of this proposed development poses a serious threat to the ecological balance of the woods and levels of concern are high.

Our concerns, as the Maxell site is developed, relating to the negative ecological impact caused by land use development fall principally, but not exclusively, into the following areas:

1. Chemical effects (both during development and after).
2. Disturbance (noise, earth movement, etc.).
3. Fragmentation (isolation of wildlife habitat).
4. Invasion of non-native plant species (garden escapees).
5. Increased road traffic (from new residents and their visitors).
6. Increased regular footfall (from new residents and their visitors).
7. Interruption of existing surface water flow into the fishing pool and proposals for future water flow.
8. Cumulative effects (two or more of the above).

The Friends of Apley Woods are also concerned that an archaeological field evaluation of this site has not been carried out. Shropshire Council's Archaeology Service have confirmed that the south eastern part of the proposed development lies within the site of a supposed deserted medieval settlement at Apley .

Our concerns also extend to what appears to be an absence of a complete and robust infrastructure evaluation relating to this proposed development.

Apley Wood Preservation Society: Aware that some minor changes have already been made but is not sustainable and needs further changes. The NPPF is founded on the principle of achieving sustainable development. The current plan for the 'Maxell site' changes the concept from the campus style industrial facility originally conceived, surrounded by wide open spaces and well planted with trees, to full coverage high density housing for the site that despite some small open spaces effectively covers the area in question. This is excessive by any measure. Given the position of the site relative to the green corridor for Telford, network of open spaces and the densities of associated areas, the number should be reduced to 250 dwellings. This area at the edge of the urban boundary, known as Apley, was never intended to be developed as a high density residential area and to ensure an open aspect and sustainability the new development should reflect the density of associated properties.

Buffer zone – Apley Woods - The 20 metre zone proposed by the developer is insufficient to protect the ecology of the woods. 40 m was originally proposed. Our natural areas in Apley are under threat. Large numbers of trees have been planted on the site during the time of Maxell - how many of these trees are to be retained to comply with T&W's stated policies?

Parking for woods and pool - 50 spaces required in addition to 20 on offer.

Doctors and Schools - a revised plan for the Maxell site should be encouraged to include facilities for a new doctor's surgery, a new dentist's surgery and a new primary school. A proposed development of this size requires infrastructure to support it especially when existing services are already at full stretch.

Traffic - Currently at peak and near peak times the road infrastructure in the Apley area is barely able to cope. It is acknowledged that the developer has volunteered to take responsibility for enlarging the Shawbirch roundabout and providing other widening facilities but surely that is not the point. The area of Apley was neither planned to have the volume of traffic it currently endures never mind the inevitable additions anticipated.

Shropshire Wildlife Trust welcomes the measures taken so far to accommodate the population of Ghost Moth found on site and provides some green infrastructure to help buffer and connect the Apley Woods site. However we do have a number of comments that we feel need consideration.

While the amended plans provide an improved buffer to the site and incorporate some additional green space they also indicate that vistas will be created over the lake. We can see no ecological reason or benefit to this. Any works to open up views should be supported by sound ecological reasons and avoid causing any fragmentation in habitat.

The ecological measures included in the scheme are relatively modest and should require minimal management. We would however recommend that management requirements and actions are defined within a costed biodiversity management plan that clearly identifies responsibilities. Shropshire Wildlife Trust is becoming increasingly involved in providing management services for green infrastructure associated with development and would be willing to discuss potential options.

Since the data search was undertaken, to inform the Ecology Report, Apley Woods has been adopted as a Local Wildlife Site (County Wildlife Site or Local Sites as referenced in Lawton Review/Environmental White Paper). This highlights the importance of the site at a county level and would support our request that a more robust buffer zone would be appropriate. In addition to an enhanced buffer zone a contribution to cover managing the increased visitor pressure on the Apley Woods LWS should also be secured.

Good practice guidance for green infrastructure and biodiversity states that “local planning authorities can reasonably expect proposed new development to”, among other things, “reflect the priorities of the Natural Environment White Paper in relation to the value of GI in supporting ecosystem services”. This in turn has been connected with the establishment of ‘coherent ecological networks’ which require buffering and linking existing sites and habitats.

#### RELEVANT POLICIES:

National Planning Policy Framework (NPPF)

Core Strategy:

CS1 Homes

CS2 Jobs

CS3 Telford

CS5 District and Local Centres in Telford

CS7 Rural Area

CS9 Accessibility and Social Inclusion

CS10 Community Facilities

CS11 Open space

CS12 Natural Environment

CS13 Environmental Resources

CS14 Cultural, Historic and Built Environment

CS15 Urban Design

Wrekin Local Plan:

EH7 Contaminated Land

EH14 Land Stability

UD2 Design Criteria

UD3 Urban Design Assessments

UD4 Landscape Design

UD5 Public Art

UD6 Major transport corridors and gateways into Telford

H6 Windfall development in Telford & Newport

H22 Community Facilities

H23 Affordable Housing

T4 Development Principles

T22 Planning Obligations

OL11 Woodlands and Trees

OL12 Open land and landscape contributions from new Development

OL13 Maintenance of Open Space

LR4 Outdoor Recreational Open Space

LR6 Developers Contributions to Outdoor Recreational Open Space within New Residential Developments

## PLANNING CONSIDERATIONS

This planning application raises the following main issues:

- The Principle of development including loss of the site as an employment site and the remainder as Green Network;
- The principle of a new Local Centre
- Highway Impacts
- Landscape and Visual Impact
- Ecology & nature conservation
- Outdoor recreation and open space
- Design
- Flood Risk
- Archaeology;
- Affordable Housing and Viability of development and Planning Obligations

### 1. Loss of Employment Land and Green Network

The National Planning Policy Framework (NPPF) is the most up to date national policy guidance that all development needs to be assessed against, especially if the existing local development plan conflicts with the national advice. The presumption in favour of sustainable development is now to be regarded as the “golden thread running through both plan-making and decision-taking” (para 14) and the NPPF advises that “Housing applications should be considered in the context of the presumption in favour of sustainable development” (para 49).

Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires proposals to be determined in accordance with the development plan unless material considerations indicate otherwise, and this is reiterated in paras 11 and 196-197 of the NPPF. The guidance contained in the NPPF is a material consideration in determining applications.

The NPPF directs councils to boost significantly the supply of new housing at paragraph 47. It further requires the council to demonstrate a five year plus 20% housing supply. This argument is well known to Members and currently, the council cannot demonstrate such a supply. In the absence of a five year supply of deliverable sites, policies around housing supply cannot be considered up-to-date and cannot be relied upon alone to justify refusal and there will be a presumption in favour of sustainable development. Sustainable development comprises three mutually dependent dimensions - namely economic, social and environmental - and these should be mutually dependent and balanced out to ensure appropriate development. However other relevant policies in the development plan can still be relied upon if they accord with the NPPF. Officers consider there are material considerations that should be taken into account and these will be explored in the report below.

At paragraph 52 of the NPPF, the Government recommends that the boost in housing set out in national policy can sometimes be best achieved through planning for larger scale development such as (urban) extensions that follow the principles of sustainable development. Paragraph 55 of the NPPF recommends that delivering a choice of high quality homes, widening opportunities for home ownership and the creation of sustainable and mixed communities can be achieved through planning for a mix of housing, identifying the size, type and tenure and range of housing and meeting affordable housing needs preferably on site. The amount of new retail, community uses and public open space associated with a housing development of the scale proposed and the attention to good design that provides a sustainable and mixed and inclusive community can help demonstrate a strong alignment with national planning policy.

Part of the site is designated as Employment land in the Wrekin Local Plan, which is currently the only Development Plan that actually contains a spatial plan. Local Plan Policy E2 relates to Employment Land Allocation and allocates employment land throughout the District. However, it should be noted that the policy relating to the supply of employment land (Policy E1) was not saved by the Secretary of State in 2007 and reference to employment land allocations are therefore out of date and no longer apply. Core Strategy Policy CS2 (Jobs) states that 'provision should be made to establish and maintain a portfolio of sustainably located employment sites attractive to developers, operators and appropriate to market needs'. Paragraph 9.22 states that 'within Telford a large supply of land is available in order to accommodate long term growth'. In support of wider regeneration objectives, Policy CS8 relating to

regeneration states that development associated with regeneration initiatives will be supported where amongst other criteria it, improves the quality of existing housing and assists the creation of job opportunities.

Policy CS3 (Telford) outlines that Telford will be the focus for the Borough's spatial development accommodating the majority of new housing, jobs and services. Policy CS5 (District and Local Centres in Telford) outlines that Local Centres will be the focus for more accessible local services and small scale community facilities to meet people's day to day needs. It also provides the incentive to create new Local Centres in line with housing growth and customer accessibility. The proposals include a Local Centre that seeks to respond to the day to day needs of Apley and the proposed residential development and therefore in a highly accessible location relative to existing and proposed development. The scale of development proposed for the Local Centre would be complementary to existing services in Wellington and this is reflected in the size of the proposal, together with providing opportunities for local health facilities.

The Council is working on identifying updated housing targets through the emerging Local Plan and published its Shaping Places Local Plan Proposed Housing and Employment Sites 2014 (PHES). This document presented a range of sites for housing and employment development and suggests a revised housing target of 20,000 homes over the 20 year Plan period. The sites identified are presented as having the greatest potential to meet the borough's development needs in the most sustainable way. The application site has been identified in the PHES as a mixed use site (employment and housing) (reference 500 and 509). Although this document does not have development plan status, it has been the subject of wider public consultation including with statutory consultees and directly follows on from the Shaping Local Places Local Plan Strategy & Options document released and consulted on during 2013. PHES has also been prepared to demonstrate a five year-plus housing land supply consistent with the NPPF. As a site that has been put forward and accepted for mixed use development, there is a degree of consistency with the Council's direction of travel. In your officer's opinion, the proposal when balanced against existing housing and employment/regeneration policies and against emerging plan proposals should be supported as a site capable and suitable of development.

Drawing on information from the Strategic Housing Land Availability Assessment and other relevant evidence, Local Planning Authorities are guided to identify sufficient specific deliverable sites to deliver housing in the first five years of a Local Development Document (LDD). To be considered deliverable, sites should, at the point of adoption of the relevant LDD:

- be available – the question being, is the site available now?
- be suitable – whether the site offers a suitable location for development now and would contribute to the creation of sustainable, mixed communities

- be achievable – is there is a reasonable prospect that housing will be delivered on the site within two years?

The application site comprises part employment related uses and part Green Network but within the urban area of Telford and is reasonably convenient to Wellington and well located in terms of employment related development to the north-east. It is recognised that the peripheral edges of the site are allocated as Green Network. The Green Network allocation runs alongside the A5223, Whitchurch Drive and A442 Queensway and currently takes up just over 8 hectares of land on the site with the remainder being brownfield land and/or designated employment land. Saved Policy OL3 relates to the Green Network and states that the Council will protect the Green Network and, in particular, key sites and links throughout Telford in order to achieve the six aims of the Green Network. The six aims of the Green Network can be summarised as follows:

- To maintain Telford's image as an attractive place to live and work...;
- To retain and enhance the individual identity and/or sense of local community of parts of the Town through the separation of built up areas with green wedges;
- To provide easily accessible 'green lungs' ... as these spaces relieve the sense of congestion and pressure ...;
- To provide an appropriate supply of open land ...
- To protect, enhance and maintain Telford's ecological and geological heritage
- To provide open space linkages through which footpath, cycleway and ecological corridors can join different parts of the Town.

Local Plan Policy OL4 states that development may be permitted provided that:-

- There are exceptional circumstances
- It contributes or is complementary to the aims of the Green Network;
- Environmental and community benefits are an integral part of the proposal.

The applicant explains that in preparing the Illustrative Masterplan for the site, consideration has been given to the six aims of the Green Network in terms of delivering significant and lasting enhancements including significant environmental and community benefits. These include providing substantial areas of informal open space around the perimeters of the site that replicate much of the position and extent of the Green Network. New planting is proposed at strategic locations and the areas of open space will include an attenuation pond and swales to provide sustainable drainage features and habitat potential. The informal areas of open space total some 5.64ha and include a minimum 20m buffer to the eastern boundary with Apley Woods. A landscape strategy has been prepared to help integrate the site with Apley Woods, which are recognised as an area of importance for recreation and conservation. This strategy is detailed in the Design & Access Statement has been the subject of extensive dialogue with Council officers and with local conservation groups. Within the buffer, trees of lesser significance will be removed and replaced

elsewhere to allow an opening of views of Apley Pool from the new housing development and proposed public vantage points. Replacement planting will reinforce the woodland area where appropriate. It is expected that the woodland buffer, along with other areas of informal open space, will be adopted by the Council as publicly accessible open space.

At present the Green Network at this site is in private landownership and is not publicly accessible and therefore has with no public benefit. A significant benefit of the scheme therefore is the transfer of these areas to public use so they can be used by the community. The public right of way network will be considerably enhanced with new links proposed to the existing network, including the provision of new connections to footpath routes around Apley Woods to the east and along Silkin Way to the south. This will include access for the disabled and will lead to new areas of formal and informal open space, including an activities trail, which will ease pressures on Apley Wood itself. .

To further enhance the recreational potential of Apley Woods, and in response to community requests, a new visitor car park is proposed to the east of the housing area that will be secured as part of a S106 Agreement. The location of the car park is identified on the Illustrative Masterplan and is anticipated to provide 20 visitor spaces. The car park will be carefully designed to be publicly accessible and overlooked to avoid any issues of nuisance or anti-social behaviour. It is accepted that the provision of a visitor car park will provide a significant community benefit to those who walk locally and fish at Apley Pool.

It is also intended that the scheme will provide a financial contribution towards other enhancements at the adjacent Apley Woods area. These enhancements include a contribution towards footpath improvements around Apley Pool and the refurbishment of disabled angling pegs, the provision of new fencing to protect areas of woodland and appropriate disabled access gates, a contribution towards a historical interpretation board and plug planting within the site to increase botanical diversity and aesthetic value. The overall purpose is to provide qualitative improvements to the area of land within the Green Network and to the adjacent Apley Woods.

Overall in planning policy terms, it is considered that the proposal accords with the Council's existing and emerging policy framework.

## 2. The Principle of a new Local Centre

The proposed Local Centre is intended to serve the local community, particularly the 540 houses the subject of this application. But a local centre comprises shops and other services in policy terms are considered to be town centre type uses. Both national and local policies would promote these uses within a town centre to ensure

the centre's vitality and viability. As a matter of principle, such uses should be the subject of an assessment of likely impact on the town centre. References to town centres or centres apply to designated city centres, town centres, district centres and local centres but exclude individual or small parades of shops of purely neighbourhood significance. Notwithstanding, and, in the absence of a Local Plan set threshold, the proposed scheme falls below the NPPF threshold where impact tests will be necessary (2500 sqm). There is a small parade of shops at Leegomery; however, there is no policy protection towards these neighbourhood facilities.

The second arm of the town centre test is the sequential test. Main town centre uses should be located firstly in town centres, then in edge of centre locations and only if suitable sites are not available should out of centre sites be considered. But the NPPF recognises that there is a need to apply a degree of flexibility and a common sense approach; it would be unusual to seek to locate a neighbourhood facility of this type anywhere else but the actual neighbourhood. What is important to the concept of the sequential test is the need to ensure that sites are accessible – accessible to the community it will serve. In this instance, the proposed location for the Local Centre will be highly accessible to Queensway/Whitchurch Drive, to Apley and to the development itself.

The NPPF advocates the principle of sustainable communities and to plan and make decisions that achieve places which promote opportunities for meetings between members of the community who might not otherwise come into contact with each other, including through mixed-use developments, strong neighbourhood centres and active street frontages which bring together those who work, live and play in the vicinity.

LPAs are encouraged to deliver the social, recreational and cultural facilities and services the community needs. Planning policies and decisions should plan positively for the provision and use of shared space, community facilities (such as local shops, meeting places, sports venues, cultural buildings, public houses and places of worship) and other local services to enhance the sustainability of communities and residential environments. Local shops and facilities should be permitted where they serve the local community.

This philosophy is promoted through the Council's Core Strategy vision and in Wrekin Local Plan Policy S8 that promotes retail developments in Local Centres including those that are connected to residential developments. Policy S25 in relation to new Local Centres states: "the District Council will permit the creation of new shops of a size and scale related to the needs of the immediate communities which they serve subject to satisfactory arrangements with respect to access, servicing and parking. "

In terms of local provision there are a number of small local centres on the west side of the A5223 at Acorn Way which includes a Spar and Boots, Admaston which

includes a post office, newsagents and general stores, Dot Hill which includes a Co-op and independent butchers, Roden Road which includes a Co-op. On the east side of the A5223 the nearest local centre is at Leegomery. The local centre in Leegomery at Pool Farm Avenue may potentially serve the existing housing areas to the south east of the subject site.

The Council's Retail Study 2006 sought to clarify the expected demand for new retail floorspace within the Borough up to 2021. It also looked at the role of Local Centres, although did not seek to identify whether there was a gap in provision. In relation to Local Centres, it concluded that these centres typically meet the needs of local populations of 5,000 residents (2,000 households). Currently it is anticipated that an urban extension may be promoted in Shaping Places on the land north of the A442 with current estimates suggesting around 6,400 dwellings. The applicant argues that this proposed development, in combination with additional housing on and around the application site would generate need for a new local centre including convenience floorspace.

Whilst it would be an understandable reaction to seek to protect existing neighbourhood facilities, in this instance there is simply no policy protection and to introduce such an argument would suggest that planning should involve itself in the issue of private competition, which it cannot. It is considered that on balance, the proposed local centre is suitably located and of suitable scale consistent with national and local planning policy and guidance.

### 3. Highway Considerations

In order to assess the suitability of the local highway network and its capacity to accommodate the proposed development, the applicant submitted a Transport Assessment (TA) for the Council's Highway Engineer to consider. The NPPF advises at para 32 that "Development should only be prevented or refused on transport grounds where the residual cumulative impacts of the development are severe". The scope of the TA had not been agreed with the Council's Highways department beforehand, but after requesting additional information and clarification of trips rates and various assumptions, the Council's Highways officer is now satisfied that the local highway network and junctions have the capacity to accommodate the increase in traffic and the traffic movements that would result from a development of 540 dwellings in addition to the proposed Local Centre. This is verified by the Highways Agency who also expressed initial concerns. This is on the basis of considerable section 106 contributions being made towards improvements along the northern quarter in accordance with the LEP strategic highway improvements scheme. A critical part of these improvements is the proposal to improve the Shawbirch roundabout and its approach from both Whitchurch Drive and Queensway. This requires the provision of a substantial swathe of developable land within the application site. The applicant has offered this land to the Highway Authority and nil

cost as part of the section 106 Agreement. The application site boundary (western boundary) together with the masterplan has been amended to omit this land from the developable area.

In addition to the land provision detailed above, which will enable the Council to deliver significant improvements to the Shawbirch roundabout, the applicant's TA proposes highway mitigating measures, most notably in the vicinity of the two access points and also will provide s106 financial contributions of £112,350 for the upgrading of Shawbirch roundabout, £46,200 for the upgrading of the Leegomery roundabout, £50,000 to provide a TOUCAN crossing across Queensway, £30,000 to provide two bus stops either side of Queensway and £5,000 for Travel Plan monitoring.

The application site is privately owned with no public rights of way through the site. Due to its close proximity to Apley Woods/Pool, a number of informal incursions have been made into the site, particularly along the site's eastern boundary. The A442 Queensway to the north has an existing 3m wide pedestrian-cycleway, which will be maintained as part of the proposal. In the southern vicinity of the site, a shared pedestrian/cycle bridge connects the paths either side of the A5223 Whitchurch Drive. The illustrative masterplan indicates that two access points will be created onto the PRoW that run through Apley Woods and enhanced to provide green links. A connection onto Whitchurch Drive is also proposed, which will be controlled via a Toucan. Final agreement as to its exact crossing point is the subject of ongoing discussions.

Objectors raise the issue of the lack of public transport facilities, most notably bus links. The applicant's TA acknowledges that the recent 25 bus service extending from the PRH to Shawbirch (Telford TC/Forge Retail Park/PRH) is currently on a trial basis and could terminate if passenger usage is low. Bus service 65 operates 570m to the west at Glade Way and No.55 is 500m to the south along Whitchurch Road. The Institution of Highways and Transportation suggests that a bus service within 400m would be considered convenient. It is unlikely that the application could be refused purely on the basis of the additional walking distances involved

In conclusion the Council's Highways Engineer does not object to the proposed development and there are no technical reasons on highway capacity or safety grounds against which to substantiate a refusal reason.

#### 4. Landscape and visual impact

The application site lies within primarily an urban context but benefits substantially from the woodland area along its southern and eastern boundaries. A Landscape and Visual Impact Assessment accompanies the planning application. The Assessment has established the landscape and visual baseline assets and

constraints of the site and has identified the key landscape issues that are specific to the proposed development. This has informed the Illustrative Masterplan, which has been refined in order to lessen the landscape and visual effects.

As a result a number of enhancements are proposed, including:

- the provision of landscape zones to the southern and eastern boundaries, including in the north-eastern corner of the site (informal open space) to soften the visual effect of the development on Apley Woods;
- reduced building massing and height to the eastern portion of the site to help prevent degradation of the character and enjoyment of Apley Woods, a newly designated County Park;
- reduced massing and height to the southern portion of the site to take into account the rise in level in relation to buildings to the south and protect views from the southern boundary towards the countryside to the north.

WLP policies UD4 and OL12 expect new development, amongst other things, to be appropriately landscaped into its setting; replace any footpath/cycle way links that may be lost; identify any positive features that should be included into the scheme. WLP policy OL11 seeks to resist development that will result in the loss of trees that make a valuable contribution to the character of the landscape, a settlement or its setting. Core Strategy policy CS10 seeks to protect and enhance areas of open space and recognises that “Open spaces and countryside underpin the quality of life in the Borough... and protect them from unnecessary development.”

The applicant has also carried out an Arboricultural survey. The site does not have any statutory landscape designation. Under the Shropshire County Council Landscape Typology (2006) the site lies within the Urban Area but directly adjacent to Landscape Type ‘Estate Farmlands’ typology of the Shropshire Plain to the north. The key characteristics of this particular typology are “Mixed farming land use; clustered settlement pattern; large country houses with associated parklands; planned woodland character; and medium to large scale landscapes with framed views”. The key characteristics of the Estate Farmlands typology are not considered relevant to the Site because of its urban location and previously developed character.

As stated above, the site is situated within Green Network. However the Council’s Strategic Housing Land Availability Assessment (SHLAA) in 2012 identifies the Site as being Available, Suitable and Achievable with no known constraint but with part of the Site being designated as Green Network. In landscape effect terms, there will be a loss of open space which forms part of the Green Network of Telford. This however, is private open space surrounding the factory and is not publicly accessible. There are few mature trees on the Site and the ecological audit concluded that the majority of the Site was of low ecological value. The significantly important landscape elements of the Site are the woodland buffer to the south within the Site and the Apley Woods adjacent to the eastern Site boundary which are an

important community landscape resource and are significant in terms of nature conservation. It is important the development of the Site does not compromise the nature conservation value of the woodland and does not degrade the character of it.

The applicant's landscape consultant concludes that views of the site and its impact will be limited to a few residential properties to the west, as other views are filtered by woodland and elevated nature of parts of the site. The site will include a minimum 20m width woodland buffer with landscaping 'graded' from being more amenity based towards the development edge through to ecologically based towards the woodland edge has been proposed.

Accordingly, it is considered that the development accords with Wrekin Local Plan policies OL11, H9 and Core Strategy policies CS7 and CS11.

