

PARISH Shirebrook

APPLICATION Construction of retail foodstore with associated car parking and landscaping with entrance off Portland Road
LOCATION Land At Portland Road Inc Recreation Ground White Swan PH Car Parks And Housing Areas Portland Road Shirebrook
APPLICANT Lidl UK GmbH
APPLICATION NO. 16/00345/FUL **FILE NO.** PP-05283176
CASE OFFICER Mr Peter Sawdon
DATE RECEIVED 18th July 2016

DELEGATED APPLICATION REFERRED TO COMMITTEE BY: Assistant Director of Planning
REASON: Consideration of location for retail development and S106 considerations

SITE

This is a 1.01 hectare cleared brownfield site immediately adjacent to Shirebrook town centre that was formerly occupied by dwellings and the former White Swan Public House that is located to the south east corner of the junction of Portland Road with Market Street at Shirebrook.

Dwellings are located to the south and east of the site, with a recreation ground to the east. Shirebrook Town Centre is generally located to the north west with sheltered living accommodation to the north east.

A culverted watercourse runs generally across the centre of the site on an east/west axis.

PROPOSAL

This full planning application proposes the erection of a A1 retail food store to the rear (south east corner) of the site, with associated car parking (@122 spaces) to its north and west sides. The store would have a gross floor area of 2470 sq. m. (200m on the first floor), giving a net internal floor area of 1424 sq. m.

Vehicular and pedestrian access to the store is proposed from the points of an existing vehicular access onto Portland Road; a pedestrian access is also proposed from Market Street to the West. A pedestrian crossing is proposed to cross Portland Road to link to a dedicated pedestrian access into the site from Portland Road at the same point.

Soft landscaping is proposed to all four boundaries, with associated means of enclosure, mainly on the east and southern boundaries (alongside the adjoining areas of housing and public open space).

The agent indicates that the proposal will bring with it a number of benefits, as follows:

- *The scheme will bring inward investment into this area of Shirebrook.*

- *The proposal will provide a new improved retail provision for the area, it will deliver a well-designed, modern food store that provides for food shopping needs.*
- *The scheme will enable the redevelopment of an important brownfield site situated within a sustainable, urban location.*
- *The development will provide new and appropriate employment opportunities within Shirebrook.*
- *The development will improve the quality of the built environment.*
- *The replacement store will incorporate sustainable design features in order to promote energy efficiency and minimise any impact on the environment.*
- *As such, it is considered that planning permission should be granted for the proposed replacement Lidl store on this site.*

It is stated that the proposals will create approximately 40 new job opportunities for local people, both full and part time, therefore reducing unemployment and boosting the local economy. Additional jobs will be created in associated industries that will benefit from the ongoing servicing and maintenance of the buildings as well as local supply chain networks. Furthermore, construction jobs will be created during the development period.

In addition to the application form and plans, the application is accompanied by the following studies:

1. A Design, Access and Sustainability Statement
2. Planning Statement
3. A Flood Risk Assessment
4. Flood Risk Assessment
5. Ground Investigation Report
6. Phase II Environmental Assessment (Ground conditions report)
7. Preliminary Appraisal Report (Ground Conditions)
8. Noise Impact Assessment
9. Statement of Community Involvement
10. Transport Assessment
11. Travel Plan

AMENDMENTS

E-mail from agent dated 6th October 2016 with the following amended plans: -

- Proposed Elevations (ref: 1898 P200 D) prepared by HTC Architects;
- Proposed Surfacing Treatment Plan (ref: 1898 P403 H) prepared by HTC Architects;
- Proposed Boundary Treatments Plan (ref: 1898 P402 H) prepared by HTC Architects;
- Proposed Lidl Site Plan (ref: 1898 P400 L) prepared by HTC Architects;
- Landscape Details (R/1911/1B) prepared by FDA Landscape;
- Tree Pit in Car Park with Raised Kerb (ref: R-1911-2) prepared FDA Landscape;

E-mail dated 7th October 2016 with accompanying plan: -

- Proposed Roof Plan (ref 1898 P106A)

E-mail from agent on 24th October 2016 with the following amended plans: -

- Proposed Lidl Site Plan (1898 P400 M)

- Proposed Boundary Treatments Plan (1898 P402 J);
- Proposed Surfacing Treatment Plan (1898 P403 J); and
- Landscape Details