## 5. Ecology and Nature Conservation

The NPPF expects the planning system to conserve and enhance the natural and local environment by, amongst other things, "minimising the impacts on biodiversity and providing net gains in biodiversity where possible ..." (para 109). When determining planning applications the NPPF asks local planning authorities to apply various principles in order to conserve and enhance biodiversity, which include refusing planning permission if there is significant harm that cannot be mitigated against or compensated for, or where irreplaceable habitats are lost or destroyed, but encouraging opportunities to incorporate biodiversity in and around developments (para 118). Core Strategy policy CS12 is already in conformity with the NPPF on this and Wrekin Local Plan Policy OL2 seeks to prevent development that will adversely affect certain protected landscape/wildlife designations, unless the benefits outweigh the importance of the area and the loss of any habitat is fully compensated for by the creation or enhancement of other habitats of equal or greater value in the local area.

The site itself does not have any statutory wildlife or nature conservation designation. Appropriate Phase 1 and 2 habitat surveys were carried out. The surveys divided the site and its immediate surrounds into 5 sections and summarised that most are of low ecological value. Bat activity surveys were conducted around the factory building and around the perimeter of the site. The factory building was examined thoroughly internally and externally for evidence of bats with no evidence recorded. Very little bat activity was recorded to the east of the site close to Apley Pool. There was no evidence of nesting birds or badgers. Two additional pools 300m from the site were examined, in addition to Apley Pool, following a request from the Council's Ecologist with no evidence found of Great Crested Newts (GCN).

The Planning Ecologist for the Council accepts the applicant's conclusions that that development can proceed without the loss of habitat of significant value and without

the loss of favourable conservation status of any protected species. Furthermore, the site will be enhanced through effective landscaping and planting of trees. The survey makes recommendations that a lighting scheme is drawn up to ensure no direct illumination of hedgerows and trees and that a range of artificial nesting boxes for bats and birds are incorporated into the design of the dwellings. It also includes a management plan to protect Ghost Moths.

## 6. Outdoor recreation and open space

Policy LR6 of the Local Plan 'Outdoor Recreational Open Space Provision within New

Residential Developments' establishes that when granting planning permission for new residential development, the Council will require the provision of outdoor recreational open space within new housing developments to meet the standards set out by the National Playing Fields Association (now Fields in Trust). This works out as 2.43 hectares per 1,000 people. On larger sites of 200 new childbed spaces or more a neighbourhood equipped area of play will be required and secured through a legal agreement.

The Council has undertaken a Borough Wide assessment of Open Space, Sport and Recreation Facilities in 2008, which provides provision and accessibility standards for differing typologies of open space. More recently this Borough wide assessment was supplemented by a quantitative assessment of open space undertaken on behalf of the LPA by Peter Brett Associates in 2012.

Based on the proposal for up to 540 dwellings, and assuming an average of 2.2 people per dwelling, Policy LR6 requires the minimum provision of 3.21ha of qualifying public open space if the maximum site capacity is realised. The scheme proposes to provide 6.17ha of public open space, a figure in excess of the policy requirement. The proposal includes a large combined LEAP and NEAP facility with an activity zone of 1,000 sq m and located within the centre of the site with natural surveillance from dwellings located a minimum 30m distant.

In addition to the formal open space provision, the proposals also include informal open space to promote and improve the off-site recreational potential of the adjacent Apley Woods by including a woodland buffer and new visitor car park within the informal areas of open space. To the angling use of Apley Pool, the drainage proposals for the site include the controlled discharge of water into Apley Pool to ensure water levels are 'topped up'. In total the areas of informal open space around the edges of the development site amount to 5.64ha in size, exceeding the requirements of Local Plan Policy LR6. These areas have been revised and extended following significant engagement with the Council and local stakeholder groups and provides considerable opportunity to enjoy amenity green space within the site.

## 7. Design

The Government attaches great importance to the design of the built environment. Good design is a key aspect of sustainable development and is indivisible from good planning and should contribute positively to making places better for people. The Government is committed to protecting and enhancing the quality of the natural and historic environment, in both urban and rural areas. In terms of design, the NPPF advises that:

“Planning should always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings”.

Paragraph 58 of the NPPF states that planning policies and decisions should aim to ensure that developments:

- Will function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development;
- Establish a strong sense of place, using streetscapes and buildings to create attractive and comfortable places to live, work and visit;
- Optimize the potential of the site to accommodate development, create and sustain an appropriate mix of uses (including incorporation of green and other public space as part of developments) and support local facilities and transport networks;
- Respond to local character and history, and reflect the identity of local surroundings and materials, while not preventing or discouraging appropriate innovation;
- Create safe and accessible environments where crime and disorder, and the fear of crime, do not undermine quality of life or community cohesion; and
- Are visually attractive as a result of good architecture and appropriate landscaping.

Using land efficiently is a key consideration in planning for housing. Good design is fundamental to using land efficiently. More intensive development is not always appropriate; however, when well designed and built in the right location it can enhance the character and quality of an area. Density is a measure of the number of dwellings which can be accommodated on a site or in an area. The density of existing development should not dictate that of new housing by stifling change or requiring replication of existing style or form. If done well, imaginative design and layout of new development can lead to a more efficient use of land without compromising the quality of the local environment.

A Design & Access Statement and an illustrative masterplan accompany the application, supported by a Design Code in the form of a Character Area Matrix. Members will appreciate that this is an outline application and whilst your officers have sought to tie the applicant down to a reasonably fixed design philosophy, it is extremely difficult to introduce precision at this stage. A copy of the masterplan and the Character Area Matrix are attached to this report.

Officers are satisfied that the design ambitions for the site respect the site's landscape characteristics and the presence of the adjoining woodlands. The indicative masterplan layout demonstrates that a mixed use development, including a Local Centre, together with roads, footpaths, connectively, green spaces and a nature conservation area can be accommodated on the site. Properties would be of a traditional brick and pitched roof construction, and most would be 2 storeys in height but with some two and a half storey units at appropriate locations. The illustrative layout demonstrates that it is possible to achieve the numbers proposed without detriment to visual or residential amenity. The urban designers have integrated existing landscape features into the scheme by the retention of trees and hedgerows where possible and have included buffer zones that should protect the setting and conservation value of Apley Woods. The development proposals as illustrated are in general accordance with WLP policy UD4 which expects landscape to be integrated into any design layout from the outset.

The applicant has agreed to the provision of public art facilities to the value of £100,000 to be located within the development possibly within the Local Centre to act as a focal point and/or close to one of the entrances into the Apley Wood.

## 8. Flood Risk and Drainage

The NPPF clearly states that Local Planning Authorities should adopt proactive strategies to mitigate and adapt to climate change, taking full account of flood risk, coastal change and water supply and demand considerations. The NPPF advises that the aims of planning policy on development and flood risk are to ensure that flood risk is taken into account at all stages in the planning process to avoid inappropriate development in areas at risk of flooding, and to direct development away from areas at highest risk. Flood risk assessment should be carried out to the appropriate degree at all levels of the planning process, to assess the risks of all forms of flooding to and from development taking climate change into account and to inform the application of the sequential approach. The aim of the sequential Test is to steer new development to areas with the lowest probability of flooding.

A Flood Risk Assessment (FRA) has been submitted in support of the planning application. The FRA report identifies that the site falls within an Environment Agency Flood Risk Zone 1 area and is considered to be at a level of low risk of flooding. The applicants propose the use of attenuation tanks combined with flow control devices to ensure that the outfall from surface water does not exceed the existing discharge rates. The Council's Drainage Engineer has raised no objections to the proposals subject to conditions relating to drainage and the need to incorporate a surface water regulation scheme which could include sustainable urban drainage measures.

The applicants propose sustainable urban drainage solutions, possibly surface level swale features. The applicant's drainage consultants believe that there is adequate space within the site to enable SuDS to occur. Consequently, proper management arrangements would need to be in place, which are not included in this application. Given this, a condition is proposed that would require the revisiting of precise means of surface water drainage either at the Reserved Matters stage or prior to commencement of development. Suffice to say at this stage, there is a technical solution.

With appropriate safeguards and conditions, it is considered that the proposal could be developed without placing unacceptable pressure on existing capacity or having a detrimental impact on the capacity, flow or quality of groundwater or surface systems, and would not result in an unacceptable risk of flooding. As such, the proposal would accord with the provisions of the NPPF and Policies of the Local Plan.

## 9. Archaeology

A Desk-based Archaeological Assessment accompanying the application and identified that the proposed development site lies within an area that has a low to medium potential for archaeological remains of the Roman to early post-medieval periods. The south-eastern part of the proposed development lies within the site of a supposed deserted medieval settlement at Apley and a possible motte. Furthermore the supposed site of the first medieval Apley Castle lies immediately outside the southern boundary of the development site. The eastern and southern parts of the proposed development area lie within the former boundary of Apley Park a post-medieval park and garden associated with Apley Castle, and the remains of a 17th century ice house again lie immediately beyond the southern boundary of the development area. Finds of Roman coins and an early medieval (Anglo-Scandinavian) stirrup strap mount have also been made within the proposed development area.

The NPPF at Paragraph 128 states that "In determining applications, local planning authorities should require an applicant to describe the significance of any heritage assets affected, including any contribution made by their setting. The level of detail should be proportionate to the assets' importance and no more than is sufficient to understand the potential impact of the proposal on their significance. As a minimum the relevant historic environment record should have been consulted and the heritage assets assessed using appropriate expertise where necessary. Where a site on which development is proposed or has potential to include heritage assets with archaeological interest, local planning authorities should require developers to submit an appropriate desk-based assessment and, where necessary, a field evaluation".

The County Archaeologist has advised the LPA that the desk-based assessment that has been undertaken is sufficient for the purposes of understanding the resource and subject to a condition requiring implementation of a programme of archaeological work in accordance with a Written Scheme of Investigation to be undertaken prior to commencement of development, this would be a satisfactory and proportionate response to the desk-top findings of the applicant.

#### 10. Affordable Housing and section 106 Contributions

The applicant has produced an extensive and thorough viability appraisal which proposes 15% affordable housing. This amount of affordable housing falls short of the council's target for the area of 38%. Due to the complexity of the scheme's financial inputs, the District Valuer's Service has been commissioned to assist the Council in its deliberations. Costs associated with the lease surrender of Maxell and the payment to the HCA in respect of the release/modification of various covenants on the land in their favour have had to be included in the assessment. These figures represent a very significant cost to the developer. A developer profit level consistent with other schemes in the Borough has been allowed. The DVS queried the valuation of the site given the nature of the site (part employment/part Green Network-agricultural). The sums however were confirmed as reasonable on a site of this type. The DVS confirmed that an assessment based on nil affordable housing would provide a surplus in excess of £4m. At 15% affordable housing, the scheme would be viable with no surplus. The DVS recommends that should permission be granted on the basis of 15% affordable housing (based on a 50:50 tenure split – social rent/shared equity), which is less than the policy requirement, a review mechanism should be included in the section 106 Agreement. Although this would provide a means of taking account of any increase in values/costs over time, the applicants maintain that the DVS report acknowledges that the development is not viable with the 15% affordable housing figure but the company is willing to provide this given the policy position. However this is on the understanding that there would not be a review clause as this will cause yet further uncertainty and will impact on the applicants' ability to deliver a phased release of development. On balance, given that a higher affordable housing figure will be achieved than the viability assessment justifies, a review clause is not recommended.

On 9 December 2010 the Department for Education published a paper, National Pupil Projections: Future Trends in Pupil Numbers (OSR31/2010). This Government Paper confirms a national pattern of peaks and troughs of school pupil numbers, which is mirrored in the Borough. The Paper also shows that it is necessary to retain 15% surplus school pupil places to effectively manage the changes in numbers in the indigenous population. That 15% surplus does not take into account additional children moving into an area from a new housing development. At the present time, both nationally and locally, pupil numbers are at the bottom of a trough, which is likely to peak in 2020/21. Presently, the Borough Council does not have 15% surplus

places available and the Authority will therefore be under pressure to comply with its statutory duty to provide places for the existing population.

The provision of affordable housing is necessary in order to be consistent with Core Strategy Policies CS1 and CS7, Local Plan Policy H23 and the NPPF. The contributions towards highway improvements reflect the features of the site, the necessity for road widening and its location relative to public transport and the negotiation of these contributions is consistent with Local Plan Policy T22. The provision of a financial contribution towards educational improvements is necessary because of the link between the development and the impact on local school rolls and contribution to off-site play provision in the vicinity of the site will help mitigate against the increased population pressure on these facilities in accordance with CS10, OL13 and LR6. The remaining section 106 contributions as detailed in this report are set out as follows:

Education - £1,614,205 (comprising £1,085,231 Primary; £528,974 Secondary)

Open Space £130,000 (Off-site leisure provision eg Apley Pool)

Maintenance of Open Space £367,824

Public Art £100,000

Toucan Crossing £50,000

Public Transport £30,000

Shawbirch roundabout £112,350

Leegomery roundabout £46,200

Sustainable Urban Drainage Systems maintenance: Clause to secure a commuted sum for maintenance of the SuDs features if deemed necessary and not operated by a management company. (To be confirmed)

Travel Plan Monitoring £ 5,000

Planning & Financial Monitoring £20,000

## CONCLUSIONS

At the national level, sustainable development is promoted through the NPPF, which defines three dimensions: economic, social and environmental, which cannot be considered in isolation. The proposed development will help provide the delivery of new homes in a short time frame. The proposal for 540 dwellings together with a new Local Centre will have a positive effect on the local economy providing construction investment and employment in the short term and by delivering additional homes, will increase spending within the local economy longer term.

The Council is currently unable to demonstrate a borough-wide five year supply of deliverable land. This means that under the NPPF, development plan policies relating to housing supply can be regarded as out-of-date and cannot be relied upon alone to justify refusal and there will be a presumption in favour of sustainable development. However other relevant policies in the development plan can still be relied upon if they accord with the NPPF.

The development proposal would deliver 15% affordable housing on the site, i.e. 81 affordable residential units and would, therefore, fulfil a social role by delivering a mix of affordable and open market housing to meet current and future needs with a range of tenures. The mix of housing proposed together with affordable housing will encourage a mix of households. This provision would therefore help promote the national policy to deliver the right type of housing within the right place and at the right time to meet the market need and the Council's growth ambitions.

Clearly, Wellington and its neighbouring communities are considered to be a sustainable location suitable for accommodating potentially significant amounts of housing growth in the local context. It is a market town with a wide range of facilities, a central retail core offering a wide range of services and excellent transport links. The outlying communities such as Apley, Shawbirch and Leegomery themselves depend on Wellington for their services while enjoying local centres themselves. Although highly likely to be included within the forthcoming Local Plan for development, in the absence of an up-to-date Plan at this juncture, the material considerations promoted in the NPPF in relation to housing supply, carry significant weight - so much so, that the principle of development at appropriate urban-rural fringe locations cannot really be questioned provided they meet the tests of sustainability.

There will be no adverse effect on any historic assets in the vicinity of the site. There are no technical reasons on grounds of drainage, highways or ground conditions to warrant a refusal, as matters can be mitigated against by the imposition of planning conditions and necessary s106 financial contributions. The site is not a designated or protected landscape or wildlife site and the development will not have an adverse impact on the nearby Apley County Wildlife Site. There is no protected flora or fauna on the site that that would prevent development, and which cannot be dealt with by proposed mitigation measures or planning conditions. Officers are generally satisfied that the proposed indicative layout in itself theoretically demonstrates that a suitable design layout, incorporating distinctive and definable character areas with a mix of densities can be accommodated on the site and the proposed illustrative layout could be worked up into a detailed scheme in any subsequent Reserved Matters application, should outline planning permission be granted.

The proposal consisting of housing and a local centre is considered to represent sustainable development as detailed in the NPPF. The adverse impacts of granting planning permission would not significantly and demonstrably outweigh the benefits assessed against the policies in the Framework. Whilst the development would have some conflict with Green Network policies, the development would provide a useful contribution to housing land supply in addition to the economic and social benefits that would flow from this. The loss of Green Network is compensated for by significant environmental enhancement of the Apley Pool area.

Each of the planning issues considered in respect of the current application has been carefully considered by officers and appropriate weight has been attached to each planning issue in reaching a planning balance. The proposed site is available and deliverable, the Council can ensure this delivery with the use of appropriate conditions. It would contribute to the provision of housing land for the Borough and it is proposed to be developed in a sustainable and accessible location within fairly close proximity to Wellington.

The proposed development site can be adequately developed without detrimental impact to highway safety, nor any adverse impacts to ecology, drainage, and will not be adversely affected by previous land uses, noise or air quality. Furthermore the proposal is as suitable use which will not cause harm to the surrounding residential amenity provided adequate conditions are imposed.

This application has generated considerable objection and concern locally. Officers have recognised the strength of local opinion. However the issues that have been raised have been carefully considered and amendments and clarification sought on several key issues. In addition to the benefits derived from meeting housing need, it is concluded that the development would not cause significant harm and is in accordance with national and local planning policy guidance

It is therefore **RECOMMENDED** that this proposal be granted outline planning permission, subject to the imposition of appropriately worded conditions and the completion of a prior Section 106 Agreement. It is also recommended that delegated authority is given to the Development Management Service Delivery Manager to amend and add conditions as appropriate.

#### Proposed Conditions

1. Time Limit: (Outline) works to commence within 2 years;
2. Time Limit for submission of Reserved Matters applications (7 years);
3. Reserved Matters to include layout, scale, appearance and landscaping;  
Requirement to submit for approval a Development Framework and Design Codes
4. Approved plans – Location Plan, Illustrative Masterplan, Design & Access Statement and Character Areas Matrix;
5. Up to 540 dwellings. To be subject of agreed phasing plan
6. Development parameters plan. No development other than areas of car parking and public open space shall take place within the areas marked on that plan.
7. LEAP/NEAP details to be agreed prior to commencement of development together with its management arrangements and be fully implemented/operational before completion of xx no.of houses on site (to be agreed) together with minimum separation distances from the nearest dwelling.
8. Development shall not take place within a Phase until details of Affordable Housing Units for that Phase have been approved by the Council.

9. Surface Water drainage details to achieve greenfield run-off rates
10. Surface water and foul drainage details to be agreed and to include sustainable urban drainage systems
11. Archaeological scheme of investigation
12. Ecology conditions as recommended by the Planning Ecologist
13. Biodiversity Management Plan to be agreed
14. Landscaping implementation to include a 25 year management plan
15. Tree and hedgerow protection
16. Connections to existing Public rights of way and enhancement
17. All highways, footways and cycleways, bus stop and pedestrian link shall be designed and completed in accordance with the highways Authority specification
18. Details and agreement of Public Art
19. Submission of a full travel plan to be agreed
20. Samples of materials
21. Scheme to be agreed for the protection of dwellings within the development from road traffic noise.
22. Construction method statement with measures to control dust, noise, vibration, light and odour.
23. Hours of construction
24. Contaminated land mitigation
25. Informatives

TWC/2014/0963 Land adjacent The Three Fish, Stafford Road, Newport, Shropshire  
Erection of a foodstore (Use Class A1) and associated parking, access and ancillary works

**APPLICANT**

Growing Enterprises Limited and Lidl UK GmbH, Nia Russell

**RECEIVED**

29/10/2014

**PARISH**

Chetwynd Aston and Woodcote, Newport

**WARD**

Church Aston and Lilleshall, Newport South

**OFFICER**

Gareth Thomas

OBJECTIONS RECEIVED: Yes

MAIN ISSUES: Retail need, impact on Newport town centre, accessibility, impact on highway network, sustainability.

**PROPOSAL:**

This is a full application for the construction of a new foodstore with associated car parking, servicing and landscaping on land fronting the Newport by Pass (A41), at the Mere Park Garden Centre complex.

The proposed store has a gross floor area of 1,901 sqm. The net retail floorspace would be 1,286sqm and there would be an additional 600sqm given to areas for offices, storage and staff accommodation. 80% of the net sales area would be given over to the sale of convenience goods and 20% to non-food items. There would also be a dedicated car park for the retail unit to accommodate 62 vehicles. Access would be off the spine road that runs through the Mere Park Garden Centre accessed off the A41 by-pass. The spine road connects to the Stafford Road (A518).

The applicant is Growing Enterprises Limited and Lidl UK. Lidl operate a foodstore on a "discount retail food store" concept stocking a more limited number of product lines than "mainstream" operators (between 1600 and 3000 lines or less than 10% of the range sold in mainstream foodstores) and because of a set format and no-frills style presentation costs can be kept lower than most other supermarkets. The offer is predominantly convenience goods and comprises typically a range of fresh and frozen pre-packaged meats, dry groceries and frozen foods, tertiary branded wines and spirits, loose and pre-packaged fruit and vegetables and a "bake-off" bakery. It also offers a basic range of non-food household items and non-food specials including electrical, gardening, stationery and sports goods occupying some 20% of the sales area. According to Verdict, these stores retail their products at 30% lower than the large retailers.

According to the applicants and based on company averages, the proposed store will generate a turnover of £2.38million per annum (convenience goods) and £0.59m per annum (comparison goods). Discount stores typically have just two deliveries per day for all products with a total unloading time of 45 minutes.

An identical application was Refused by Planning Committee on 2nd July 2014 for the following reasons:

1. Notwithstanding the existing bus service close to the site, the application site is not accessible by a choice of means of transport to a satisfactory level for food retailing, where good access for those without a car is key and where social exclusion issues are to be avoided. The proposed development is therefore contrary to NPPF and Core Strategy policies CS7 and CS9.

2. The proposed development would unnecessarily extend built development into the countryside on this greenfield site where development is strictly controlled and would tend to consolidate a mixed use, out of centre location which would be undesirable in terms of creating an alternative retail focus to the town centre and hence would be contrary to the NPPF, saved Wrekin Local Plan policy S1 and Core Strategy policy CS7.

This refusal of permission is currently the subject of appeal with a public inquiry scheduled for August 2015.

A copy of the report to Members last July is attached to this report. Given that the latest proposal was considered only very recently, the report on this resubmitted application has avoided repetition and Members are invited to read this report alongside the July report. The Council will need to defend its position at the appeal inquiry. The Council's case at the inquiry will attend to the two grounds of refusal. It will be for interested parties to invite the Inspector to consider other issues such as retail impact. This is an important point as the Council is currently being asked to carefully reconsider its position in relation to whether a further retail store in addition to those either with planning permission or under construction will be likely to have a significant adverse impact on Newport's town centre. It is your officer's view however that the LPA cannot now change its position at the inquiry and effectively re-open retail impact issues. This is discussed later in the report.

As Members will recall, a second proposal for a discount food retail supermarket was considered at the same meeting of Planning Committee last July. The second application, submitted by Aldi, proposed the erection of a similar sized discount store at the former Focus DIY store at Audley Avenue. Committee resolved to grant permission and that development is currently being implemented. It is important to note that although the two applications were considered at the same meeting of Committee, the applications were dealt with separately and at no time did officers suggest that there was a need to compare the two sites in strict sequential terms as both sites were deemed to be out-of-centre sites and in strict planning terms were comparable in terms of location (when applying the sequential test). It was believed however that the Aldi proposal had merit having regard to a number of issues, most importantly that, in the view of the Council, the site compromising brownfield land was reasonably located and accessible to the town centre.

In re-submitting this application and, at the same time, lodging an appeal, the applicants have sought to address the two reasons for refusal. In terms of the first ground of refusal, the applicants seek to demonstrate that the site at Mere Park is indeed accessible by a range of modes of transport. The applicants now propose the provision of an improved subsidised bus service to the site, which will actually divert the present routing of the existing Newport-Stafford service into the Garden Centre complex. In addition, the applicants now propose to provide an enhanced crossing over the A41 for pedestrians and the creation of a 3 metre wide pedestrian cycleway from this crossing point down the A41 and into the Garden Centre complex with a further crossing across the Centre's access road and into the store car park, which leads to the entrance to the proposed store.

In terms of the second ground for refusal, the applicants have submitted a landscape and visual assessment to demonstrate that in their view, the application site cannot be categorised strictly as "open" countryside and that it is "urban" (or at least urban-fringe) in context, enclosed by landscaping on three sides and that the site does not offer views from or to the wider landscape. The applicants point out that reference to CS Policy CS7 in the second reason for refusal is contradictory and incorrect. This Policy it is argued does not provide a blanket ban on all developments outside the development boundary – developments will be "strictly controlled" and limited to development that "meet the needs of the area". The reason is a "contrived" one according to the applicants and the Local Planning Authority has already granted planning permission at several greenfield locations in the town, in recognition that Newport requires the release of greenfield sites to achieve its growth potential. Members are also asked to note that the applicants have recently submitted a second application at Mere Park to convert the existing Garden Centre to a foodstore. That proposal seeks to make use of the fact that a Lawful Use Certificate exists (following a High Court judgement) for use of the main garden centre buildings as open ended Use Classes Order A1( retail). Planning application Reference TWC/2014/0935 depicts how Lidl could operate from within the existing Garden Centre premises with modest adaptation and alteration. The applicants argue that this "fall-back" position is an important material planning consideration that should be given due weight in the planning balance. Lidl themselves have written to the LPA confirming that this fall-back position is indeed a reality and that they will take up this alternative should planning permission be refused for the resubmitted application. The alterations include the demolition of open sided additions at the Garden Centre and minor physical alterations to the building including the provision of a suspended ceiling. It is unlikely that the LPA will be able to resist the second application in planning terms.

Furthermore, Members will recall that during the processing of both the Aldi and Lidl proposals last year, the matter of town centre impacts was the subject of much debate. The NPPF requires such impacts to be assessed for all developments that exceed 2,500 sqm floorspace. This threshold is an important consideration again in this proposal. Later in this report, it will be noted that several objectors, including three consultants acting for competitor retailers (Aldi, Co-op and Audley Avenue

Business Parks) maintain that while the NPPF is silent as to whether a retail impact assessment is required in situations where a number of retail developments are proposed which cumulatively take the total floorspace well in excess of 2,500 sqm, the LPA should not ignore the issue altogether. Objectors also maintain that the cumulative impact of the two food stores in the pipeline at Audley Avenue together with yet another out-of-centre store at Mere Park would have a significant adverse impact on the vitality of Newport Town Centre.

The Council obtained legal opinion from Counsel on this matter last year. It was his opinion that in the absence of a locally-set lower threshold contained in an up-to-date Local Plan, the threshold set in the NPPF should prevail. It was of course the NPPF that introduced the 2,500 sqm threshold, which post-dated the Wrekin Local Plan and Core Strategy. It is understood that a much lower threshold will be recommended in the forthcoming Shaping Places Local Plan. But this is considered too late for this application.

The applicant makes the same case that this application should not be the subject of a retail impact assessment. A sequential assessment has however been undertaken.

## BACKGROUND

The Mere Park Garden site including the application site has been the subject of protracted planning history both in terms of garden centre uses and proposals for foodstores. These are detailed in full in the attached July report. In addition to the Lidl proposal refused last July, a previous similar application was the subject of an appeal against non-determination, with the Council maintaining a position that it should be refused. This appeal was dismissed following a public inquiry in September 2010. The Inspector considered there was a sequentially preferable site at Water Lane that could accommodate the development despite land being in multiple ownerships. He also considered that the location of the Mere Park site out of the town centre was difficult for pedestrians and cyclists to get to, and despite the 481 Arriva bus service stopping outside Mere Park on the A518, the Inspector considered that customers would still then need to walk across the Mere Park complex to the store itself and that this would be an ordeal for some. These factors combined to engender social exclusion which the Inspector considered to be contrary to policy.

The July 2014 report also explains that a number of changes to the planning scene at Newport have occurred since the Inspector dismissed the call-in appeal. It is appropriate to further amend the section of the July 2014 report where yet further changes have occurred over the last six months (although these matters will be further considered under the planning considerations section of this report). These include:

- a) Changing scene in relation to retail food store applications in Newport, namely:-
  - TWC/2011/0632 - Land at Audley Avenue for a 5,084 sqm (gross) supermarket (outline planning permission) allowed on appeal in August 2012 with

legal challenges failing and the original appeal decision standing, However the original end operator Morrison's has now decided to not proceed. The owners of the site (Audley Avenue Business Parks) have recently submitted a planning application to vary the terms of the permission to effectively allow the building approved for the Morrison's store to be subdivided into smaller retail units – both convenience and comparison goods (application Ref. TWC/2014/1120).

- TWC/2011/0916 - Land west of Station Road for a 8,100 sqm (gross) supermarket (St Modwen/Sainsbury's) – this application has been Withdrawn.
- TWC/2013/0887 - The former Focus DIY on Audley Avenue for a 1,745 sqm (gross) discount foodstore for Aldi. Full planning permission Granted and this store is currently being built out.
- TWC/2014/0935 – Mere Park Garden Centre – External alterations to existing Garden Centre buildings. Application awaiting determination.
- TWC/2013/0959 - construction of a new foodstore with associated car parking, servicing and landscaping on land fronting the Newport by Pass (A41), at the Mere Park Garden Centre complex. Refused July 2014 and subject of a current appeal to the Secretary of State.

b) Potential population increase in Newport with grant of several large housing applications including a further permission for residential development and an Extra Care housing village opposite the site (revising the extra care village only scheme previously approved). This allows for 111 new dwellings and 108 units as extra care. Although recorded in the July 2014 report, it is important in the context of the applicants' submissions to note that a Certificate of Lawfulness now exists following High Court judgment that permits the use of the Mere Park Garden Centre as an open A1 retail use. The applicants maintain that this "fall-back" will allow Lidl to utilise the existing Mere Park Garden Centre building in the event of permission being refused for the current proposal in line with current application TWC/2014/0935 above.

## THE SITE

A detailed description of the site is described in the July report. This explains that the site together with the Garden Centre complex and hotel and pub lies outside the defined built up area of Newport and is within the rural area.

## CONSULTATION RESPONSES

Newport Town Council - Newport Town Council once again discussed the proposal for a low cost super market on this site. Acknowledging that time has moved on, and the economic climate has changed for larger super market retailers and the deliverability of new stores. They now consider that the application has some merits and are willing to support the proposal. However still consider that certain elements need to be addressed fully and that previous comments are still very relevant and are reiterated: • The location of the premises for use as a low cost super market is not readily accessible by foot. Members acknowledge the proposal for re-routeing and provision of a bus stop and also the 'free' bus ride, however would want re-

assurance and conditions that this would be maintained for the 10 years as suggested. • Members feel that the current traffic access/egress and highway procedures from Mere Park Site on to the A518 and in particular the 'No Right Turn' must remain and be maintained to allow for free flow of traffic movement and to prevent accidents. • Members' consider that very serious consideration to provide some classification of traffic calming, pedestrian crossing point scheme or a pedestrian bridge is imperative if this application is granted and a wider diverse retail offering is increased. • Members would not wish to lose the very popular garden centre and café. • Members welcome the potential for an increase in employment and would wish that all opportunity is provided for local residents to access lawful employment with robust and appropriate contacts. • Consideration is required regards any proposal for 24 hours deliveries, at this location it is thought to have a potential nuisance component with the close proximity to the existing nearby Hotel and the nearness to the residential dwellings currently under construction on the Stafford Road. • Newport Town Council would welcome the opportunity to be involved with some input in the Head of Terms S106 agreement

TWC Highways - Previous application was supported (TWC/2013/0959) subject to conditions and S106 contributions. ARRIVA have confirmed that they are prepared to divert the 481 through the garden centre site to the internal lay-by. The access road alignment of the road needs to be addressed at this stage and that the submitted design is tracked to show the bus can navigate the site and exit at the left turn only exit to the A518. In conjunction with the above the Applicant now proposes to widen the existing footway to a 3m wide footway/cycleway. This is shown running alongside the A41 and the looping back alongside the internal service road back to the garden centre. The route leads onto Stafford Road but disappears as there is currently no footway/cycleway on Stafford Road – need to indicate start/termination of the route. The logical point would be at the Daniels Cross roundabout but it should be noted that this is subject to changes under S278 in connection with a different development. Additional detail will be required particularly if it is to tie into the aforementioned S278. The works along the A41 will need to be covered by a S278.

TWC Drainage – Recommends condition relating to greenfield run-off rates for surface water drainage.

Third Party Representations:

11 letters of support have been lodged. The supporters state (in summary):

- Now that Sainsbury's and Morrison's are no longer in the market there is room for another store
- On a bus route and therefore convenient
- Within walking distance of large residential area
- Need for a discount store such as Lidl to provide choice
- Will avoid people shopping at other centres including Lidl at Hadley
- Particularly suitable for elderly shoppers due to Lidl's pricing policy
- Will provide much needed competition to expensive town centre stores

In addition, 454 letters (pro-forma comments) were sent to Lidl during the pre-application public consultation. A copy of these letters has been forwarded to the Council with Lidl providing the following summary of the comments made:

- There is a requirement for additional supermarket provision in Newport – 18
- The store will prevent leakage out of Newport / the resident currently travels out of Newport to shop – 32
- The store will provide required competition into the town – 34
- The store will create needed jobs plus other economic benefits – 7
- Support of the application due to the prospect of a Lidl store – 18
- General comments of support without specific reasons - 345

Objections to the proposal have been lodged by the following:

NJL Consulting on behalf of the Co-operative Stores: A legal opinion is provided from their QC on the issue of the Council having not invited the applicant to undertake a Retail Impact Assessment (RIA) of impacts on the town centre. The QC explains that it is open to the Council under the Development Management Procedure Order 2010, as amended, to request submission of particulars or evidence that it considers reasonable to enable it to properly assess any planning application. The NPPF requires RIAs to be submitted for town centre developments that exceed 2,500 sq m although locally set threshold can be adopted by LPAs where this is justified in the context of its Development Plan. However there is a judgement to be made if there is potential for there to be significant adverse retail impact (NPPF paragraphs 26 & 27) which should be tested via RIA. Paragraph 26 does not preclude LPAs from requesting RIAs. No evidence to support the conclusion that every development below 2,500 sq m would not have a significant adverse impact. Paragraph 26 is silent on what LPAs should do if faced with two or more developments that fall under the threshold – it would be irrational as it would fail to address cumulative impact. Cumulative impact is a material consideration and failing to address this issue would make the Council vulnerable to challenge. NPPF is merely guidance.

On behalf of Aldi –

Firstly, Cameron Rose, Transport Consultants – Object on following transport related grounds: a) Accessibility – previously examined by Inspector who concluded insufficient for the needs of a foodstore due to segregation from the town centre by the N/S alignment of the A41. No certainty what is proposed to improve the attractiveness for pedestrians. Proposed pedestrian/cycleway is inadequate, requires land to be acquired from Beefeater restaurant at Mere Park and/or removes boundary hedgerow at this point. Pedestrian guard rail for crossing the A41 is inadequate. b) Accident analysis – the TA is incomplete without one. c) Vehicle Traffic Attraction is based on a single store at Corby, which is not representative. The A41 is not comparable to the Corby store located in a residential area with active frontages. The resultant trips are underestimated by 150 two-way trips at peak hour periods. d) Use of out of date Operational Performance Model in the TA. Use of out dated modelling software is very poor practice and could compound any mathematical error already stated above. A development of this nature that impacts

on the operational performance of an important link should be assessed using up to date methods and best practice. e) Arriva's agreement to divert their bus service is dependent on applicants realigning the highway – but no details submitted to demonstrate this is possible. f) Plans showing tracking of HGV inaccurate - the manoeuvre of HGVs is directly at the site entrance, thus any HGV deliveries will significantly disrupt the free passage of customers and staff. g) The absence of any s.106 Heads of Terms; does not demonstrate that the application supports the highway improvement initiatives of Telford and Wrekin Council. This matter also needs to be examined and concluded prior to a decision being taken on this submitted application.

Secondly, Jones Lang LaSalle planning consultants: Previous two grounds for refusal stand. JLL requests that the Council seeks guarantee of the bus service to be included in a S106 agreement, which will need to be operational 5 years after first trading (2021). So far there is no evidence of draft Heads of Terms being submitted by the applicant on this matter. The Inspector's decision (APP/C3240/A/10/2125557) in dismissing the former planning application of 2010, was explicit that the 'potential pedestrian catchment of the proposed store, which is often significant, would be limited'. Site at Mere Park is severed by A41 – undesirable journey for pedestrians. Irrespective of the proposed widening along the A41, pedestrians are required to travel along a very busy and fast section of highway. There are no signal controls or toucan crossings or similar mechanisms proposed at the A41/A518 roundabout to improve safety. It is clear that the nature of the site's location in respect of pedestrian shoppers and cyclists has not improved sufficiently, thus is not accessible to all sectors of the community. The proposal remains contrary to Policy CS9. Furthermore, the identified need for a discount foodstore to serve the Newport community is currently under construction and provides an accessible food shop as required by the Policy. In terms of sequential test there is a site available on a brownfield site at Audley Avenue now that Morrison's has withdrawn from its contract. The site is within the open countryside. The development is contrary to NPPF paragraphs 17 and 111 and also contrary to Policy CS7 as it further erodes the character of the countryside. The application site acts as a landscape buffer to the neighbouring development and reinforces the countryside nature of this location. It provides a green lung on the edge of the Mere Park garden centre development and buffers the surrounding countryside from the existing development. There is no need for development on this plot of land. No photomontage visuals submitted to show before and after development of the site. Also does not show loss of trees and hedgerows following development. In relation to the "fall-back" position, Lidl would need to demolish and extend the existing Garden Centre building (note – it appears that JLL is not aware that a current application for works has been lodged as a separate application at the time of this objection). JLL go on to explain that in their view the building is at Mere Park which is proposed as the "fall-back" position is quite unsuitable for a retail operation – points made include issues relating to trolley bay problems, till operations, internal arrangements, requirements for modern ventilation etc. Although the Garden Centre building could provide the required sales area for a

Lidl store, the layout, elevations, materials and requirement for adequate delivery space mean that the operator cannot operate from the existing store as existing. So not only is this a greenfield site but even if supported, it would not constitute an effective and efficient use of land.

Indigo Planning, on behalf of Audley Avenue Business Parks (owner of the foodstore site at Audley Avenue granted following call-in):

At the time the original application was refused, TWC approved an Aldi foodstore application on Audley Avenue (July 2014). Our clients have an unchallengeable foodstore permission on land at Audley Avenue (August 2012). At the Inquiry into AABP's consented scheme, the Council's evidence was that there is only capacity to support one additional foodstore in Newport (paragraph 46). AABP's consent allows for the 'one additional foodstore'. Given that Aldi also have consent now, granting a further consent for Lidl will have a significant adverse impact on Newport town centre. We remain unconvinced that issues of retail impact have been appropriately addressed by the applicants.

It is a matter of fact that in determining an appeal in to proposals to develop a discount foodstore at Mere Park in 2010 (ref. APP/C3240/A/10/2125557), the Inspector concluded that the introduction of a discount foodstore in Newport would result in a reduction in the range and quality of the convenience offer in the town centre. In short, he considered that there will be a significant detrimental impact if a discount foodstore opens outside the town centre. This is a recent and relevant Appeal decision to any proposals for a new discount foodstore in Newport. It is undeniable that a third new foodstore in the town will undermine convenience retailing in the town centre. In short, the Lidl application must be refused on impact grounds. Despite claim of "fall-back" position they can't readily trade without planning permission. Secondly, Lidl should be forced to trade from the Garden Centre as the overall trading will reduce (thus smaller TC impact).

This application is for the same development within the countryside. Therefore, it must still conflict with policies S1 of the Local Plan and CS7 of the Core Strategy as well as the NPPF and should be refused for the same reason as the original Lidl application. The 2011 Inspector found that a proposal for a discount retailer at Mere Park was unacceptable because of the conflicts with Policies CS7 and CS9. Nothing has changed to over-ride the 2010 Inspector's concerns and the application should be refused because the impact will be unacceptable and the development is unacceptable in the countryside.

One individual letter of objection has also been received pointing out that there is a large population living ten minutes from Mere Park who would not go by bus but would have to cross the dangerous A41.

In response to the latest objections Lidl's Property Director has written to the LPA as follows:

In urging Officers to take the application to this Committee on the basis that they have worked hard to overcome the two reasons for refusal, Lidl would make the following points:

- Co-operative Store, Newport: there is no evidence to support rumours that the Co-op Store will be closing. In any event it is smaller than Lidl's business model. We are committed to opening the store at Mere Park and will take up the garden centre building
- The recent s73 application at Audley Avenue raises nothing new. It is expected that that development will be built out within the timeframe of the permission. The reconfigured scheme at Audley Avenue would not support the bus service provision that a Big Four operator would provide.
- CIL Regulations would prevent the LPA from seeking financial contributions for infrastructure improvements after 1st April 2015 – it would therefore lose the six figure sum from the s106 contribution at Mere Park if this application is not supported.

## PLANNING POLICY CONTEXT

National Policy and Planning Guidance:

National Planning Policy Framework (NPPF) published in March 2012 - this cancels the previous national retail guidance in PPS4.

Planning Policy Guidance (PPG) published March 2104 - this guidance cancels the previous "Planning for Town Centres: Practice guidance on need, impact and the sequential approach."

Local Planning Policy

Wrekin Local Plan 1995-2006 (adopted Feb 2000):

Policy S1 Service centre hierarchy

Policy S5 Garden Centres in the Rural Area.

Policy S12 Newport Retail Frontages

Policy S13 Newport Secondary Zone

Local Development Framework Core Strategy (adopted Dec 2007):

Policy CS2 Jobs

Policy CS6 Newport

Policy CS7 Rural Area

Policy CS8 Regeneration

Policy CS9 Accessibility and social inclusion

## PLANNING CONSIDERATIONS

The relevant planning considerations stem from the applicant's attempts to react to the two grounds for refusal to application TWC/2013/0959. However, the objectors have also made a compelling case why other matters relating to retail impact should not also be carefully assessed. Thus the principal issues relate as follows:

- Retail impact, sequential assessment and the "fall-back" position
- Accessibility of the proposed site – highway improvements, bus service
- Impact on open countryside both in terms of landscape impact and settlement planning/greenfield issues
- Planning Obligations
- Conclusions and recommendation

## Retail Issues

The NPPF places town centres at the heart of communities which need to retain their competitiveness. The NPPF sets out two tests that should be applied when assessing proposals for town centre uses (including retail) that are proposed out of centre, namely the sequential test and the impact assessment. The NPPF advice goes on to conclude at para 27 “Where an application fails to satisfy the sequential test or is likely to have significant adverse impact on one or more of the above factors [set out in para 26 of the NPPF], it should be refused”. The Council’s Core Strategy seeks to ensure that developments in Newport support its role as a market town serving a wide rural hinterland (Policy CS6). The site is outside the town boundary where Policy CS7 should apply. Here, developments are expected to meet the needs of the rural area but developments will necessarily be strictly controlled on the basis of the more traditional planning policies applicable to rural and open countryside locations. Importantly, the vision contained within the Core Strategy contains some important social inclusion objectives and desires towards a more sustainable pattern of development, including minimising the need for travel. The report to the July 2014 Planning Committee explained that the Lidl proposal fell below the 2500 sqm threshold where an impact assessment would be required. Both the Council’s retained retail planning consultants (White Young Green – WYG) and Counsel advised that the Council could not insist on a retail impact assessment, citing appropriate case law. This was supported by the applicants’ legal opinion. Objectors however consider this is too simplistic an approach which ignores the cumulative effects where more than one retail scheme is proposed in a given town such as Newport. WYG, the Council’s retail consultants previously advised, and supported by Counsel, that an impact assessment could not be requested under the terms of the NPPF for the proposed retail store, alone or in combination as part of a cumulative impact assessment. Hence the only other test is the sequential assessment.

Clearly there are differing views and opinions and your officers acknowledge that this is a difficult area of planning law. The previous report explained that a limited impact assessment had been undertaken by the applicant which drew criticisms from retail objectors for its alleged lack of voracity. No retail impact assessment has been undertaken this time on the basis of Counsel’s advice for the LPA. The LPA has not commissioned one either for the same reason. For completeness however, the July report explained that there are two impact tests contained within the NPPF, which are:

1. The impact of the proposal on existing, committed and planned public and private investment in a centre or centres in the catchment area of the proposals, and;
2. The impact of the proposal on town centre vitality and viability, including local consumer choice and trade in the town centre and wider area, up to five years from the time the application is made.

In relation to the first arm of the impact test, it remains that there are no specific proposals for Newport town centre that could be harmed by a further discount foodstore. Both the Aldi scheme that is underway and the Audley Business Parks

scheme, which has planning permission but has not commenced yet, are out of centre developments and the LPA is not required to consider (and potentially protect) these investments under this NPPF guidance approach.

In terms of the second part of the test and, as explained above, the applicants have not sought to demonstrate retail impact, relying on previous advice on the basis of 2500 sq m threshold. This is in contrast to the previous application, which did include anticipated trading figures and therefore likely impact on existing stores within the town centre. Given the LPA's stated position, the Council cannot challenge this omission. It would therefore be inappropriate to now question the solus impact arising from yet another store. The situation at Newport in terms of retail proposals is in any event fluid. The current proposal to now convert the approved Audley Avenue Business Parks approved development into smaller units demonstrates the uncertain nature of retail planning as an absolute science and that there will always be discussion and debate over impact and retail figures. Although the NPPF is silent on the issue, there cannot be much doubt that cumulative impact arising from an increasing number of proposals for foodstores in Newport could potentially have a significant impact on the town centre. The Co-op in particular is highly vulnerable and although this store is itself located on the edge of the town centre, at least one previous planning inspector at inquiry accepted that it performs as a town centre store.

That said, officers believe that the "fall-back" position (where the Garden Centre enjoys a lawful use as an open ended A1 retail use) is a material planning consideration in this instance and the current planning application to convert the buildings at Mere Park is an important consideration in the planning balance, irrespective of who is correct in terms of whether an impact assessment is necessary. Objectors will continue to suggest that the "fall-back" is largely a "white elephant" that should be ignored. They claim that had this been a realistic proposition, Lidl would have by now moved into the Garden Centre. The Mere Park Garden Centre continues to be an important local business, which appears to be trading competitively. Lidl on the other hand remain adamant that they will take over the building if planning permission is not forthcoming this time. In any quantitative analysis however, the existence of the open-ended A1 use at Mere Park Garden Centre following the LUC is an important material planning consideration. It would for instance form part of the overall retail figures for Newport in any appeal situation (irrespective of the fragility of the actual premises to perform as a modern foodstore). The applicants maintain in addition that, by virtue of the larger floor area achieved by the conversion of the garden centre when compared to Lidl's proposed floorspace, the "fall-back" position could potentially have a higher impact than the application proposal when assessed at benchmark trading levels. On balance, your officers have to rely on its own expert advice and also accept that the quantum of floorspace proposed in this application has to be factored into any retail impact assessment. Officers do not question the additional impact from the additional floorspace available under the LUC. In other words, it accepts that the fall-back position is a commitment that would need to be factored into the retail analysis.

Turning to the issue of qualitative need and consumer choice, the Council's retail consultant has previously advocated that Newport suffers from substantial leakage of retail expenditure to other centres and this was debated at some length at both the Audley Avenue Business Parks call-in inquiry and at the stalled Station Road inquiry. No-one questioned that there was significant retail expenditure leakage and certainly no-one denied that there was a gap in terms of discount retailing presence in Newport. Officers believe that this issue has now been adequately addressed following the grant of the Aldi proposal which has off-set the qualitative deficiency that existed in Newport.

In summary on the issue of impact, an impact assessment cannot be requested under the terms of the NPPF for the proposed retail store, irrespective of the fact that an additional foodstore (at Audley Avenue) has now been approved. Hence an assessment of need and impact is not necessary. There are no other development plan policies that serve to outweigh the NPPF on this matter.

Therefore, the only retail test against which to consider the application is the sequential test, and any other significant material considerations, which are discussed further in this report.

#### Sequential Assessment

Para 24 of the NPPF requires LPA's to apply a sequential test to planning applications for main town centre uses that ought to be located in town centres. Sequential preference is given to sites within centres, followed by edge of centre locations and only if suitable sites are not available should out of centre sites be given and provided these are accessible sites that are well connected to the town centre. The guidance then goes on to say that applicants and local planning authorities should demonstrate flexibility on issues such as format and scale. The applicants have undertaken a sequential assessment of potential alternative sites including all those previously undertaken and detailed in the July 2014 report, which include the edge of centre sites at the former concrete batching plant on Audley Road and the backland "burgess plots" at Water Lane, both of which were dismissed by the Council previously as potential sites. Turning to out-of-centre sites, an assessment has been undertaken of the Station Road site and the former "Focus DIY" site at Audley Avenue site the subject of the Aldi permission. The applicants suggest that neither are realistic opportunities given the Council's decision (acting as landowner) to promote the Station Road site for housing and the Audley Avenue site being now built out by Aldi.

The sequential analysis undertaken is accepted as being robust by your officers. A potential site has now come forward following submission of an application to sub-divide the Audley Avenue Business Parks proposed food store building allowed following the "call-in" planning inquiry to three units for convenience and comparison purposes. This site is also an out-of-centre site but clearly also a brownfield site. It could conceivably accommodate a Lidl-sized food store. This alternative has not been considered by the applicant. The only planning point in its favour arguably is that it is brownfield. That said, the NPPF does not differentiate between greenfield and brownfield sites when applying the sequential test. Notwithstanding, there is no

certainty that this site can be made available to Lidl or that planning permission will be granted. Accessibility was an argument in favour of the “Morrison’s” proposal, with the offer of a dedicated bus service. The LPA is unable to verify at this moment whether the revised proposal for a more modest retail offer would generate sufficient funds to support a dedicated bus service.

It is accepted therefore that presently there are no other town centre or edge of centre sites that are available, suitable and sequentially preferable.

#### Accessibility

As there are no alternative town centre or edge of centre sites available, consideration now needs to turn to the application site, which is an out of centre site but whether it can reasonably be considered to be “accessible”. A site’s accessibility to the town centre is an important consideration under paragraph 24 of the NPPF. This necessitates looking at the potential for linked trips to the town centre, together with their connectedness therewith and to then apply some degree of “preference” or choice between sites (if there are more than one) to ensure that the best location is chosen. This assessment was undertaken last year when there were two sites competing against each other. It was concluded however that the Mere Park Garden Centre site was not particularly accessible in terms of connections with the Newport’s town centre by a choice of travel modes.

Despite the distance to the town centre (some 1,500m), it was previously accepted that a large percentage of shoppers would inevitably travel to the site by car. For pedestrians and cyclists, both the Inspector at the previous Mere Park call-in inquiry and Members last year decided that the prospect of having to cross the junction of the A41 and A518, which is heavily trafficked and includes the use of many heavy goods vehicles, would be intimidating. The issue of the bus service stopping on Stafford Road and offering a convenient and subsidised service was considered but discounted as shoppers would have to walk from the Stafford Road bus stop across the Garden Centre complex to the store entrance, a considerable distance when carrying shopping. At the time of the previous application, the applicant had been unable to persuade the bus company to divert its service into the Mere Park complex, which would have offered a more convenient and commodious route for shoppers to the store. The Inspector at the Audley Avenue call-in inquiry believed that the main disadvantage of any foodstore at Mere Park “is that it is on the eastern side of the A41 which is a busy dual carriageway. Whilst it is possible to cross the roundabout this road would act as a considerable barrier to pedestrian movement”. The applicants have provided revised plans that depict how enhanced pedestrian and cycle access will be provided to the site. The proposal shows a 3m wide pedestrian-cycleway starting at the edge of the consented Stafford Road residential/care village site running to a point opposite the refuge close to the roundabout on the A41. At that point it cuts across the A41 to the opposite side of the road and then runs down the A41 to the southern entrance into the Mere Park Garden Centre and the hotel and public house “campus” before crossing the internal roadway and into the proposed Lidl car park and store entrance. In terms of bus routing, the same plan shows the improvement of the existing internal roads within

the Mere Park “campus” to enable the bus service to flow through the internal roadway together with realignment of the island onto Stafford Road close to the roundabout of the A41/A518. The same drawing also depicts the bus lay-by just beyond the entrance into the hotel car park but which is also convenient to the proposed Lidl store.

In addition, the owner of the Mere Park Garden Centre (and owner and part applicant of the application site) has now negotiated a separate agreement with Arriva, the local bus operator to divert the Telford-Stafford No. 481 bus service into the site. Previously, the arrangement was restricted to the owner providing a subsidised service for passengers travelling to and from the town centre. At that time there was no proposal to divert the bus service into the campus and passengers still had to cross the busy highway and walk 300m to the store entrance. This according to the inspector at the previous Mere Park appeal would be “something of an ordeal to many people carrying heavy shopping. There is also no facility, existing or proposed, to assist bus users in crossing this busy road, to or from the north side bus stop, which is close to a roundabout”.

Despite earlier conclusions, recent planning permissions may well result in a potential increase in customers walking and cycling to a store at this location. In terms of population catchment, the applicant’s own figures suggests that with a total of nearly 5,000 population (2,000 households) living within a distance of 1.2km of the site and over 500 population living within 500m, the potential walking and cycling to the site could be significant – the Mere Park Inspector also suggesting that “the potential pedestrian catchment ... is often significant at discount stores”.

Previously, it was considered that walking and cycling to Mere Park posed physical difficulties. The question that now needs to be considered is whether the current revised proposal overcomes those difficulties. This is important given the greater numbers of customers walking/cycling to the store and the nature of shopping habits at discount stores. It must be pointed out that the local highway authority has not raised objections to the development and it has not supported proposals to provide a controlled crossing at this location due to this potentially disrupting the free flow of traffic on a busy section of highway. Thus the issue is whether in planning terms the site is accessible to other modes of transport. Policy CS9 aims to improve social inclusion and accessibility by making sure that everyone is afforded a reasonable opportunity to access food shops. It also seeks to locate such facilities in existing centres in order to minimise the distance people travel and to make them accessible by public transport, walking and cycling.

It is accepted that the offer of a bus service being diverted through the Garden Centre campus coupled with the continuing subsidising of passenger fares are strong factors in favour of the revised proposal. The applicant suggests that this will occur in any event and that there is no need to secure a s106 Agreement to ensure that Lidl is also bound into the Agreement and that the service will have longevity. However, officers believe that there will be a need for this to be controlled via a s106 Obligation. The Obligation will need to ensure that sufficient funding is made available for a minimum period of five years following the opening of the foodstore.

It is also accepted that there is now greater certainty that improvements to the existing highway to provide 3m wide pedestrian footway/cycleway are possible, subject to full technical details and highway safety audit. This could also form part of a section 106 Agreement and/or highway condition.

On the matter of section 106, unfortunately the applicant has not provided the LPA with an up-to-date s106 Heads of Terms. This is discussed further later in this report.

The principal issue in relation to accessibility relates to the segregation of the Mere Park Garden Centre site from the town centre by the north / south alignment of the A41. This remains an impediment despite proposed improvements. This strategic highway route forms a natural boundary to pedestrian movements within the town and despite improvements for pedestrians and cyclists, the fact that qualitative improvements to the retail offer has now been met at Audley Avenue (Aldi) means that the previous imperative no longer exists and there is no reason why the Council needs to compromise over this issue by promoting a site that is not well located and still has poor accessibility. The improvements are designed to demonstrate that the footway/cycleway meets highway standards, a fact not in dispute. But these improvements do very little to promote a convenient and accessible route for the increased number of customers arriving by foot or bicycle. Essentially nothing has changed in this regard since last July or the earlier Inspector decision.

Officers consider that the issue of the “fall-back” position does not make the site more accessible. Officers do not attach much weight to the likelihood or reality of Lidl, or any other supermarket, occupying the garden centre building despite Lidl’s current application and stated commitment to taking up this floor area in the event of planning permission being refused.

#### Brownfield vs Greenfield land

The application site at Mere Park lies outside the urban boundary of Newport, beyond the by-pass (A41) and on a greenfield site in the countryside/rural area. One of the NPPF’s core planning principles to achieve sustainable development is that LPA’s should “encourage the effective use of land by re-using land that has been previously developed (brownfield land), provided that it is not of high environmental value” and this is reiterated in para 111. The development plan also encourages the efficient use of land as part of its spatial objectives. Previously, the Council was being asked to support the Mere Park site because of a deficiency in the range of shops available to the Newport population. But this qualitative deficiency has now been resolved following the grant of permission for a food discount supermarket on a brownfield site within the urban boundary of Newport i.e. the proposed Aldi site on Audley Avenue. Officers consider that there is no further requirement in terms of qualitative deficiency or argument for releasing the greenfield site at Mere Park.

#### Countryside encroachment

The application site clearly lies outside the urban boundary of Newport in the countryside/rural area. The site is severed from Newport by the A41 and so is not even contiguous with the Newport urban boundary. Whilst the NPPF seeks to

encourage economic growth in rural areas in order to create jobs and prosperity, this development is not being promoted as a necessary rural enterprise. Core Strategy Policy CS7 deals with the Borough's rural area and seeks to limit and control development in the countryside such that development should be limited to that which is "necessary to meet the needs of the area". But Newport's rural area is provided for by Policy CS6 which deals with Newport's local needs as well as those of its "rural hinterland" all as part of Newport's role as a market town where services and facilities should be focused.

The July 2014 report explained that a discount food offer would be better located on an urban site that was considered to be more accessible i.e. at the proposed Aldi at Audley Avenue. It was felt that with that opportunity, the proposed development at Mere Park would unnecessarily extend development into the countryside and would tend to consolidate an existing mixed-use, out of centre location which would be undesirable in terms of creating an alternative retail focus to Newport's town centre. Accordingly it was considered that the proposal would be contrary to both the NPPF and Core Strategy Policy CS7. The applicants contend that there is nothing within NPPF that would prevent the establishment or consolidation of a retail centre at Mere Park. The applicants suggest that the LPA has already supported retail development and thereby establishing a retail focus at Audley Avenue, which itself is an out of centre location and that this is a precedent.

Within the core planning principles of the NPPF, one of the principles relating to the countryside states that

'...planning should...take account of the different roles and character of different areas... recognising the intrinsic character and beauty of the countryside...' and 'contribute to conserving and enhancing the natural environment.'

The applicants have sought to demonstrate that the second previous ground for refusal should not stand. In support of their contention, the applicants have commissioned landscape consultants to produce a Landscape & Visual Impact Assessment (LVIA). This document has analysed the landscape character and visual environment of the local area, introduced the principle of development and assessed the ability of the landscape setting and visual environment to accommodate such change. A number of plans and photographs have been prepared to illustrate the character and visual environment of the site and the localised setting, and these accompany the LVIA report.

In terms of the application site the LVIA suggests that the site forms part of an area of managed grassland at the entrance to Mere Park from the A41, which complements the amenity landscaping associated with the setting of the public house and the hotel. The immediate setting of the site is characterised by the contemporary built form of the public house and hotel, with the garden centre and other retail units located to the north. This existing built form is set within hardstanding which is used for customer parking and amenity planting which seeks to enhance the setting of the various businesses. The boundaries of the site contain a mix of largely scrub planting and trees between the amenity planting and the managed landscape of the golf club beyond. The recently approved residential

development and care village on land to the east of the A41 is on slightly elevated land, which will result in the prominence of that development and thereby Newport urban edge being more apparent in the landscape.

The LVIA explains that there the application site is not situated within any defined landscape designations and well removed from Newport's Conservation Area. In terms of broad landscape character, the site is within the Shropshire, Cheshire and Staffordshire Plain area (Countryside Character of England NCA61). More locally, within the Shropshire Landscape Character Assessment 2006, the site is within the Estate Farmlands Landscape Character Area (LCA). The Council as part of Shaping Places has prepared its Landscape Sensitivity Study (2014) and although didn't look at the Mere Park Garden Centre site, it considered the Stafford Road residential/care village site and acknowledged its prominence while also recognising that the hotel and pub at Mere Park also influences the landscape character of the area.

The LVIA has assessed the application site and notes that the site forms part of the developed setting of Mere Park, reinforced by the presence of areas of hardstanding and the managed appearance of the site, which complements the amenity landscape of the wider Mere Park development. The applicants' consultant considers that the application site and Mere Park are separated from the perceived "open" countryside by the established Strine Brook corridor and the Aqualate Golf Club. The watercourse and its associated mature vegetation cover creates a robust and defensible edge to the Mere Park site, ensuring that the development is contained and a degree of separation is achieved between the built form of this area and the golf course beyond. In fairness the LVIA recognises that the A41 represents a feature that appears to contain the built up area to the east but makes the point that the Mere Park campus is also an established urban feature and that the application site has the capacity to accommodate the proposed foodstore without detriment to the landscape character. Further, the applicants consider that this urban fringe landscape has a medium / low susceptibility to change having experienced change as a result of retail /leisure development over the past few years, which has been integrated without significant harm. As such the applicants consider that the landscape setting of the site is of medium / low sensitivity.

In order to assess the visual environment some 15 viewpoint photographs have been produced to help demonstrate the applicants' contention that the views of the site are highly localised as result of the established vegetation structure that characterises the A41 and A518 streetscenes to the north, east and south of the site. Views of the site are limited to the street scenes immediately to the north and west and seen as part of the Mere Park Garden Centre complex. Accordingly the applicants contend that the development can be accommodated without significant harm to the countryside. Moreover according to the applicants, the design of the building is of modest scale and will be viewed as a consolidation of the Mere Park complex, which in turn, will not lead to compromising the overall rural setting. Simply, the site is considered not to be "open" countryside and is well separated therefrom.

Your Officers do not disagree with the landscape and visual impact assessment undertaken but do disagree with the basic premise that the site is not open

countryside and is somehow “urban” in context. Fundamentally, the site is in open countryside in planning policy terms and the A41 is the single most important physical limits to the urban form of Newport. The Mere Park Inspector noted at paragraph 38 that:

“The site is quite clearly outside of the built up area of Newport as defined on the LP Proposals Map and at the present time is not contiguous with it. As well as being greenfield land, it is clearly in the rural area and falls to be judged against Policy CS 7. This limits development to that necessary to meet the needs of the area...”

Although the appeal inspector then went on to suggest that this issue was also relevant in the context of there being sequentially preferable sites available elsewhere (at the time), it is clear that nothing else has changed. The application site sits outside the built up area of Newport and provides an open area which forms part of the character of that location. The application site acts as a landscape buffer to the neighbouring development comprising a hotel, pub and garden centre and helps to reinforce the countryside nature of this location. It provides a green wedge on the edge of the garden centre campus and provides a buffer to the surrounding countryside from the existing development. Certainly development to the immediate north of the application site has impacted on the surrounding countryside but development here would only further erode the character of the countryside in this location. The proposal therefore conflicts with Policy CS7 and development should be strictly controlled to both restrict further development in this location and protect the countryside. This is particularly pertinent when considering that the qualitative need that featured so strongly previously has been met and there is now some prospect that the Audley Avenue Business Parks development may be supported, which will also suitable and sufficient opportunities for convenience retailing at a brownfield location.

#### Section 106 Obligations

Despite requests, the applicants have not submitted an acceptable Heads of Terms for a section 106 Agreement. If planning permission is granted, the following financial contributions and other restrictions would be required to make the development acceptable:-

- £108,479.61 for off-site Highways contributions to network improvements.
- £25,000 for public transport enhancements for improvements to bus stops.
- £20,000 towards Public Art
- To ensure that the local bus service company are funded for a minimum period of 5 years following the opening of the store to ensure that the available bus service diverts its route through the Mere Park Garden Centre site.
- £5,000 for Travel Plan monitoring.
- Restriction on use of garden centre floor space that prevents food retailing.
- 5% of total contributions for S106 monitoring

The applicants maintain that should planning permission be again refused, they will take up the Garden Centre building; in such circumstances, there will be no section 106 contributions. Similarly in terms of infrastructure improvements (off-site highway enhancements), after 1st April 2015, under the CIL Regulations, the LPA would be

unable to secure funding where there are more than five schemes contributing to the same programme of works.

#### Conclusions

Retail impact assessment cannot be considered in this instance as the application proposal for a 1,901 sqm (gross) retail food store falls below the NPPF threshold of 2,500sqm, and as yet there is no locally applicable threshold set through the Local Plan process. There are no other development plan policies that serve to outweigh the NPPF on this matter.

The applicant's fall-back position (where the existing garden centre benefits from a Certificate of Lawful Use allowing the building to be used for a food store) and also the applicant's willingness to restrict the convenience floor space of the garden centre if a new store was built are important material considerations and override the need for retail impact assessment, including cumulative impact. Officers do not attach much weight to the likelihood or reality of Lidl, or any other supermarket, occupying the garden centre building and do not consider that this issue should outweigh other policy and material considerations.

There are no sequentially preferable town centres or edge of centre sites that officers consider could accommodate the development proposal. The prospect of a floor space suitable for a discount operator becoming available at the Audley Avenue Business Parks site is premature at this stage. Notwithstanding, the previously held opinion that there was a qualitative deficiency in the retail offer in Newport (for a discount operator) no longer applies following the implementation of the Aldi permission also at Audley Avenue.

The NPPF expresses that preference is given to "accessible sites that are well connected to the town centre" partly in order to promote social inclusion. The proposed site at Mere Park is not well connected. This particular stance was advocated at the Mere Park call-in inquiry where the Inspector found Mere Park was not accessible to a satisfactory level citing in particular, poor walking and cycling environments. Although the applicants have sought to make a strong case to improve highway conditions, the prospect of yet greater number of people/customers accessing the site by foot and by cycle is not a good prospect as the site is poorly accessible for pedestrians/cyclists who have to negotiate the heavily trafficked A41 and A518 which acts as a barrier to pedestrian movement. This recent appeal decision is a material consideration and its fundamental objection on this point alone still stands.

Officers accept that the garden centre owner's bus subsidy arrangement with Arriva, allowing passengers between Newport town centre and Mere Park to travel free at off-peak times, together with an agreement which appears to be in place to divert Bus Service No 481 is a positive measure but not one that should be a determining factor in the general accessibility of the site and should not outweigh other policy or material considerations. Hence, despite some social inclusion benefit arising from the availability of a subsidised bus service serving Newport residents, the social exclusion resulting from poor accessibility outweighs this benefit.

In addition, the site would involve the development of a greenfield site. Both the NPPF and development plan seeks to encourage the effective re-use of brownfield land. Indeed a discount food store is now being provided on a more accessible brownfield site i.e. at the proposed Aldi at Audley Avenue. Officers consider that preference for brownfield development should be given substantial weight in this instance, particularly given the Inspector's findings at the Audley Avenue supermarket appeal and supported by the Court of Appeal judgement when it was noted that greenfield v brownfield issues are pertinent in any planning judgement. The application site is also located beyond the urban limits of Newport in a countryside location where development is to be controlled and restricted, and where retail development is directed towards urban centres in preference to out of town or even countryside locations. Previous arguments that there was a qualitative deficiency in Newport's retail offer are no longer applicable now that a discount store is being built out. Development of this countryside site would result in a further unnecessary encroachment into the countryside and consolidate a mixed use, out of centre location which would be undesirable in terms of creating an alternative retail focus to the town centre.

Issues relating to the design, highways, ecology, and drainage are not in question and can be adequately dealt with by conditions. As the July 2014 report explains there are no technical difficulties that would prohibit development.

Taking all factors into account and applying planning balance, officers do not consider that there are material considerations that should outweigh the site's poor accessibility. In addition officers consider that the encroachment into the countryside and development of a greenfield are material and are not outweighed by the applicant's fall-back retail position for Mere Park or the garden centre owner's bus subsidy arrangement with Arriva. In conclusion officers consider that the application should be refused for the reasons set out below.

**RECOMMENDATION:** REFUSE for the following reasons:

1. Notwithstanding the proposed footway/cycleway improvements and proposal to divert an existing bus service through the Mere Park Garden complex, the application site is not accessible by a choice of means of transport to a satisfactory level for food retailing, where good access for those without a car is key and where social exclusion issues are to be avoided. Given the future increase in the local population following grants of planning permission for residential developments in the town and the likelihood of there being a larger walking and cycling catchment wishing to access the site, the proposed development would not be located in an accessible location and would therefore be contrary to the National Planning Policy Framework and Core Strategy policies CS7 and CS9.
2. The proposed development would unnecessarily extend built development into the countryside on this greenfield site where development is strictly controlled and would tend to consolidate a mixed use, out of centre location which would be undesirable in terms of creating an alternative retail focus to the town centre and

hence would be contrary to the NPPF, saved Wrekin Local Plan policy S1 and Core Strategy policy CS7.

PREVIOUS REPORT TWC/2013/0959

OBJECTIONS RECEIVED: Yes

MAIN ISSUES: Retail need, impact on Newport town centre, accessibility, impact on highway network, sustainability.

PROPOSAL:

This is a full application for the construction of a new foodstore with associated car parking, servicing and landscaping on land fronting the Newport by Pass (A41), at the Mere Park Garden Centre complex.

The proposed store has a gross floor area of 1,901 sqm. The net retail floorspace would be 1,286sqm and there would be an additional 600sqm given to areas for offices, storage and staff accommodation. 80% of the net sales area would be given over to the sale of convenience goods and 20% to non-food items. There would also be a dedicated car park for the retail unit to accommodate 82 vehicles. Access would be off the spine road that runs through the Mere Park Garden Centre accessed off the A41 by-pass. The spine road connects to the Stafford Road (A518).

The applicant is Growing Enterprises Limited and Lidl UK. Lidl operate a foodstore on a "discount retail food store" concept, similar to Aldi, stocking a limited number of product lines and because of a set format and no-frills style presentation costs can be kept lower than most other supermarkets. Whilst the unit could be conditioned to only sell food, it would not be possible to restrict the unit to being a discount food retailer only, and hence there would be nothing to prevent any other supermarket operator, such as Tesco or Sainsbury's.

The Design & Access Statement and submitted proposed plans show that the building would be of a contemporary design with mono-pitched roof, grey fascia cladding, white render panels and with full height glazing on the side elevation facing the road. The design is similar to Lidl stores found elsewhere.

The development site is located outside the built up boundary of Newport, in an out-of-centre location and on a greenfield site in countryside. The proposed development is virtually the same as a previous proposal at Mere Park that was subject to an appeal in 2010 that was dismissed.

The Council, as Local Planning Authority, has sought retail advice from WYG consultants to comment on this application as well as a competing application for a proposed 1,745 sqm (gross) Aldi food store at the nearby former Focus DIY store off Audley Avenue (TWC/2013/0887), and which is also on this agenda. WYG's report has been published online and has informed officers when determining this application.

The WYG Report generated counter representations particularly from retail operators; these are included in the report under the section on consultation responses and given further consideration under the final section of the report on Planning Considerations. Following the receipt of those counter-representations, it was felt that the Council should seek further support from WYG and the further consultant advice is included. The WYG Report and further response report are appended to this committee report.

## BACKGROUND

Members will recall a similar discount food retail store application (W2009/1023) at Mere Park. That store was 1,556sqm gross with a net retail, i.e. trading floorspace of 1,286sqm, so slightly smaller than the current proposed application store (proposed store is 1,901 sqm gross with 1,286sqm trading floor space). The applicant appealed against non-determination of the application and at its Plans Board on 2 June 2010 the Council resolved that if it had been able to determine the application it would have refused the application for the following reasons:-

1. The proposed development would have a significant adverse impact on Newport Town Centre and threaten its role as a market town and undermine its position in the retail hierarchy of the Borough and hence is contrary to PPS4, Regional Spatial Strategy policy RR3, Core Strategy policies CS6 and CS8 and Wrekin Local Plan policy S1.
2. The proposed development is capable of being accommodated on a sequentially preferable site and hence the proposal is contrary to PPS4.
3. Notwithstanding the bus service close to the site, the location performs poorly (particularly compared with the town centre) in terms of access by a choice of means of transport. The proposed location is not reasonably accessible for food retailing, where good access for those without a car is key and where social exclusion issues are to be avoided. The proposed development is therefore contrary to PPS4, Regional Spatial Strategy policy RR3 and Core Strategy policies CS7 and CS9.
4. The proposed development would not meet needs limited to the Rural Area and where development is strictly controlled. It would therefore be contrary to Core Strategy Policy CS7
5. There are insufficient material considerations in favour of the proposal to overcome the identified significant adverse impacts and breaches of development plan policy.

The application was determined at appeal by Public Inquiry and was dismissed on 22 September 2010 (Appeal ref: APP/C3240/A/10/2125557). The Inspector considered there was a sequentially preferable site at Water Lane that could accommodate the development despite land being in multiple ownerships. He also considered that the location of the Mere Park site out of the town centre was difficult for pedestrians and cyclists to get to, and despite the 481 Arriva bus service stopping outside Mere Park on the A518, the Inspector considered that customers would still then need to walk across the Mere Park complex to the store itself and that this

would be an ordeal for some. These factors combined to engender social exclusion which the Inspector considered to be contrary to policy.

In determining this current application, the 2010 appeal decision is a material consideration. However, members need to be aware of other issues that have come to light in the intervening three and a half years that may be material to this decision. The main changes to have occurred are listed below, but covered in more detail under the "Planning Considerations" section of this report:-

a) change to national policy with the publication of the NPPF in March 2012 and cancellation of PPS4; and in March 2014 the publication of national Planning Practice Guidance (PPG) and the cancellation of the "Planning for Town Centre: practice guidance on need, impact and the sequential approach" which was a companion guide to PPS4. As a result impact tests for retail developments have changed.

b) availability of previously sequentially preferable sites (Water Lane and Concrete batching plant);

c) clarification following a High Court decision to allow a Certificate of Lawfulness in respect of an open A1 retail use within the existing Garden Centre at Mere Park, including the sale of food items, without the need for planning permission. This is the applicant's 'fall-back' position.

d) potential population increase in Newport with grant of several large housing applications including an Extra Care housing village opposite the site.

e) additional retail food store applications in Newport, namely:-

- TWC/2011/0632 - Land at Audley Avenue for a 5,084 sqm (gross) supermarket (outline planning permission) allowed on appeal in August 2012 and now intended for Morrison's - the appeal decision has also been subject to legal challenge at the Court of Appeal and High Court hearing. Both cases were lost and the appeal decision stands.

(Appeal Ref: APP/C3240/A/11/2164505).

- TWC/2011/0916 - Land west of Station Road for a 8,100 sqm (gross) supermarket (full application) is awaiting determination via a Call-in inquiry later in 2014. An Inquiry was originally held in January/February 2013 but the Inspector died before he made his decision and as a result the planning inspectorate has ruled that the Inquiry is to be heard again in its entirety.

- TWC/2013/0887 - The former Focus DIY on Audley Avenue for a 1,745 sqm (gross) discounter foodstore for Aldi. This is a full application awaiting determination and is also on this agenda.

f) The recent appeal and High Court judgements relating to Station Road and Audley Avenue.

## THE SITE

Newport is a market town 16 kms north-east of Telford. It is close to the Staffordshire border, with Stafford only 21 kms to the east. The appeal site is located approximately 1.5kms east of Newport town centre on open land to the east of Newport By-Pass. To the north of the site lies the Premier Inn and Three Fishes

public house/restaurant (built after 2010) and the Mere Park Garden Centre which has been in operation since 2003 following a planning permission granted in 2002 and which includes several other restricted retail units.

Within the general boundary of the garden centre complex there is the garden centre building itself. At a separate appeal in 2012 this 2,000sqm building was found to benefit from a Certificate of Lawfulness to allow it to operate as an open A1 retail use (that includes food sales) such that it is no longer restricted to just being a garden centre. To date the building still operates as a garden centre.

Within the overall Mere Park complex there are several extant planning permissions for restricted retail units, with restrictions on the sale of goods that may be sold. The outdoor camping unit has had its restriction on the sale of outdoor camping/leisure products lifted to allow it to sell a wider range of products (but not food). There are two farm shop units (not yet built) that can sell limited food products - those usually associated with farm shops such as local and artisan foodstuffs. There is also a small retail unit used for the sale of aquatic goods which has been operating since 2004. A 50-bed Premier Inn hotel and restaurant have now been built since the previous appeal.

Access to the application site would be off the existing spine road that runs through the garden centre complex between the entrance/egress onto the A41 and entrance/egress on the A518 Stafford Road. The Arriva 481 half hourly bus service between Telford and Stafford (and stopping in the centre of Newport) stops outside the Mere Park garden centre on the A518.

The appeal site is irregular in shape and relatively flat, although it contains spoil from what looks like ground excavations most likely from the formation of the new access off the A41. The A41 forms the western boundary, the Strine Brook the eastern boundary, the estate road the northern with open land to the south.

The application site, the hotel, pub and the Mere Park garden centre complex all lie outside Newport's defined built up area in the rural area.

#### PLANNING HISTORY:

W2009/1023 Outline application for erection of a retail unit (use class A1) with store and car park. • intended for a discount food store. Dismissed on appeal 22.9.10

TWC/2014/0372 Display of 2no. internally illuminated fascia signs and 1no. internally illuminated post sign at existing garden centre building (Lidl signs)  
Awaiting determination

However, the following applications relate to land occupied by the garden centre and other uses within the wider Mere Park complex which serve to give a complete planning history:-

W89/0694 Erection of motorists service area comprising petrol filling station, shop, restaurant, lodge (i.e. motel), farm shop, car parking and landscaping (outline).

Officer's report explained:

- Seen as preferable to provide one comprehensive facility
- Preferred location would have been to west of bypass but no sites currently available

- Should not be regarded as setting precedent for further development to east of A41(T). Granted
- W90/0742 Reserved matters for constituent parts of service area, petrol station and hotel etc. Granted
- W95/0277 Erection of motorists service area comprising petrol filling station, shop restaurant, lodge (i.e. motel), farm shop, car parking and landscaping (outline).
- Although this was resolved to be granted, subject to a S106 agreement being entered into, it was subsequently refused (October 1997) as no progress had been made on the agreement
  - When the 1989 outline permission was granted, the Newport By-Pass network was not complete as the southern, A518, By-Pass links to the A41 had not been constructed. This was significant because at that time the site was probably the optimum site for a comprehensive motorist service area to serve the A41 / A518. However, with the completion of the southern section of the A518 By-Pass link, two applications (W98/0055 and W97/0995) for an alternative service station site further south on the A41 were approved in 1998.
- Refused
- W2000/1011 Erection of a Garden Centre. This permission was not implemented
- Granted 16.07.01
- W2002/0715 Erection of a Garden Centre and ancillary outbuildings with adjacent car parking
- Condition 19 required details of products to be sold to be submitted and agreed. A range of garden centre and other related items was subsequently approved. The reason for this condition was “to ensure that the garden centre main business remains seasonal, specialist and leisure orientated as required by Policy S4 of the Wrekin Local Plan”.
  - The Aquatic Centre building is part of this permission.
  - See comments under TWC/2010/0050 below.
- Granted 28.8.02 & implemented
- W2002/1125 Erection of Farm Shop (651sqm) with associated car parking. (This related to land outside the permitted garden centre).
- Condition 3 restricted use to a farm shop and for no other Class A1 retail use
- This permission was revoked when it was amalgamated with an ancillary garden centre building under permission W2005/1497. Granted 13.5.03
- W2003/1403 W2003/1403 Erection of 9 craft workshops (441sqm gross). (These related to land within the permitted garden centre). Granted 21.1.04
- W2003/1515 (Outdoor camping unit) Erection of a retail unit (483sqm gross). (This relates to land within the permitted garden centre).
- Condition 10 restricts goods for sale to those related to outdoor pursuits (as per an agreed list) and not for any other Class A1 retail use. Granted 11.8.04
- W2005/1497 (Unit 3) Erection of new retail unit amalgamating previous approvals for farm shop (W2002/1125) and ancillary retail (W2002/0715).
- Condition 3 restricts goods sold to those previously agreed by exchange of letters and on W2002/1125 i.e. farm shop/garden centre type goods.

See also W2009/0601 to vary condition to allow sale of pet related products and a veterinary practice. Granted 6.3.08. Not yet built

W2005/1234 50-60 bed hotel with ancillary restaurant and bar with associated parking and landscaping (Outline).

- Then extant Local Plan Policy E7 was generally permissive of motel development at major highway intersections in or adjoining the built up areas of Telford or Newport.. This permission was not implemented. Granted 23.1.07

W2008/0413 Erection of a 50 bed hotel, pub/restaurant with access road, car parking and associated landscaping (Full). This has been implemented  
Granted 27.6.08

W2008/1308 (Unit 1 by Stafford Rd exit) Erection of retail unit. (This relates to land outside the permitted garden centre).

- Condition 9 restricts sale of goods to those principally of farm shop/garden centre type products. Granted 17.8.09 Not yet built

W2009/0601 (Unit 3) Variation of condition 3 of W2005/1497 (see above) to allow the sale of pet related products and use as a veterinary surgery. Granted 9.7.13 Not yet built

W2009/0905 (Unit 1 by Stafford Rd exit) Variation of condition 9 of W2008/1308 to allow sale of comparison retail goods.

- The variation required by the application was not agreed, but a revised list of goods to be sold was approved. Granted 2.6.10 Not yet built

W2009/1023 Erection of a retail unit (use class A1) (outline application) with store and car park Appeal dismissed 22.9.10

W2010/0080 130 place Day Nursery and 50 place After School/Holiday Club. (A limited part of this site falls within the permitted garden centre curtilage). Withdrawn

W2010/0185 Erection of retail unit (duplication of W2009/1023) Withdrawn

TWC/2010/0050 Certificate of Lawfulness of Proposed Use for Development to use the site for any purpose in Use Class A1.

- The aim of the application was to obtain a certificate that the site benefits from an unrestricted Class A1 use, i.e. the use as shops, including those for the retail sale of goods.

- At appeal the Inspector determined that the unrestricted retail use was lawful.

- Council challenged the Inspector's decision in the High Court in December 2012, but the Court ruled that the appeal Inspector's decision stands. Hence this is the retail "fall-back" position at Mere Park. Allowed appeal 5.4.12

TWC/2010/0051 Certificate of Lawfulness of Proposed Use and Development.

This related to whether condition 19 of the garden centre permission (W2002/0715) was effective in restricting the sale of products to those agreed. Refused 14.7.10

TWC/2011/0262 Erection of two canopies over part of existing garden centre external sales area (Full) Granted 23.5.11 Not yet built.

TWC/2011/0492 Erection of a warehouse ancillary to existing garden centre (Outline with all matters reserved). Granted 5.9.11 Not yet built.

TWC/2011/1086 Application under section 192 for a certificate of lawfulness for proposed development for the use of the land and buildings at the Mere Park Garden Centre (as outlined in red on the attached plan) for any purpose falling within Use Class A1 in the Schedule to the Town. Duplicate of TWC/2010/0050 Undetermined

TWC/2012/0284 Erection of 19 adverts (for Morrisons supermarket) on existing garden centre building Granted 22.6.12 Not yet built.

TWC/2013/0663 (Outdoor camping unit) Variation of condition 10 on previously approved application W2003/1515 so that the unit does not only have to be used for the sale of comparison bulky goods.

- This allows the sale of DIY goods, gardening goods, and equipment, furniture, hard and soft furnishings (including fabric), floor coverings, home wares, motor and cycle goods, cycles and accessories, leisure goods, office equipment and supplies, electrical goods, pet foods and products, and for no other purpose including any other purpose in Class A1. Granted 9.7.13

## CONSULTATION RESPONSES

### TWC Highways

There have been no detailed pre-application discussions with the Local Highway Authority (LHA) about this proposal and the scope of the assessment has not been agreed, as a result the supporting Transport Assessment (TA) does not provide all the necessary information.

- The LHA did not comment on site accessibility during the 2009 application but it was discussed at the Appeal. The LHA was always of the opinion that the majority of trips to this site would be by car. I do not think many shopping trips will be made on foot. The distance to the bus stop was also raised by the Inspector and the distance is about the same.
- The Application states that there is an agreement with Arriva to subsidise bus trips between the site and Newport town centre - useful to see details and understand how this works, what trips are covered and how long this subsidy would last. Suggest this would need to be formalised in a S106.
- The TA includes isochrones for walking and cycling. As above I do not think this would really relate to a shopping trip. The isochrones are presented as a simple radius from the site which does not represent how far you can actually go by road/footway. The actual coverage will be less than this.
- The TA states opportunities will be explored with the LHA to identify whether there is scope to improve the attractiveness of routes for pedestrians. Anything to be offered needs to be agreed as part of the Planning Application. Nothing is included with this report.
- In terms of the submitted site layout there are no pedestrian links off the site or links into the existing footway network. The obvious answer based on the submitted layout is to punch through the frontage hedge but this would involve a footway link alongside the A41 and alterations to the site access splitter island. As the works would fall on the adopted highway they would need to be secured by a S278. A simpler solution would be to link to the existing facilities alongside the pub

but the existing site layout for the A1 unit does not lend itself to this without changes to how it is set out.

- The TA has utilised a count carried out in May 2010. It is not recommended to use counts that are over 3 years old as they may no longer be representative of current traffic conditions. This count pre-dates the opening of the hotel and pub/restaurant so real trips associated with those uses do not appear in the counts. The TA therefore relies on theoretical trip rates to determine the impact of those uses.
- The 2010 count reflects the traffic patterns associated with the developments as they were at that date. But since that time the Applicant has secured an unrestricted A1 use for the Garden Centre building which has the potential to intensify the use of this building and therefore changes the way this should be considered. Understand the Applicant may waive this right if this permission is granted - if I would like to see the mechanism that would achieve this. Presumably this would be in a S106.
- It should be noted that the Outdoor Products unit has now got Consent that varies the use of that building to other permitted uses. This is also not reflected in the TA.
- The trip rates used in this TA appear to be the same as those that have been used for other assessments in the history of this site. On the whole these still seem reasonable but subject to the caveats above.
- The list of other developments in Newport to be considered misses out a number of other sites that are committed by Panning Consent. An explanation of how these have been considered is required.
- The TA has assessed the implication of the development at the two site accesses (A41 and A518). In doing so they have utilised food retail trip rates which I suspect were agreed for the 2009 Application. These have not been revisited. The distribution has been based on turning flows and again this is taken from the old 2010 count. This may not necessarily be representative of a food retail trip. A gravity model would be a better way of distributing the trips.
- In terms of the results of the capacity assessments these indicate that there would be no issues at either access point. Unfortunately I do not agree. On site observations during the peaks shows that traffic leaving the site to the A41 are held up by the volume of through traffic. Right turning traffic particularly is held up at the moment and any additional flow would start to adversely affect the operation of this junction. This delay is not being reflected in the base assessment so must query whether the modelling has been suitably validated. As such cannot say if the DS assessments give a clear picture of how this junction will operate in the peak periods.
- As has already been explained there is a cumulative impact arising from all the recent development proposals on the local highway network. All recent developments have been asked to contribute a proportional amount to highway infrastructure improvements. I had asked for the trip distribution of this proposal

across the wider highway network but this is not included with this report. This will need to be provided.

- The TA includes a sensitivity test where A1 food retail is considered in both the Garden Centre building and this proposal. For the purposes of the assessment the GFA for the garden centre has been assumed as 2,654sqm - need confirmation of this, as thought the building was smaller than that.
- Table 10 states it is the total development traffic generation for the site but it actually only shows the additional trips associated with the garden centre building if it became A1 food retail.
- In terms of the site access and layout the TA mentions that the garden centre is currently gated. As there are issues exiting the site via the A41 junction it would be beneficial if the alternative egress to the A518 was also available. That route would need to remain available and not just when the garden centre is open.
- I would like to see details of how delivery vehicles will access and egress the service area including the swept path analysis. With the layout as it stands it looks like a manoeuvring lorry would obstruct the whole access which would cause issues for the access road.

Following discussions between the Highways officer and the applicant's engineer, additional information has been submitted and the Council's highway engineer now offers the following comments:-

- Additional information has been submitted in support of the Transport Assessment (Simon Tucker email 3 April) arising from my original memorandum of comments (dated 4 March).
- Now have sufficient information to offer a formal recommendation of no objection, but would make the following comments.
- The TA states opportunities will be explored with the LHA to identify whether there is scope to improve the attractiveness of routes for pedestrians. As yet nothing has been offered to or agreed with the LHA in this regard. Please be advised that the LHA feels that there are limited opportunities available for improvement of the existing routes beyond what is present at the moment without prejudicing the operation, capacity and safety of the strategic highway network and particularly the A41/A518 roundabout. The LHA has therefore assessed the proposal in light of the highway facilities present at the moment.
- Notwithstanding this the opportunity appears to exist to make a linked pedestrian/bus trip from the site. The shortest route would appear to be via the garden centre site. The Applicant should ensure that there is a direct pedestrian route, through the adjoining site under their control, to the A518 bus stops.
- The agreement between the Applicant and Arriva for free travel between the site and the town centre should be formalised and I would like to see this written into the S106 to give some certainty for the future of this facility.
- The Applicant has offered monies in the draft heads of terms to enhance a bus stop in the town. I do not think a shelter will be possible as it would obstruct

visibility from an adjacent access but the principle of providing bus boarder kerbs is acceptable.

- Would also ask that they also enhance the two stops on the A518 by the garden centre. Both could use bus boarder kerbs and the westbound side should have a shelter as that is where shoppers could be expected to wait.
- The submitted site layout now indicates a pedestrian link through the site car park to the internal private road. This also needs to link to any internal route to the bus stops as mentioned above.
- The Applicant has validated the TA with new counts which confirm the trip rate assumptions used in the report. That said the Garden Centre is functioning in its current form. Understand the Applicant has offered to limit the use of the Garden Centre (rather than general A1 use) through S106 contingent on this proposal being granted approval. I would be supportive of this.
- In terms of the capacity assessment, still concerned that there will be a level of delay during the peak periods particularly for right turn manoeuvres out of the site at the A41 junction. As a result, it will be necessary for the garden centre gates to remain open so alternative egress can be made via the A518.
- The swept path analysis for the delivery vehicle confirms that a manoeuvring lorry will obstruct the site entrance and access to the car park. As such deliveries will need to be restricted to periods outside peak traffic and shopping times and the deliveries will have to be policed by the store management.
- Finally understand the Applicant has acknowledged that this proposal will add to the additional traffic impact on the local highway network and that the cumulative impact of this with other developments will need to be mitigated. Based on the proposed development a contribution of £108,479.61 will be sought towards various off-site highway works around Newport.
- The proposed development will need to make financial contributions through a suitably worded S106 Agreement for:-
  - i. Off site highway infrastructure - £108,479.61
  - ii. Public transport enhancements - £25,000 (for the improvement of the three bus stops).
  - iii. Travel Plan monitoring £5,000.
  - iv. In addition the S106 will need to include suitably worded Schedules to deal with the subsidised bus travel between the site and the town centre and which should formalise the duration for which this is to be offered and any land use restrictions that are to be applied to the existing Garden Centre.
- There are no physical highway works proposed on the adopted highway other than those that will be delivered through S106 contributions. Those physical works that have been conditioned fall on private land and as such would not require S278 Agreement with the Highway Authority.
- In light of the above I would recommend the following conditions:
  - i) Before the proposed development is commenced details shall be submitted for the approval of the Local Planning Authority indicating a footway link between the proposed store and the A518 Mere Park bus stops. Those works so approved shall

be constructed before the development is occupied and shall be available for use at all times the proposed store is open.

ii) Before the proposed development is commenced details shall be submitted for the approval of the Local Planning Authority indicating the location of cycle stands within the curtilage of the site. Those works so approved shall be constructed before the development is occupied and retained for the life of the development.

iii) Before the proposed development is commenced details shall be submitted for the approval of the Local Planning Authority providing the site management plan for the supervision and control of deliveries to the site including measures to ensure the safe operation of the site access, car park and pedestrian route. Those measures so approved shall be utilised for the life of the development.

iv) Before the proposed development is brought into use all associated internal access roads, parking footways and service areas as indicated on the submitted plan shall be laid out and available for use and thereafter retained for those purposes for the life of the development.

v) The vehicular access route to/from the A518 via the existing garden centre shall remain un-gated and shall be available at all times the proposed store is open to the public.

vi) Before any buildings are occupied details of the Travel Plan for the development shall be submitted to and approved in writing by the Local Planning Authority in consultation with the Workplace Travel Co-ordinator. The Travel Plan shall set out proposals, including a timetable, to promote travel by sustainable modes which are acceptable to the Local Planning Authority. The Travel Plan shall be implemented in accordance with the timetable set out in that plan unless otherwise agreed in writing by the Local Planning Authority. Reports demonstrating progress in promoting sustainable transport measures shall be submitted annually to Local Planning Authority for approval for a period of five years from first occupation of the development.

TWC Drainage - Support subject to condition requiring surface water drainage details with attenuation rates and flows to deal with a 1 in 100 year event +30% for climate change.

TWC Ecology - support subject to conditions

Water voles

- 'There are local water vole records, some for sites along the stream that flows past the site, and some evidence of water vole activity on the golf course side of the stream.

- Harm to water voles can be avoided by protecting the river corridor, making habitat away from the stream unfavourable to them, and keeping earthworks back from the banks.

- These precautions will also avoid any impact on otters, which may use the stream as a dispersal corridor. Potential impacts on water voles would require mitigation, but translocation should not be necessary; key habitat features can be retained.'

Great Crested Newts

- The report states that the ponds to the east of the site (on the golf course) are unlikely to support great crested newts because they were surveyed in 2008 and no great crested newts were present.
- It has been five years since those surveys were carried out, so don't agree that this is sufficient to conclude that great crested newts are not present, but consider that the precautionary measures in section 4 of the Ecology report are sufficient, therefore no further survey work is required.

#### Bats

- Should any work be required to any of the mature trees on site then they should first be subject to a bat survey to ascertain whether they are used for roosting.
- The site is likely to be used by foraging and commuting bats, particularly the mature trees and stream corridor.

#### Birds

- Birds will use the site for foraging and nesting, although the report did not record any sightings.
- Hedgehogs may also utilise the site.
- The report concludes that there will be no direct risk to habitats or species 'provided that care is taken to protect the mature trees from damage, to protect surface drains and groundwater from pollution spills, and to avoid disturbance of water voles, hedgehogs and nesting birds.'
- Section 4 of the Ecology report sets out various precautionary methods of working, mitigation measures and enhancements.
- To prevent the inclusion of many conditions and informatives on the decision notice, recommend a condition requiring that the recommendations made in section 4 of the Ecology report are followed in full and submit bat-friendly lighting scheme.

#### Habitats Regulations Assessment

- The site lies within 5kms of the European Designated Site at Aqualate Mere Midland Meres and Mosses Ramsar Phase 2.
- However, the scale of the proposals is small. The proposals will not directly affect the Ramsar site or its hydrology.
- There will be no adverse impacts as a result of waste water or drainage. Impacts from air emissions are highly unlikely.
- There will be no increase in recreational pressure. Therefore satisfied that the development will have no likely significant effect on Aqualate Mere alone or in combination.
- The proposals can be 'screened out' of the Habitat Regulation Assessment process and an Appropriate Assessment is not required.
- There is no likely effect on the integrity of the European Designated Site at Aqualate Mere Midland Meres and Mosses Ramsar Phase 2 from this planning application and there is no legal barrier under the Habitat Regulation Assessment process to planning permission being granted in this case.

Shropshire Fire Service:

As part of the planning process, consideration should be given to the information contained within Shropshire Fire and Rescue Service's "Fire Safety Guidance for Commercial and Domestic Planning Applications" which can be found using the following link: <http://www.shropshirefire.gov.uk/planning-applications>

Newport Town Council - comments summarised below as follows:

- Members acknowledged that many residents had welcomed a Lidl Food Store.
- However, with the recent Aldi application and very vast consultation supported by residents, Members considered that there is little or no need for another deep discount retailer along with a Morrisons store.
- Following discussion, Members object to this application as development on a green field site, it is east of the A41 and not easily accessible by foot or public transport.
- Residents have raised concerns over the 'free Arriva bus service'.
- Any 'Red Bus' facility would need to be robust and effective in its operation.
- Contrary to the planning inspector's findings that there is no threat to the viability and vitality to the High Street, Members feel that this application would have a detrimental effect and there are other more preferable sequential sites to provide a low cost retailer.
- Members feel that the evidence provided by the very strong support provided by the public consultation is the mandate that the residents support the Aldi store. Letter of objection from NJL (acting for the Co-Operative Group), summarised below as follows:
  - The assumed store turnover of £2.38m is low and would represent relatively low patronage and is unfounded.
  - But store has potential to perform better and the applicant's judgement lacks explanation - for example other recent schemes for Lidl represent turnover range of approx. £3.47m - £4.2m.
  - There is a lack of supporting information and a lack of meaningful analysis as to how much trade the store would attract, where from.
  - The catchment has been identified as that used by the Station Road supermarket application and the agents have taken data from the Statement of Common Ground prepared for the Station Road public inquiry.
  - But it's unlikely that a Lidl store would attract significant levels of trade from the further reaches of the catchment - need to interrogate shopping patterns of the local area.
  - The Martin Robeson Planning Partnership (MRPP) household survey (prepared for the station Road public inquiry) is a useful baseline - that catchment is split into three zones.
  - Newport will always be influenced by the proximity to facilities and services in Telford and Donnington.
  - The proposed Morrisons would attract an element of this trade.
  - The proposed Lidl would encourage shoppers to spend more locally.

- But permitting 2 out of town foodstores in combination could equate to a reduction of town centre trade per annum of £7m, which was impact most on the main food anchors in Newport town centre, namely Waitrose and Co-Operative.
  - At the Station Road Sainsbury's public inquiry the Co-Op considered that the Sainsbury's on its own could lead to a loss of £7.5m and £9.9m from town centre stores.
  - The LPAs previous decision for Mere Park foodstore back in 2010 is material - if it had been able to it would have refused the discount foodstore for 5 reasons, and at the appeal the Council argued that the trade diversion would be greater than the applicant suggested.
  - There are no material considerations that should change that position now, and in fact owing to other out of centre commitments, the strength to oppose this proposal is increased.
  - The Co-Op maintains the view that the proposed Sainsbury's could impact exiting Co-Op turnover by as much as £3.3m (or 58%) without any other commitments (should the Audley Avenue decision be quashed). The proposed Morrisons have the potential to impact the Co-Op by the same amount.
  - A 14% impact on turnover would mean the store no longer contributed to the business and would cost the Co-Op Group £32,000 per annum - this is not profitable or viable.
  - Morrisons on its own would divert more than 14%, so cumulatively any further out of town stores further increases the losses for the Co-Op.
  - The proposal at Mere Park would serve to help it become a retail destination which will directly compete with the town centre.
  - Given existing shopping patterns and lack of general lack of expenditure currently spent at discount facilities, there is likely to be increased diversion from local facilities.
  - Mere Park (or rather Actoris Developments) have previously objected to the Station Road and Audley Avenue supermarkets, stating that the garden centre benefitted from a lawful open A1 use and considered the potential turnover and impacts on Waitrose and Co-Operative - They concluded that a Mere Park plus Station Road increases cumulative impact on the Co-Op to 20.8% and on Waitrose 36.8%, which they considered significant enough to jeopardise the future of the two stores.
  - Impact levels lower than this will still cause serious operational and viability concerns for the Co-Op.
  - Historically the Council has defended against retail provision at Mere Park including a discount supermarket that was upheld on appeal.
  - There has not been any change to policy or material considerations to render a different decision being reached now.
- 2 letters of objection from Martin Robeson Planning Practice (on behalf of St Modwen Development Ltd), summarised below as follows:
- Back in 2010 the Council had two discount food schemes (Mere Park and Audley Avenue) and recommend refusal for both.

- The Mere Park scheme is located in the same place as the previous refused Mere Park discount store and is an almost identical proposal.
- The Mere Park store was refused because there was a sequentially preferable site, the site wasn't accessible by a choice of transport to a satisfactory level, and a reduction in the range and quality of convenience offer in Newport would adversely impact on social inclusion.
- The Inspector's appeal decision is material consideration and there are no material changes to policy or material considerations since then.
- In making a decision the Council must have regard to previous expert advice on an identical scheme, officer recommendation to the previous Mere Park discount scheme in 2010 and the resolution of its Plans Board to refuse, the Inspector's appeal decision, policy remains the same, and maintain consistency.
- With regards the previously sequentially preferably site at Water Lane, no evidence has been put forward by the applicant to demonstrate beyond all reasonable doubt that the Water lane site is not suitable to accommodate the proposed development, after applying some flexibility.
- The applicants comment that Lidl sell only about 1,600 lines that means costs are kept low and the operator can offer deep discounts and are very popular, particularly to those on a limited income.
- The applicants advise that such stores tend to operate as complementary retailers.
- Policy CS9 seeks to improve social inclusion, locate such facilities in existing centres and make places accessible by public transport, walking and cycling.
- The previous Mere Park appeal, the inspector considered accessibility of the site was poor, despite the bus service, as shoppers would still need to walk 300m from bus stop to the store, no facility to help bus shoppers cross the busy A518, pedestrians and cyclists would need to cross the heavily trafficked A41 and A518 which would be intimidating and inconvenient, and the store's out of centre location would have a limited pedestrian catchment - there are no new material considerations to make a different decision.
- The appeal Inspector found that there would be a disadvantage to more vulnerable sections of society, particularly the elderly who are over represented in Newport, and that there would be a decrease in discount ranges on offer in B&M , Co-Op and Waitrose.
- Linked trips will not occur at Mere Park so there will be no planning benefit.
- Since 2010, appeal decisions have been made regarding larger supermarkets, where it has been demonstrated that there are no sequentially preferable town centre or edge-of-centre sites.
- Adverse issues relating to social exclusion have not been raised for the big supermarkets as they are more effective at clawing back local expenditure that is lost to larger superstores elsewhere.
- A discounter store at Mere Park would not be effective in securing positive benefits for Newport's town centre, unlike a larger supermarket which would have

greater claw back and more regeneration and sustainable development opportunities.

- At the 2010 appeal it was argued that the proposed Lidl would divert 7.7% of town centre convenience goods trade - now the figures suggest a diversion of only 1.6%. Such a discrepancy cannot be credible.
- Also regarding turnover, the submission refers to an average trading density of £2,312m. However retail rankings most recently published figures for Lidl (UK) show Lidl trading at £3,825m on 2011/2012. This is 40% above the figure the applicants have incorrectly applied. It is also appropriate to deduct 20% for comparison goods. The applicant needs to address this.
- With regards the fall-back of the Certificate of Lawful Use at the Mere Park garden centre, for there to be a “commitment” there needs to be a likelihood of implementation. The Audley Ave Inspector did consider that it might be possible for a discount retailer to operate from it. However, Lidl do not wish to operate from it and Aldi have rejected it. Thus any covenant to restrict food use of the garden centre is of no practical effect or value and must be given no weight in the decision-making.
- To conclude the application should be refused as it fails to meet the NNPF requirements of the sequential test, is contrary to policy CS9 in terms of social exclusion, erosion of planned private sector investment in Newport and no weight can be given to a covenant preventing food retailing in the garden centre as there is no reasonable likelihood of such a use occurring.
- The Aldi & Lidl applications need to be considered within the context of there being a call-in appeal for a supermarket on Station Road and the LPA’s position to support the Station Road proposal.

Letter of objection from Phil Jones Associates on behalf of St Modwen, summarised below as follows:-

- Having reviewed the Transport Statement (TS) have several concerns.
- The TS says it is a robust assessment given the garden centre buildings have an open retail use that could operate without consent. But the proposal is for a standalone unit and is the only scenario that can be assessed.
- The TS reports that the nearest bus stop is 280m walk from store entrance - this is not an attractive walk distance for people with shopping bags and therefore it is unlikely that public transport is a realistic mode of choice for accessing a food store and the previous appeal inspector considered it would be an ‘ordeal’.
- There is no pedestrian crossing facility from the bus stop and the severance issues associated with the A518 is a further disincentive - and this was considered by the previous appeal inspector.
- Pedestrian walk distance isochromes are drawn as ‘crow flies’, but this is not realistic representation of actual walk-in catchment. The catchment will actually be less than suggested.
- Whilst there are footways and dropped kerbs on the A41, the road still presents severance issues given high volumes of traffic and speeds and lack of active frontages this was considered by the previous appeal Inspector.

- With regards accessibility, the previous appeal inspector concluded the site's accessibility was not satisfactory and did not meet social inclusion objectives in policy CS9 .
- Traffic counts undertaken in May 2010 are beyond the typical 3 year period for traffic count data and so revised surveys should be undertaken.
- Not clear whether other development in Newport has been added to the base flows as committed development in the assessment.
- Some of the trip data may be out of date, because of different versions of trip data been used.
- There is no capacity assessment of the site access junction, therefore not possible to identify if operation of the site access will have implications for the operation of the A41/Mere Park access.
- Note that the Council's highways team has also raised a range of concerns.
- Clearly there are fundamental issues with the accessibility of this site, as summarised by the previous appeal inspector, and which this proposal does nothing to address - therefore the proposal should be refused.

Letter of objection from Jones Lang LaSalle on behalf of Aldi, summarised below as follows:-

- Do not consider the 'fall back' position of using the garden centre
- Lidl's plans show that significant structural changes are required including some demolition of the existing conservatories and extensions, which demonstrates that the garden centre building is not suitable for conversion.
- An extension to accommodate the delivery bay would be outside the existing building - this would require planning permission.
- The existing car park layout could not accommodate HGV access and would therefore need to be broken up and reformatted - this would require planning permission.
- No plans shown for the glass roof - foodstore operations do not allow for such glazing as creates risk of perishing stock.
- Elevation glazing would also be replaced on some elevations and rendered - will require planning permission.
- Lidl's suggested internal layout is tight, impractical and would cause shopper congestion.
- Plans don't show external plant equipment that would be needed - will require planning permission.
- Consider that Lidl cannot operate from the existing store as it stands.
- Aldi has assessed the garden centre for itself and has found it does not lend itself to the businesses' operation format, even with minor amendments to store layout and structure.
- Aldi foresee a situation where in reality the store would need to be demolished and rebuilt, or will require significant alterations - all of which will require planning permission, but this is not guaranteed and is not part of the current application.
- As part of the NPPF's sustainable development objectives, the NPPF encourages the use of brownfield land.

- Mere Park proposal is on a greenfield site which is not an effective use of land.
- Re-using the garden centre would be a more effective use of land, but would require the closure of the garden centre, which currently serves the local community.
- The proposal is not a sustainable form of development.
- In conclusion the 'fall-back' position cannot form a material consideration in supporting the Mere park Lidl proposal.

3 letters of objection from local residents summarised below as follows:-

- The Lidl development is not so easily accessible by foot with the site being on the far side from town of the very busy A41.
- Other areas proposed for supermarkets e.g. Aldi at the Focus site, sit within the town ring road and as a brownfield development, the Aldi proposal to redevelop the existing redundant Focus site has more merit.
- There are already sufficient food outlets within the town with Co-op and Waitrose, or within easy reach by private or public transport for Asda, Morrison's and Sainsbury's in Telford that meet everyone's budget.
- The council should be providing greater support for local smaller businesses rather than encouraging the larger supermarket chains to run further smaller local food operatives out of business.
- With the proposed new Aldi site so close to the Lidl proposal at Mere Park there is not a need for both these developments and with continued growth, Newport will lose its stature as the historic town it has always been.
- The comments made by Newport town council are accurate and agree with them.

1 letter of support - summarised below as follows:-

- It would be useful to have a supermarket on the northern side of the town, and this development is not impinging on local countryside as it lies adjacent to the Mere Park site.
- If Lidl do not develop here, undoubtedly someone else will.

## PLANNING POLICY CONTEXT

National Policy and Planning Guidance:

National Planning Policy Framework (NPPF) published in March 2012 - this cancels the previous national retail guidance in PPS4.

Planning Policy Guidance (PPG) published March 2104 - this guidance cancels the previous "Planning for Town Centres: Practice guidance on need, impact and the sequential approach."

Local Planning Policy

Wrekin Local Plan 1995-2006 (adopted Feb 2000):

Policy S1 Service centre hierarchy

Policy S5 Garden Centres in the Rural Area.

Policy S12 Newport Retail Frontages

Policy S13 Newport Secondary Zone

Local Development Framework Core Strategy (adopted Dec 2007):

Policy CS2 Jobs

Policy CS6 Newport

Policy CS7 Rural Area

Policy CS8 Regeneration

Policy CS9 Accessibility and social inclusion

## PLANNING CONSIDERATIONS

### Planning policy

The National Planning Policy Framework (NPPF) was published in March 2012 and replaces previous government retail policy guidance in Planning Policy Statement 4: Planning for Sustainable Economic Development used in the previous Mere Park foodstore appeal in 2010. In addition, the previous “Planning for Town Centre: Practice guidance on need, impact and the sequential approach” has been cancelled by the recent publication of the national Planning Policy Guidance (which is the companion guide to the NPPF).

The NPPF is the most up to date national policy guidance that all development needs to be assessed against - paragraphs 13 and 196 advise that the NPPF is a material consideration in determining applications. Paragraph 14 of the NPPF (and which para 197 reiterates) states that “At the heart of the National Planning Policy Framework is a presumption in favour of sustainable development, which should be seen as a golden thread running through both plan-making and decision-taking” and that development proposals that accord with the development plan must be approved. Paras 11 and 196 advise that planning law requires all applications to be determined in accordance with the development plan unless material considerations indicate otherwise, which in this case is the saved policies in the Wrekin Local Plan and the Core Strategy. The government seeks to promote economic growth, and in pursuing sustainable development has identified three mutually dependant economic, social and environmental dimensions. The NPPF should also be read as a whole

Para 23 of the NPPF seeks to encourage amongst other things, town centres as the heart of communities, a network and hierarchy of centres resilient to economic change, promote competitive town centres that provide customer choice and a diverse retail offer, and retain and enhance existing markets even if new ones are created.

The NPPF sets out two tests that should be applied when assessing proposals for town centre uses, including retail, that are proposed out of centre, namely the sequential test and the impact assessment. The NPPF advice goes on to conclude at para 27 “Where an application fails to satisfy the sequential test or is likely to have significant adverse impact on one or more of the above factors [set out in para 26 of the NPPF], it should be refused”.

At a local level both the Wrekin Local Plan and Core Strategy pre-date the NPPF and more recent national Planning Policy Guidance; however there are still relevant policies. The Wrekin Local Plan sets out a service hierarchy under its Policy S1.

Telford Town Centre is a level 1 centre where new retail developments are expected to be located. The next hierarchy of locations (level 2) in which to focus retail development are Newport and the other District Centres of Oakengates, Wellington, Madeley, Dawley, Hadley and Donnington. Policy S12 relates to Newport town centre and the accompanying Proposals Map identifies the Primary Shopping Frontages in Newport and a “secondary zone” where greater flexibility of uses is allowed. The proposed site at Mere Park lies outside both the Primary Shopping Frontage area and Secondary Zone, as indeed does the proposed Aldi store at Audley Avenue, and is in an out of centre location.

The Core Strategy policy CS6 seeks to ensure that development in Newport supports Newport in its role as a market town and enables it to fulfil its role as a rural service centre. The policy goes on to suggest that the town’s economy and its service and facility base will benefit from being bolstered and expanded and that the policy aim is to “achieve a sustainable economy”.

Core Strategy policy CS7 relates to the rural area, which is where the application and the Mere Park garden centre are located, and that development should meet the needs of the area and development in the countryside will be controlled.

Core Strategy policy CS8 relates to development associated with regeneration initiatives which will be supported where it will, amongst other things, strengthen the market town role of Newport and the services and facilities it provides.

Core Strategy Policy CS9 seeks to improve social inclusion and accessibility and expects development, amongst other things, to promote sustainable forms of transport by providing public transport, cycling and pedestrian routes and be located in existing centres to minimise the distance people travel.

The Core Strategy also contains longer term spatial development objectives that are to “support the role of Newport as a market town and to meet its local needs” and more generally to “create a sustainable pattern of development”; “improve social inclusion by improving accessibility of jobs, shopping... while minimising the need for travel”.

#### Retail impact assessment

With regards retail impact, para 26 of the NPPF advises LPA’s “When assessing applications for retail, leisure and office development outside of town centres, which are not in accordance with an up-to-date Local Plan, local planning authorities should require an impact assessment if the development is over a proportionate, locally set floorspace threshold (if there is no locally set threshold, the default threshold is 2,500 sqm).”

The recent NPPF Policy Practice Guidance “Ensuring the vitality of town centres” gives further clarification on this matter as at para 016 it states “The impact test only applies to proposals exceeding 2,500 square metres gross of floorspace, unless a different locally appropriate threshold is set by the local planning authority”.

At present the Council does not have a locally set floorspace threshold, although this will be a consideration for the emerging Shaping Places Local Plan, hence the NPPF default threshold floor area of 2,500 sqm must be used. Only once a development exceeds the threshold does an impact assessment of the proposal on town centre

vitality and viability, including local consumer choice and trade in the town centre and wider area, need to be undertaken.

The proposed food store has a gross floor area of 1,900 sqm and net retail sales area of 1,286 sqm. As this falls below the NPPF default threshold of 2,500sqm there is no policy obligation on the LPA to require the applicant to undertake an impact assessment and consider the impact of other retail proposals in and around Newport and other nearby relevant towns. In addition WYG, the LPA's retail consultant, draws attention to recent appeal decisions in Bracknell and at Coggleshall where Inspectors have ruled that impact assessments are not required where floor areas fall below the default NPPF threshold or any locally set thresholds. The LPA therefore maintains the view that a retail impact is not required to be undertaken for this application.

However, various representations from third parties, including those acting for other proposed retail developers in Newport (the Co-Op and the proposed supermarket at Station Road) have expressed concerns about the cumulative impact of retail developments on Newport town centre and other stores already trading there, in particular Waitrose and the Co-op, which act as anchor stores in the town, and in light of the proposed new supermarket at Audley Avenue that was allowed on appeal. Queen's Counsel acting for Lidl at Mere Park, in advising on this threshold, points out that the NPPF does not expressly say that impact considerations are irrelevant for proposals below the NPPF threshold. WYG, the Council's retail consultants advise, and the Local Planning Authority agrees, that an impact assessment cannot be requested under the terms of the NPPF for the proposed retail store on Newport, alone or in combination as part of a cumulative impact assessment. Hence the only other test is the sequential assessment.

Despite there being no need to consider impact, some consideration of the issue is considered appropriate as a response to third party objections.

In terms of impact assessment, there are two tests within the NPPF, which are:

1. The impact of the proposal on existing, committed and planned public and private investment in a centre or centres in the catchment area of the proposals, and;
2. The impact of the proposal on town centre vitality and viability, including local consumer choice and trade in the town centre and wider area, up to five years from the time the application is made.

There are no specific proposals for Newport town centre that could be harmed by a further discount foodstore. Indeed this was clarified and confirmed at both the Audley Avenue appeal inquiry (with the Inspector accepting the evidence presented) and at the stalled Station Road inquiry (appeal still to be decided). However, representations received from St Modwen, the developer at Station Road whose application has been called-in, point to the fact that the LPA has supported the proposed Station Road supermarket (and continue to do so) on the basis that it would contribute to the health of the town centre in terms of the wider benefits that would flow from such a development. They therefore consider that to allow a Lidl store at Mere Park (or indeed an Aldi at Audley Avenue) would be contrary to the impacts test where retail developments should not be permitted to impact upon

existing, committed or planned public and private investment in retail centres. This issue has not been tested through the inquiry process yet, but for now there is a commitment at Audley Avenue that cannot be questioned.

The applicant accepts that as the proposed store is below the 2,500 sqm NPPF threshold that impact can't be addressed, although they have since submitted Counsel advice suggesting that cumulative impact assessments ought to be considered. Nevertheless the applicant has undertaken their own brief consideration of the likely trading effects the proposed store will have on Newport town centre, and in particular the two main convenience operators Waitrose and the Co-Op, bearing in mind the fall-back position of the re-use of the existing garden centre for open A1 retail use following the Certificate of Lawfulness appeal. They have taken information from the Council's previous position statements provided as part of the call-in appeal in January 2013 for the proposed supermarket on Land West of Station Road, as well as taking into account the cumulative impact of other retail commitments, namely the Audley Avenue supermarket allowed on appeal (apparently intended for Morrison's) and the fall-back position at Mere Park,. They have not considered the Station Road or Aldi proposals as commitments as these applications have not been granted.

Based on Lidl's company average trading density of £2,312 per sqm (at 2019 in 2010 prices), the applicant advises that turnover of convenience goods will be £2.8m and comparison goods £0.59m (total £3.39m turnover). A new store will undoubtedly take trade from other stores. The applicant estimates that the solus trading impacts arising from the proposed store will be -1.4% on Waitrose and -2.4% on the Co-Op. The applicant then estimates that the cumulative impact on Waitrose and the Co-Op will be -19.8.1% and -113.7% respectively. If the fall-back position was restricted, whereby the garden centre agrees to remove the convenience floor space from the garden centre, this cumulative impact would be reduced to -16.1% and -12.4%. The applicant therefore concludes that allowing a new Lidl store with the fall-back position of removing the floorspace from the existing garden centre by unilateral undertaking would reduce the potential impacts on stores in Newport town centre.

Objectors however consider that the trading density and overall turnover of the store have been underestimated by the applicant and that the store has the potential to perform at a much stronger level, such that the impact will in fact be greater than suggested. It has been suggested that the impact on the Co-Op could be significant and seriously affect the viability of the store. Objectors also query how robust the applicant's assessments are, especially in the absence of detailed supporting information, and consider that impacts will be much greater than the applicant has assessed them to be.

There will always be discussion and debate over impact and retail figures, and this has been borne out at several retail appeal inquiries at Newport. At the Audley Avenue appeal evidence was considered relating to the cumulative impact of the appeal store supermarket plus Mere Park garden centre operating as a convenience (food) outlet. The Inspector was satisfied that a convenience store at the garden

centre together with the appeal supermarket at Audley Avenue would have “no significant adverse cumulative impact on Newport town centre” (para 45). Officers are satisfied that the recent appeal decision at Audley Avenue is a material consideration and circumstances haven’t really changed since then. In addition, the Mere Park appeal Inspector also considered that a discount foodstore (which at the time was the only new retail proposal in Newport under consideration) would not cause significant harm to the overall vitality and viability of the role of Newport as a market town, based on in-centre trade/turnover and on the trading characteristics of a “discounter” type food store.

As already stated above, there is no need to undertake a retail impact assessment as the application proposal falls substantially below the 2,500 sq m floorspace threshold specified in the NPPF where impact assessments are triggered - this has been tested at appeal decisions in Bracknell and at Coggleshall. However, this approach has been questioned by objectors. Queen’s Counsel acting for Lidl at Mere Park, in advising on this threshold, points out that “However paragraphs 26 & 27 do not say that such considerations are irrelevant where one is dealing with proposals below 2500sq m. Nonetheless unless those decisions are succeeded by further cases then they remain powerful support for the contrary proposition.” This view is supported by your officers and it must therefore be concluded that WYG’s advice is correct and that the Local Planning Authority should not impose arbitrary thresholds as to when impact assessments are necessary unless a lower threshold can be justified and supported by development plan policies based on local circumstances.

#### Qualitative Need

In terms of the qualitative benefits that will arise from a discounter food store, the Council and other parties have successfully argued at appeal that leakage of retail expenditure from Newport will continue to be a problem until there is an improved retail offer and a range of suitable stores in Newport. Both the Mere Park and Audley Avenue appeal Inspectors acknowledged that there is a qualitative gap in foodstore provision in the town. A discounter supermarket will result in enhanced choice for shoppers and such a store will reduce the number of journeys to other discount operators beyond Newport, and will assist in clawing back retail expenditure lost to Newport. It is also suggested that shoppers using Lidl would continue to shop at the larger retailers and would thus continue to shop at Newport, which is positive in terms of linked shopping trips. The applicant considers that a new Lidl store at the garden centre complex coupled with the subsidised bus service that the garden centre owner pays for, will only strengthen linkages between the Lidl site and Newport town centre. There is a case that the proposal will be significantly more accessible to all members of the community that presently wish to shop at discount operators elsewhere in Telford and Stafford, which has social inclusion benefits. Officers therefore consider that the Lidl proposal will off-set some of that qualitative deficiency.

The development plan is the starting point for any decision-making and so it is necessary to consider any relevant policies. Wrekin Local Policy S1 sets out a retail hierarchy whereby Telford is the first priority for locating new retail development, followed by District Centres, such as Newport town centre. This is broadly in compliance with the NPPF as new development is to be focussed on town centres first. Policy S1 then links with policies S12 and S13 and Newport's primary retail frontages and secondary shopping zone. But this does not outweigh NPPF guidance and is not relevant to the assessment of an out of centre location of new convenience retail stores beyond Newport's primary and secondary shopping frontages. Core Strategy policy CS6 seeks to ensure that development in Newport supports its role as a market town and enables it to fulfil its role as a rural service centre. But this is a general policy about Newport and the NPPF retail guidance is town centre specific, so this is not relevant for retail impact purposes.

Core Strategy policy CS9 seeks to improve social inclusion and accessibility. From recent appeals for foodstores at Station Road and Audley Avenue and from the Mere Park appeal in 2010, it has been acknowledged that there is a qualitative gap in foodstore provision in Newport and a need for a discount food retailer. Officers consider that a discount foodstore will result in enhanced choice for shoppers, will assist in drawing back retail expenditure lost to Newport, will reduce the number of journeys to other discount operators beyond Newport (such as Wellington, Donnington, Market Drayton), and will be of benefit to those without access to a car or who cannot travel beyond Newport. It is worth noting that B&M, who have a store in the in Newport town centre, have not objected to the proposed Lidl store and have now withdrawn their objection to the proposed Aldi store. Officers therefore consider that a discount food store, such as that offered by the proposed Lidl (or indeed Aldi), will off-set some of that qualitative deficiency and which will then make this retail offer significantly more accessible to all members of the community that presently wish to shop at discount operators but have to currently travel elsewhere. This in turn aids social inclusion in line with the aims of policy CS9.

In summary on the issue of impact, the LPA, and its retail consultants WYG, agree that an impact assessment cannot be requested under the terms of the NPPF for the proposed retail store, and hence need not be undertaken. There are no other development plan policies that serve to outweigh the NPPF on this matter.

Hence, the only retail test against which to consider the application is the sequential test, and any other significant material considerations, which are discussed further in this report.

#### Sequential test

Para 24 of the NPPF requires LPA's to apply a sequential test "to planning applications for main town centre uses to be located in town centres. Then in edge of centre locations and only if suitable sites are not available should out of centre sites be given to accessible sites that are well connected to the town centre. Applicants and local planning authorities should demonstrate flexibility on issues such as format and scale".

Before considering the out of centre application site, officers must first be satisfied that there are no available town centre or edge of centre sites. This is where it is necessary to consider town centre sites and the two edge of centre sequential sites previously presented at the Mere Park appeal in 2010, namely the Concrete batching plant and land off Water Lane.

Concrete batching plant (applicant refers to this as Avenue Road)

At the Mere Park foodstore appeal in 2010, the concrete batching plant site off Avenue Road was put forward by the Council as a sequentially preferable site. However, this site is no longer available as it is currently being developed and built out for housing, having been granted full planning permission (it was subject to an outline application at the time of the Mere Park appeal pending the signing of a s106 legal agreement).

Land off Water Lane (and St Mary's Street)

The previous Mere Park foodstore appeal in 2010 was dismissed because there was a sequentially preferable site within the town centre along Water Lane that could accommodate the proposal. Water Lane is a large swathe of backland behind and including some of the town centre's St Mary Street's premises with frontage to Water Lane. At the time of the appeal one of the landowners (Mr Tyler) came forward offering his site for retail development and the inspector accepted this as a sequentially preferable site. Land along Water Lane is in multiple ownerships that could make land assembly more difficult without owner co-operation, but the Mere Park appeal Inspector did not consider this to be impossible.

The applicant has submitted justification as to why Water Lane would not be a sequentially preferable site to the one at Mere Park and concludes there is insufficient land to provide for a size and format of store desired by the applicant. The site has no street frontage onto St Mary's Street and not enough parking, which are key operational requirements for Lidl. The site is also long and narrow making suitable configuration difficult and the slope of the site would make level parking difficult. Aldi have also looked at Water Lane and have discounted it for similar reasons. Aldi have confirmed that both the Baptist Church and the Victoria Hotel are not willing to offer up their land, which further reduces land availability along Water Lane.

Whilst a store with an associated car park could be fitted on the site, the land available appears to be limited, and the applicant advises that the available area would not result in an ideal operating format. In considering sequential sites, the NPPF directs both applicants and the Council to apply some degree of flexibility. The Council's retail consultants highlight recent case law on site suitability. One of the court judgements (Tesco Stores Ltd vs Dundee City Council) concluded that in considering alternative sites, one must have regard to whether the site is suitable for the development as it has been proposed, and not for an amended or altered form of that development, and that consideration needs to be given to the "real world" in which developers operate and not an "artificial" one.

The Council's retail consultants WYG have commented that over three and a half years have now passed since the Mere Park discount food appeal decision and the

site has not come forward for retail development in that time. Furthermore, since the autumn of 2011, two supermarket applications have also been submitted and both applicants were directed to consider Water Lane, although it was agreed by all parties that land off Water Lane was not suitable for the size and format required of a large supermarket. It must be noted that officers have tried to assist the applicant to develop Water Lane as a discount supermarket but it is clear that they have encountered reluctance from landowners to allow the site to be assembled for the purposes of a supermarket. Despite retail interest in Newport increasing and the need for sites having been common knowledge in Newport, it would have reasonably been expected that land off Water Lane would have come forward by now if it represented a genuine suitable site. But no such schemes have come forward for a supermarket on Water Lane.

Any new building on Water Lane would need to be very carefully designed and sited as the site adjoins Newport conservation area where developments are expected to preserve and enhance the character and appearance of the area – an area where this Council has undertaken enhancement work over the last two years (Victoria Park). Although this has not been tested through the planning process as yet, it is difficult to be certain that a supermarket development of the type proposed would meet these twin tests easily – the Council would expect an exceptionally high standard of design quality. There is also a possible issue of the suitability of the access which has never been tested through the planning application process and which could yet prove an impediment to a more intensive retail use such as a foodstore.

Whilst the possibility of developing at Water Lane did form a consideration at the Mere Park appeal and essentially formed a second reason for refusal behind the primary issue of ‘accessibility’, there remain some existing and potential constraints to the Water Lane site being able to accommodate a foodstore at this time. This is of course contested by objectors who believe that the Local Planning Authority must apply a consistent approach in decision making. The applicants at Station Road has threatened that they will challenge any decision in favour of this application if proper account is not given to the Water Lane site, particularly given the Mere Park Inspector’s findings. However, the Council is entitled to review its previous stance given the change of circumstances, the passage of time and the site not coming forward in the intervening three and half years, the reluctance of at least one landowner to release its building to the developer, case law that alternative sites should be able to accommodate realistic development formats, the environmental enhancements that have occurred along Water Lane thus favouring a development that would potentially more positively enhance the character and appearance of the adjoining conservation area and the possible uncertainties that an acceptable means of safe access can be achieved.

#### Station Road

This is a greenfield site beyond the urban boundary limits of Newport, but enclosed by the A518 Newport by-pass - it is hence an out of centre site. The site earmarked for a 8,100 sqm superstore currently the subject of call-in by the Secretary of State.

The applicant comments that the site is 850m from the Primary Shopping Frontage. There are only 4 buses a day and whilst the site is more accessible on foot than Mere Park, it is less accessible by public transport. The land around the proposed Sainsbury's supermarket is earmarked for residential uses and this proposal now has a resolution for approval. The applicant advises that the developer of Station Road has told them that the remaining land at Station Road is not available. They also make the point that in any event the Inspector at Audley Avenue took the view, supported by the Court of Appeal, that Station Road was not sequentially superior to Audley Avenue.

Former Focus DIY site, Audley Avenue (Aldi site)

This is a brownfield site located within the urban boundary limits of Newport and is an out of centre site. The applicant comments that this site is currently the subject of a similar discount food store planning application for Aldi (TWC/2013/0887). Whilst it is suitable for a discount food store the applicant deems it unavailable, although the Council would contest this, as in general terms in relation to the sequential test the fact that there is an application on the site for a similar use does not render the site unavailable. The applicant considers that the proposed Lidl site at Mere Park is more viable because of its greater potential for linked trips and its accessibility. . In conclusion on applying the sequential test, it is agreed by all parties, including the Aldi applicants, that there are no town centre sites to be considered. In considering the two edges of centre sites, namely the concrete batching plant on Avenue Road and land off Water Lane, officers are satisfied that these too can be discounted. Therefore there are no other town centre or edge of centre sites that are available, suitable and sequentially preferable.

Accessibility

As there are no alternative town centre or edge of centre sites available, consideration now needs to turn to the application site, which is an out of centre site. As has already been mentioned, the NPPF requires local planning authorities "...when considering edge of centre and out of centre proposals, preference should be given to accessible sites that are well connected to the town centre". This necessitates looking at the potential for linked trips to the town centre together with their connectedness therewith and to then apply some degree of "preference" or choice between sites (if there are more than one) to ensure that the best location is chosen. What paragraph 24 of the NPPF requires when considering out of centre sites is that a preference should be given to sites that are well connected to the town centre. As the Inspector found at the Audley Avenue appeal in relation to this 'preference', it is about achieving connections with the centre by a choice of travel modes which is the prime consideration. The question is therefore not whether one of the out of centre sites is closer to the town centre but rather, whether one of the sites could achieve better town centre linkages than the other. It is the accessibility argument that is now given further consideration. Indeed accessibility is also a prominent factor of the development plan and NPPF as a whole and therefore is a material consideration in determining this application.

There is another discount foodstore application lodged with the Council for determination that is also on this agenda involving the proposed Aldi store at the former Focus DIY store on Audley Avenue (TWC/2013/0887). For the purposes of sequential site selection under the NPPF test, as both the application site and the proposed Aldi site are both located out of centre i.e. roughly equidistant from the primary shopping centre of Newport, there is no need to apply the narrowly interpreted sequential test. However, as stated above the NPPF does require a consideration of preference.

Both the application site and the Aldi site are accessible by car, and it is likely that the majority of visits to either store will take place by car. Whilst the bus gates on Audley Avenue would mean that car users would need to drive round the by-pass and, as Lidl suggests cars would need to travel past the Mere Park site, the difference is not as significant as to be material or to make much difference between the two sites. Lidl have submitted a map that shows the relative car distances from the centre of Newport (by the church) to the two proposed stores. This shows that by driving along Stafford Road, Lidl is some 1,561m away whereas Aldi is 2,526m. However if one drove to Aldi along Upper Bar and Station Road, the driving distance to Aldi is reduced to 2,180m (as measured by officers). Officers consider that overall the difference in mileage trips is inconsequential and is not so significant as to be material or make much difference between the two sites. This argument was played out at the Audley Avenue appeal (albeit in the context of comparing Station Road and Audley Avenue). The Inspector was far from convinced that Station Road should be preferred as being closer to the town centre because, in part, it was recognised that a large percentage of shoppers would inevitably travel to either site by car and that a few minutes extra drive would not be important.

It has been recognised previously at two planning appeals that Mere Park is not accessible enough, apart from by car, and this is a material consideration. The Inspector's decision on the Mere Park appeal in 2010 commented that:-

“32. The site [at Mere Park] is close to the route of the Telford-Stafford (481) bus service, which has a half hourly day time frequency. This provides a regular bus service to and from Newport Town Centre and those parts of Newport and its catchment area close to the route of this service. However, although accessibility to the current bus stops on Stafford Road is to be improved, by the construction/improvement of pavements within the Appellant's land holding, it would still involve a walk of about 300 metres, something of an ordeal to many people carrying heavy shopping. There is also no facility, existing or proposed, to assist bus users in crossing this busy road, to or from the north side bus stop, which is close to a roundabout.

33. Because of the out of town location, the potential pedestrian catchment of this store, which is often significant at discount stores, would be limited. Additionally, both pedestrians and cyclists visiting the store would have to cross the junction of the A41 and A518, which is heavily trafficked and includes the use of many heavy goods vehicles. Such an experience could be intimidating to some and inconvenient

to others. In my view, the accessibility of this site by means of transport other than the car is far from ideal.

34. The Appellant appears to have been unable to persuade the bus company to divert the 481 service through its site. Although, it has offered to guarantee a free bus service from and to the town centre for a period of five years, from the date of the store's opening, much of this period would be covered by the existing arrangements. If service 481 were to cease operation, there is no guarantee as to the frequency of the alternative arrangements in the Unilateral Undertaking so that I cannot attach significant weight to this aspect of the proposal.

35. When compared to Newport Town Centre, which is additionally served by two, all be it less frequent, town services and potentially has a comparatively large walk in catchment population, the accessibility of the appeal site is poor. Policy CS9 aims to improve social inclusion and accessibility by making sure that everyone is afforded a reasonable opportunity to access food shops. It also seeks to locate such facilities in existing centres in order to minimise the distance people travel and to make them accessible by public transport, walking and cycling. The proposal is clearly contrary to these objectives. I conclude that the accessibility of the proposal by a choice of means of transport is not satisfactory. This gives added weight to my conclusion that there are sequentially preferable sites on the edge of Newport Town Centre where the development of a convenience discount store would be more appropriately located."

The Audley Avenue Inspector also considered accessibility at Mere Park. At para 33 of her appeal decision the Inspector observed that "Mere Park is in an out of town location that is slightly closer to the PSF [Primary Shopping Frontage] than the appeal site [Audley Avenue] and benefits from a regular bus service to the town centre. However its main disadvantage is that it is on the eastern side of the A41 which is a busy dual carriageway. Whilst it is possible to cross the roundabout this road would act as a considerable barrier to pedestrian movement".

Officers consider that nothing has materially changed since both appeals and that the application site at Mere Park remains insufficiently accessible by modes of transport other than the car.

With regards walking and cycling, the Lidl and Aldi sites are similar distances from the town centre. Measuring walking/cycling distances from the centre of town by the church, Lidl would be some 1,561m away using Station Road, whereas Aldi would be 1,625m away travelling along Audley Avenue. Officers do not consider that some 64m between the sites to be significantly different as to be material.

However, the nature of those routes is worth considering. Since the Mere Park appeal the nature and type of walking and cycling routes to Lidl, as described in the Inspector's appeal decision above, remain the same, as does the need to cross the heavily trafficked A41/A518, which the Inspector thought would be "intimidating" and "inconvenient". There are still the same pavements, dropped kerbs and pedestrian refuge that were in place at the time of the 2010 appeal. Whilst the applicant has suggested willingness to make any necessary improvements, the Council's highways

officer does not consider that there are any improvements that could be made without prejudicing the operation, capacity and safety of the strategic highway network and particularly the A41/A518 roundabout. For example, installing a signalised pedestrian crossing for the A41 near the roundabout would likely adversely impact on traffic exiting the roundabout to the detriment of the free flow of traffic and wider highway safety. The applicant advises that over time he has improved the route along Stafford Road with hanging baskets, but this is of no material significance in relation to ease of access or safety.

The Audley Avenue Inspector concluded that Audley Avenue is reasonably located in terms of its accessibility for customers wishing to walk or cycle. Walking or cycling to the proposed Aldi store would be safer and relatively convenient, as Audley Avenue has limited vehicular access due to the presence of the bus gates that prevents through traffic. Recent planning permissions including at Audley Avenue will bring further housing development to this area of town and increase the walking catchment to any supermarket development at this location.

The population catchment for Mere Park will also increase with the grant of recent planning permissions in Newport, including some 209 units for elderly persons for a care home village opposite the site (on the other side of the A41 by-pass). However, this won't improve the pedestrian/cyclist experience to Mere Park as the increased population would still have to negotiate the busy A41/A518 and as the Audley Avenue Inspector noted, crossing the A41 is a "considerable barrier to pedestrian movement". The court judgement on the Audley Avenue appeal, when comparing with the Station Road site, said that both sites were such a distances away from the town centre as to not derive meaningful likelihood of linked walking trips.

The Lidl site does benefit from an existing half hourly daily bus service (the Arriva 481 service between Telford and Stafford) that stops outside the Mere Park garden centre on the A518, and the applicants consider this to be a material advantage over the Aldi site at Audley Avenue. In addition to the existing bus service, the owner of the Mere Park garden centre pays a financial subsidy to Arriva, such that at off-peak times (9.30am - 3.30pm Monday to Sunday) customers can travel between Newport town centre and Mere Park for free. This is generous and may entice some customers to travel to Mere Park and the proposed Lidl. However, the existing Arriva 481 bus service and subsidy arrangement was in place at the time of the 2010 Mere Park appeal and this arrangement did not serve to persuade the Inspector that Mere Park site was sufficiently accessible for a foodstore. Nor did it persuade him that the bus service should outweigh the poor walking and cycling access.

Others factors in the Mere Park Inspector's decision about accessibility and the existing bus service was that customers alighting the bus outside Mere Park would need to cross the busy A518. In addition, anyone getting off or catching the bus outside Mere Park would still need to walk another 300m across the Mere Park garden centre complex to get to the store entrance, even if footpaths were improved within the Mere Park complex. Whilst the applicants consider that 300m is less than the generally acceptable 400m walking distance for shoppers to undertake (which equates to approximately a 5 minute walk) the Inspector considered this would be

“an ordeal to many people carrying heavy shopping”. This situation remains unchanged since the 2010 appeal decision and officers consider that nothing has changed to outweigh this material consideration.

A further point with regards the bus subsidy is that whilst Lidl may benefit from this arrangement, the subsidy arrangement is between the garden centre owner and the bus company (Arriva) and there is no certainty as to its continued provision. The Mere Park inspector also considered that if the 481 service were to cease, there would be no guarantee as to the frequency of the alternative arrangements that could be employed in a Unilateral Undertaking, such that he did not attach significant weight to this aspect. The Arriva 481 bus service continues to operate with or without the garden centre owner’s subsidy and whilst the subsidy arrangements to provide “free” bus travel are laudable the matter was not a persuading factor in the Mere park appeal Inspector’s decision. As this appeal decision is a material consideration, officers do not consider it to be a material determining factor in this current application and hence do not attach much weight to it.

With regards the Aldi site at Audley Avenue, it does not presently benefit from an existing bus service; a bus service will only be introduced if the larger foodstore allowed at appeal in 2012 goes ahead. Objectors point to the fragility of this permission following recent announcements by Morrison’s in the press (the assumed end-operator) casting doubts as to whether they will proceed and, consequently the equally fragile nature of the section 106 associated with that consent relating to bus subsidies that would have led to the introduction of bus services along Audley Avenue. But the LPA must recognise this commitment in planning terms and assume bus provision to Audley Avenue, although modest weight can be attached to this situation. What is now proposed by Aldi is to fund a private twice-weekly shopper pick-up service, operated on a club basis that would enable Newport residents to access a free of charge mini-bus service that would include two routes around key residential areas of the town to both the Aldi store and the town centre. The service would operate for a minimum period of five years and could be controlled via a section 106 Obligation. On its own this is not a determining factor. However, the Aldi mini bus service is a positive measure and when the permitted larger foodstore is built out, will be a complementary service and will represent an acceptable solution in terms of enhancing Aldi’s accessibility. Hence the Aldi site will have improved bus provision coupled with good walking and cycling access. Neither the Lidl site at Mere Park, or the Aldi site at Audley Avenue is ideal for linked trips to Newport town centre and there are merits associated with both discount store proposals and sites. But Audley Avenue has been deemed able to have the potential for linked trips and be accessible by reason of the grant of planning permission for a supermarket and there is a planning commitment of a bus. In addition, the Aldi site benefits from a safe and relatively convenient pedestrian and cycling route along Audley Avenue. In contrast the previous Mere Park appeal Inspector considered that the Lidl site was not accessible to a satisfactory level, by means other than the car and did not accord significant weight to the existing bus

service, or the subsidy arrangement, over other accessibility modes or other material considerations.

Officers consider that opportunities for linked trips with the Lidl site at Mere Park and the town centre to be limited due to the nature of the surrounding Mere Park garden centre and the restricted types of goods on offer (due to restrictive planning conditions), despite the existing bus service and the garden centre owner's subsidy arrangement with Arriva. The applicant states that discount stores tend to operate as complementary retailers. Indeed discount stores such as Aldi and Lidl are often seen in close proximity to other main supermarkets (and this would be the case if Aldi was approved at Audley Avenue adjacent to the supermarket allowed on appeal). The applicant argues that the proposed Lidl will form part of an established retail destination at Mere Park and, coupled with the subsidised bus service on offer, will only strengthen linkages between the site and Newport town centre. However, at Mere Park there are no other food retailers - only a garden centre and some units with restriction on the types of goods they can sell (including some farm shop type food products), a hotel and a public house. Expanding Mere Park as a retail destination will create an undesirable alternative retail focus to Newport town centre. The applicant has apparently carried out surveys of its garden centre customers to establish whether or not they were also visiting Newport town centre as part of their trip. The applicant advises that 31% of those asked had linked their garden centre visit with a visit to the town centre. This survey data has not been submitted so there is no way of assessing the survey and its results. However, officers consider that linked trips between the proposed Lidl and other units at Mere Park are limited, as are linked trips between the proposed Lidl and the town centre.

In contrast, the proposed Aldi site would be located adjacent to an approved supermarket, opposite the Countrywide store, adjacent and close to existing employment and offices in Audley Avenue, as well as staff and visitors to the nearby Burton Borough School on the other side of the Audley Avenue bus gates.

For the reasons set out above, officers consider that the issue of accessibility remains as it did for the Mere Park 2010 appeal, namely the application site is not accessible by a choice of means of transport to a satisfactory level. Hence the proposal does not meet social inclusion objectives of the NPPF and is contrary to Core Strategy policy CS9.

Other material considerations

Fall-back position at Mere Park

Currently any retailer including for food (but not necessarily a discounter) could operate from the approx. 2,000sqm gross floorspace of open A1 retail from the Mere Park garden centre building with almost immediate effect without needing planning permission for a change of use. Accessibility issues would not even need to be considered as planning permission would not need to be sought. The applicant considers that this is a significant factor when determining this application and should be given considerable weight.

Lidl have submitted written confirmation that whilst they would prefer a new purpose-built store at Mere Park, they could operate from the existing garden centre building.

To demonstrate this they have submitted floor plans and elevations showing how the building could be utilised. The applicant has advised that if planning permission was not granted for a new Lidl store at Mere Park, Lidl would operate out of the existing garden centre building in any event. The applicant points out that if this was to happen the Council would miss out on the s106 financial contributions that would be triggered by a new store. And to reduce any possible adverse impact that there may be if planning permission is granted for a new Lidl store, the garden centre owner is prepared to enter into a Unilateral Undertaking to impose a restriction on the garden centre such 1,300sqm of floorspace of the garden centre would not be available for food retail. The garden centre building would be closer to the bus stops on the A518 and hence the 300m extra walk across the complex would not be necessary, which was one of the appeal Inspector's concerns.

Lidl have submitted plans showing alterations they would need to make to the existing garden centre building. These include replacing the glass windows with solid render and cladding some of the brick gables - these redevelopment works would require separate planning permission. Lidl's redevelopment works would also include removing some of the structures and conservatory and building the warehouse extension (that already has consent). Officers consider that these proposed alteration works serve to illustrate that the garden centre building is not suitable in its current format for immediate occupation or use as a food store without the need of alterations and the securing of the necessary planning permissions, and would only offer compromised accommodation for a food store. Aldi have submitted commentary to this effect and also observe that they consider the proposed internal layout would not lend itself to easy use by discounter type supermarkets that tend to operate around a relatively fixed format and layout.

Lidl have now submitted an application for 'Lidl' signage on the existing garden centre as further demonstration of their commitment to occupy the garden centre. Members will be aware that this fall-back scenario has presented itself before. At the Audley Avenue appeal Morrisons produced a letter saying they would operate a supermarket from the existing Mere Park garden centre and even submitted an advert application for Morrisons signage on the garden centre building. But this did not materialise and indeed at the Station Road call-in inquiry in January 2013 it was announced that Morrisons were interested in the Audley Avenue supermarket site (and they subsequently submitted a reserved matters application for a store on the Audley Avenue site). As with the arguments about the Water Lane sequential site, there has been considerable retail interest in Newport over the last few years and if there was any genuine prospect of the garden centre building being suitable for a discount food operator or a "big four" supermarket, then it would have come forward by now.

Officers consider that this fall-back position does not form part of the NPPF sequential test and does not make the site more accessible. Officers do not attach much weight to the likelihood or reality of Lidl, or any other supermarket, occupying the garden centre building.

Brownfield vs Greenfield land

The application site at Mere Park lies outside the urban boundary of Newport, beyond the by-pass (A41) and on a greenfield site in the countryside/rural area. One of the NPPF's core planning principles to achieve sustainable development is that LPA's should "encourage the effective use of land by re-using land that has been previously developed (brownfield land), provided that it is not of high environmental value" and this is reiterated in para 111. The development plan also encourages the efficient use of land as part of its spatial objectives. A food discount supermarket can be provided on a brownfield site within the urban boundary of Newport i.e. the proposed Aldi site on Audley Avenue. Officers consider that preference for brownfield development should be given substantial weight in this instance, particularly given the Inspector's findings at the Audley Avenue supermarket appeal, supported by the Court of Appeal judgement.

#### Countryside encroachment

The application site clearly lies outside the urban boundary of Newport in the countryside/rural area. The site is severed from Newport by the A41 and so is not even contiguous with the Newport urban boundary. Whilst the NPPF seeks to encourage economic growth in rural areas in order to create jobs and prosperity, this development is not being promoted as a necessary rural enterprise. Core Strategy Policy CS7 deals with the Borough's rural area and seeks to limit and control development in the countryside such that development should be limited to that which is "necessary to meet the needs of the area". But Newport's rural area is provided for by Policy CS6 which deals with Newport's local needs as well as those of its "rural hinterland" all as part of Newport's role as a market town where services and facilities should be focused. Indeed the discount food offer can be provided on an urban site that is more accessible i.e. at the proposed Aldi at Audley Avenue. As such the proposed development unnecessarily extends development into the countryside and would tend to consolidate a mixed-use, out of centre location which would be undesirable in terms of creating an alternative retail focus to Newport's town centre. As such the proposal is contrary to the NPPF and Core Strategy Policy CS7.

#### Job creation

There will be some modest job creation. The applicant states up to 40 new posts would be created, although Lidl's own website says 25 jobs, and that Lidl seeks to source labour locally. Objectors comment that any job creation would not be net new jobs - only replacements for jobs lost to retail units that may close in the town centre. Notwithstanding this point of view, any job creation will help the general local economy but is not a significant factor in reaching a decision on this application.

#### Design

The Design & Access Statement and submitted proposed plans show that the building would be of a contemporary design with mono-pitched roof and grey fascia cladding and white render panels on the three main sides of the building, similar to Lidl stores found elsewhere. The store entrance is the far south east corner of the building closest to the road and fairly centrally sited within the car park and the corner and side elevation facing the road is full height glazing.

The building will be visible from the A41. Since the previous discount foodstore appeal at Mere Park, the A41 roadside frontage has changed as the Three Fishes public house and Premier Inn has since been built.

Officers consider that the design of the store, within the context of the mix of design and the generally larger buildings on the Mere Park complex, would not be wholly out of character.

#### Highways

Following initial concerns and the subsequent submission of additional information, the Council's highways officer no longer has an objection and has advised of the imposition of conditions. Highways do however comment that the applicant should ensure that there is a direct pedestrian route through the adjoining site Mere Park site under their control to the A518 bus stops. The applicant's offer of a bus shelter on the High Street is not considered appropriate due to site constraints - therefore bus shelters to enhance the stops on the A518 by the garden centre would be more appropriate and this can be provided through s106 contributions. The highway officer would support the restriction on the garden centre that the applicant has offered.

However in terms of the capacity assessment, the highways officer is still concerned that there will be a level of delay during the peak periods particularly for right turn manoeuvres out of the site at the A41 junction. As a result, it will be necessary for the garden centre gates to remain open so alternative egress can be made via the A518. Due to the location of the store and the delivery area close to the access, it will be necessary to condition that deliveries are restricted to outside peak traffic and shopping times.

The applicant has acknowledged that this proposal will add to the additional traffic impact on the local highway network and that the cumulative impact of this with other developments will need to be mitigated. Based on the proposed development a contribution of £108,479.61 will be sought towards various off-site highway works around Newport. Other s106 contributions would be £25,000 towards bus stop improvements and £5,000 towards Travel Plan monitoring. In light of the Mere park Inspector's comments on the bus subsidy arrangement, planning officers do not consider that this can be adequately controlled, especially if the Arriva service ceased.

#### Other technical issues

Drainage can be mitigated against by condition as can ecology issues.

The LPA has undertaken a Habitats Regulations Assessment as the site lies within 5kms of the European Designated Site at Aqualate Mere Midland Meres and Mosses Ramsar Phase 2. The scale of the proposals is small and the proposals will not directly affect the Ramsar site or its hydrology. There will be no adverse impacts as a result of waste water or drainage. Impacts from air emissions are highly unlikely. There will be no increase in recreational pressure. Therefore the LPA is satisfied that the development will have no likely significant effect on Aqualate Mere alone or in-combination. The proposals can be 'screened out' of the Habitat Regulation Assessment process and an Appropriate Assessment is not required. Hence, there

is no likely effect on the integrity of the European Designated Site at Aqualate Mere Midland Meres and Mosses Ramsar Phase 2 from this planning application and there is no legal barrier under the Habitat Regulation Assessment process to planning permission being granted in this case.

S106/unilateral undertaking contributions

If planning permission is granted, the following financial contributions and other restrictions would be required to make the development acceptable:-

- £108,479.61 for off-site Highways contributions to network improvements.
- £25,000 for public transport enhancements for improvements to bus stops.
- £20,000 towards Public Art
- £5,000 for Travel Plan monitoring.
- Restriction on use of garden centre floor space for food.
- 5% of total contributions for S106 monitoring

## CONCLUSION

Retail impact assessment cannot be considered in this instance as the application proposal for a 1,901 sqm (gross) retail food store falls below the NPPF threshold of 2,500sqm, and as yet there is no locally applicable threshold set through the Local Plan process. There are no other development plan policies that serve to outweigh the NPPF on this matter.

There are no sequentially preferable town centres or edge of centre sites that officers consider could accommodate the development proposal. Some objectors contend that Water Lane is still a sequentially preferable site and that the Council should maintain a consistent position from the Mere Park appeal when land off Water Lane was found to be a sequentially preferable site. However, the Council is entitled to review its previous stance given the change of circumstances. Taking the latest case law into account, the applicant's commentary on the unsuitability of Water Lane (endorsed by Aldi's application), the fact that no effective land assembly has taken place or retail schemes come forward on this land in the last three and a half years since the Mere Park appeal decision, the fact that if there was any genuine prospect of land off Water Lane being suitable for a discount food operator then it would have come forward by now, together with untested issues of the need for high quality design so close to the conservation area and possible access issues, officers consider that land off Water Lane can be discounted as a suitable alternative or sequentially preferable site, and that there are no other town centre or edge of centre sites.

The NPPF does require some comparison between sites in order for "preference" to be given to "accessible sites that are well connected to the town centre" in order to ensure the best sites are chosen, particularly if there is more than one site being considered. Neither the proposed Lidl site at Mere Park or the proposed Aldi at Audley Avenue is particularly well connected. However, following the appeal decision for the Audley Avenue supermarket, Audley Avenue has been found to be accessible and connected enough and hence is marginally better than the proposed

Lidl site, where the Mere Park appeal Inspector found Mere Park was not accessible to a satisfactory level. These recent appeal decisions are a material consideration. In then considering accessibility and connection to the town centre, the site is not considered accessible enough. This was the Inspector's view at the 2010 Mere Park appeal, despite the existing 481 Arriva bus service, as the site is poorly accessible for pedestrians/cyclists who have to negotiate the heavily trafficked A41 and A518 which acts as a barrier to pedestrian movement. This was endorsed by the Audley Avenue appeal Inspector in 2012. Officers consider that these appeal decisions are material and should be accorded significant weight. Even if one caught the bus to Mere Park, there is still a 300m walk across the Mere Park complex to the proposed store entrance and the previous appeal inspector considered this would be an "ordeal" to those carrying heavy shopping bags. This situation has not changed since the 2010 Mere Park appeal decision when the bus service and bus subsidy arrangement was already in place. Officers do not consider that the garden centre owner's bus subsidy arrangement with Arriva, allowing passengers between Newport town centre and Mere Park to travel free at off-peak times, to be a determining factor in the general accessibility of the site and should not outweigh other policy or material considerations. Hence, despite some social inclusion benefit of a discount food store for Newport, the social exclusion resulting from poor accessibility outweighs this benefit, which could be met elsewhere in Newport.

The applicant's fall-back position (whereby the existing garden centre benefits from a Certificate of Lawful Use allowing the building to be used for a food store and also the applicant's willingness to restrict the convenience floor space of the garden centre if a new store was built) does not form part of the NPPF sequential test and does not make the site any more accessible, apart from the garden centre building being slightly closer to the bus stop than the new store. Officers do not attach much weight to the likelihood or reality of Lidl, or any other supermarket, occupying the garden centre building and do not consider that this issue should outweigh other policy and material considerations.

In addition, the site would involve the development of a greenfield site. Both the NPPF and development plan seeks to encourage the effective re-use of brownfield land. Indeed a discount food store can be provided on a more accessible brownfield site i.e. at the proposed Aldi at Audley Avenue. Officers consider that preference for brownfield development should be given substantial weight in this instance, particularly given the Inspector's findings at the Audley Avenue supermarket appeal and supported by the Court of Appeal judgement.

The application site is also located beyond the urban limits of Newport in a countryside location where development is to be controlled and restricted, and where retail development is directed towards urban centres in preference to out of town or even countryside locations. Indeed a discount food store can be provided on a more accessible urban site i.e. the proposed Aldi at Audley Avenue. Development of this countryside site would result in an encroachment into the countryside and consolidate a mixed use, out of centre location which would be undesirable in terms of creating an alternative retail focus to the town centre.

Issues relating to the design, highways, ecology, and drainage are not in question and can be adequately dealt with by conditions.

Taking all factors into account and applying planning balance, officers do not consider that there are material considerations that should outweigh the site's poor accessibility. In addition officers consider that the encroachment into the countryside and development of a greenfield are material and are not outweighed by the applicant's fall-back retail position for Mere Park or the garden centre owner's bus subsidy arrangement with Arriva. In conclusion officers consider that the application should be refusal for the reasons set out below.

**RECOMMENDATION:** REFUSE for the following reasons:

1. Notwithstanding the existing bus service close to the site, the application site is not accessible by a choice of means of transport to a satisfactory level for food retailing, where good access for those without a car is key and where social exclusion issues are to be avoided. The proposed development is therefore contrary to NPPF and Core Strategy policies CS7 and CS9.
2. The proposed development would unnecessarily extend built development into the countryside where development is strictly controlled and would tend to consolidate a mixed use, out of centre location which would be undesirable in terms of creating an alternative retail focus to the town centre and hence would be contrary to the NPPF, saved Wrekin Local Plan policy S1 and Core Strategy policy CS7.
3. The proposed development would involve the development of a greenfield site, which is in general conflict with the NPPF and there are no material considerations to outweigh this.

**NOTE:** The Reasons noted above were changed by Planning Committee.

TWC/2014/1060 The Queens Head, Horton, Telford, Shropshire, TF6 6DW Outline application for the erection of 2no. detached dwellings with associated access, all other matters reserved

**APPLICANT**

A Phillips & Son

**RECEIVED**

26/11/2014

**PARISH**

Hadley and Leegomery, Preston upon the Weald Moors

**WARD**

Church Aston and Lilleshall, Hadley and Leegomery

**OFFICER**

Diane Ferriday

OBJECTIONS RECEIVED: Yes

**MAIN ISSUES:**

Principle of development, Access and highway safety, Residential amenity

**THE PROPOSAL:**

This application seeks outline consent to for the erection of 2 detached dwellings each with its own vehicular access with all other matters reserved on land to the south/west of the Queens Head at Horton.

The site will be split into 2 similar sized plots on the same building line set back off the highway to allow a driveway with turning area for each plot.

The proposed site plan indicates the hedge fronting the highway trimmed down to a height of 1.2m to assist a visibility splay of 2.4metres by 43metres.

**SITE AND SURROUNDINGS:**

The application site is to the south west of a larger section of arable land which extends westwards of the Queens Head in Horton. It has a site area of 0.2 hectares is relatively flat bound by hedging along the eastern boundary adjacent to the highway.

Opposite east is a pumping station and residential properties differing in terms of age, design and appearance, to the north is the Queens Head public house which is currently vacant with an application to extend under consideration; the public house is on a junction which leads east onto Horton Lane with residential properties.

The surrounding area is rural in character; to the south/east is the Hortonwood Industrial Estate.

A short drive distance south is Trench and Donnington with local services, shops and schools.

**PLANNING HISTORY:**

PE/2014/0371 – Residential development

**PLANNING POLICY CONTEXT:**

National guidance:

National Planning Policy Framework

Core Strategy:

CS1 Homes

CS7 Rural Area

CS12 Natural Environment

CS15 Urban Design

Wrekin Local Plan:

H9 Location of new housing

H10 Scale of development

H24 Affordable Housing: Rural exceptions

UD2 Design Criteria

**CONSULTATION RESPONSES:**

Hadley and Leegomery Parish Council: No objection to the proposal with all matters reserved except for access.

Preston Parish: The Local Development Plan allowed for very little development in this part of Telford and building on agricultural land, which this is, would be seen as a serious departure from that policy. At a time when this country struggles to feed itself it seems incongruous that farmers should be encouraged to sell off land for building. However, the NPPF may to some extent have replaced that policy while Telford Council tries to satisfy the Government's requirements to provide sufficient land for future housing requirements.

However, proposals for developments such as this must fulfil the sustainability criteria, which this manifestly does not. There is a very infrequent bus service so that the idea of encouraging the use of public transport to go to work or shopping is simply not going to happen. In fact there are no local shops or any other local community services so that every activity requires the use of private transport, which seems rather contradictory to the concept of sustainability.

Local residents also express concerns about the volume of traffic on the road passing this site, and complain about the excessive speed of many of the drivers.

This road is often used at peak times by drivers seeking to by-pass the complex traffic light systems at Trench Lock. Building on this site would only exacerbate that problem. Sustainability demands that access to facilities, services, goods and other people should be available to all and not achieved at the expense of the environment or limited to those with cars. By this reckoning this development should be refused.

Shropshire Fire Service: Informative required

Drainage: Support subject to conditions relating to surface water

Ecology: Support subject to informative relating to Lighting Plan and erection of artificial nesting/roosting boxes

Highways: Noted that the hedge is indicated as being trimmed down to 1200mm ask this is amended to 900mm. Other standard outline highway conditions relating to access construction, parking and turning would apply also.

Neighbour consultation responses

Twelve letters of objection have been received following consultation with the following summarised comments;

- There are no public facilities i.e. church school shops, post office, in the area, there is not a regular bus service run from the village any service requirements can only be sustained by use of a private car again increasing the traffic problems.
- Road infrastructure is poor as it is, with very narrow winding roads very little/no street lights, lack of pavements because the roads are too narrow to take them. Increase in traffic on narrow country roads with no footpaths or street lighting results in a higher risk of danger to cyclists and pedestrians. There have been several accidents on that stretch of road. Noise level will be increased through traffic. There is also outline planning permission being applied for on the other side of the Queens head, towards Preston Upon the Weald moors, which will add to the traffic flow, to an unacceptable level.
- Horton is a quiet country village with no amenities and cannot support any further development.
- Area is known to flood because of old drainage systems and the brook that runs close to the site.
- The area is prime green belt and does not need development; the villages in this area are unique and need to be kept as villages/hamlets. There are more than enough brown belt areas within Telford and Wrekin to sustain the need for houses. For example; Maxell site 540 houses, Leegomery substantial amount being built there and proposals for nearly 2000 houses from the Humbers towards Newport!

- The proposed development is on good agricultural land which also sustains an abundance of wildlife; habitat disturbed and disrupted enormously when they take out the hedgerow.
- There is still plenty of brown belt land prime for development around Telford without building on good agricultural land.
- This application has clearly been put forward for quick profit and no thought has been put into the effects on the residents of Horton with regard to their safety or standard of living.
- Fear this sort of development which will not add to the local hamlet will be the start of ribbon development eventually joining Leegomery to Preston village and beyond.
- Yet to feel the impact of at least another 25 dwellings yet to be built and already agreed. Need to feel the impact of this before we allow any more major development
- Issues with privacy, as all our main living rooms are roadside.

#### PLANNING POLICY CONTEXT

The site is designated as rural land in the Wrekin Local Plan; planning law requires that applications for planning permission are determined in accordance with the development plan, unless material considerations indicate otherwise. The National Planning Policy Framework must be taken into account in the preparation of local and neighbourhood plans, and is a material consideration in planning decisions. At the heart of the NPPF is a presumption in favour of sustainable development and for decision taking means where development plan is absent, silent or relevant policies out of date, grant permission unless any adverse impacts of doing so would significantly outweigh the benefits, when assessed against the policies in the Framework taken as a whole. It further states that local planning authorities' should identify and update annually a supply of deliverable sites sufficient to provide 5 years' worth of housing against their housing requirements to ensure choice and competition in the market for land; if the LPA cannot demonstrate a 5 year land supply then relevant policies for the supply of housing should not be considered up-to-date. Telford & Wrekin Council set theirs out in the adopted development plan, the Core Strategy (2006-2016); however evidence has now come to light demonstrating a lack of supply and this affects policies CS1 and potentially CS7 of the Core Strategy and applications cannot be refused on the grounds of housing supply alone. In accordance with the NPPF there is a presumption in favour of sustainable development; however housing in rural areas should not be located in places distant from local services.

Policy CS7 Rural Area provides the spatial interpretation of the housing target defined by CS1 Homes, with an emphasis on helping to sustain rural communities. On this basis, policy defines that new development be focussed on the three suitable settlements of High Ercall, Tibberton and Waters Upton. Outside of these

settlements development will be limited. These policies are considered in parallel with relevant saved policies of the Wrekin Local Plan, particularly saved policy H24 Affordable Housing Rural Exceptions Policy where the Council may permit small scale affordable housing schemes within or adjoining villages in the Rural Area.

Although this site is on existing agricultural land it does not represent isolated development being located on the border of an existing settlement; it is adjacent to developed land to the north and building form opposite of residential properties and nearby public house which although currently closed is under consideration for being extended. Hortonwood Industrial Estate is within walking distance via designated footpath/cycle links; both Trench and Donnington are approximately 1.5 mile away with public transport, shops, schools, surgeries and leisure facilities; accordingly the proposal is considered sustainable within the realms of the NPPF.

Following the introduction of the NPPF, policies H9 and H10 of the Wrekin Local now carry less weight than they once did and whilst it is noted that the application site is not defined as an infill plot, it is judged as in a sustainable settlement. The reasoning behind Policy H10 was to ensure that building plots fell within the confines of the villages and did not result in spread onto areas of open countryside. Given that policies relating to housing supply would not fully conform to the latest guidance in the NPPF, there is merit in considering whether the thrust of Local Plan policies that seek to protect against the spread of development into open countryside would be consistent with the NPPF. The NPPF still considers the protection against sporadic development important and that this issue is pertinent to sustainable development principles; it is therefore important to consider the use and appearance of the site currently. It is a small section of arable land which abuts both the highway and adjacent public house with residential properties opposite; on balance it is considered that the proposed development would not be contrary to the aims of local plan policy in that it would not seek to increase the confines of the village or result in loss of open countryside, contrary to local and national policies and guidance.

Policy CS9 aims to improve social inclusion and accessibility by making sure that everyone is afforded an opportunity to access homes, work, schools and other key services; the site is within walking distance of employment and short drive distance from local services and therefore meets the aims of this policy.

Policy CS12 aims to protect and conserve the natural environment; an ecological appraisal and bat surveys was carried out on this site in September 2014 by Star Ecology and found no evidence of any protected species; however appropriate conditions and informatives are requested to ensure the provision of roosting/nesting opportunities for wildlife and to minimise disturbance to bats.

Policy CS15 of the Core Strategy and 'Saved' policy UD2 provides guidance to assess whether or not proposals are of an appropriate design, quality and relate positively to their context. It advises the Council to assist in creating and sustaining safe places, strengthening local identity and projecting a positive image. This is an

outline application only; an indicative layout plan has been submitted showing how the two dwellings could be accommodated within the site but is not considered to relate well to the character and form of the immediate surrounding area and will not be supported; therefore further plans and details of layout, scale, appearance, access and landscaping will be considered at a later stage with the submission of a 'reserved matters' application.

## ACCESS

The site is level and the proposed access will provide a visibility splay 2.4m x 45m with the hedge along the frontage trimmed down to 1.2m high within the visibility splay. The Highway Officer sought a Section 106 contribution towards an enhancement of the existing 30mph zone in the vicinity of the site. On site observations would suggest that vehicle speeds across the proposed site frontage are in excess of the speed limit and therefore it is the current opinion of the highway authority that as a result of this development the speed limit requires further enforcement to ensure the safe operation of the proposed site accesses. However the speed of vehicles along this highway and existing road condition is an ongoing issue as highlighted in comments received from residents and not something that will occur if permission is granted; in addition the applicant has provided a visibility splay enhanced by the lowering of the hedge; therefore the request is considered unreasonable. Ongoing Highway safety will be mitigated through appropriate conditions to lessen any impact on the safety of other highway users.

## IMPACT ON AMENITY

Comments have been made and noted about privacy and overlooking; however the site is a reasonable distance from the residential properties opposite and existing hedging along the frontage will provide some screening for privacy purposes. The scale of development, access arrangements and proposed boundary treatment ensures there is limited impact on the amenities of these nearby properties

## OTHER CONSTRAINTS

The site is within a coal mining area but does not have legacy issues that are a risk to the surface and can be dealt with via an informative note within the decision.

## CONCLUSION

The proposed development is acceptable sustainable development that conforms to guidance within the National Planning Policy Framework. The site is able to accommodate 2 detached dwellings with sufficient amenity space and suitable access arrangements. The proposed development will not have an adverse impact on the amenities of nearby residential properties or on the safety of highway users. The proposal is therefore considered compliant with both local and national policy and recommended for approval with conditions.

RECOMMENDATION: delegate to the Development Management Service Delivery Mangers, to Grant Outline Consent subject to conditions below (precise wording to be finalise by officers)

#### Conditions

1. Time Limit Outline
2. Standard Outline – some matters reserved
3. General Details required
4. Custom highways condition – height of hedging to 900mm
5. Parking/Turning/Loading
6. Soakaway Test
7. Surface water drainage
8. Site Environmental
9. Visibility splays
10. Erection of artificial nesting/roosting boxes
11. Lighting plan
12. Development in accordance with plans
13. Site Plan

#### Informatives:

- I17b Coal Authority Standing Advice
- 125b Wild Nesting Birds & Trenches
- I32 Fire Authority
- I33b Broadband
- I40 Conditions
- I44 Reasons for Outline Consent

The Local Planning Authority has acted positively and proactively in determining this application by assessing the proposal against all material considerations, including planning policies and any representations that may have been received, and subsequently determining to grant planning permission in accordance with the presumption in favour of sustainable development as set out in the National Planning Policy Framework.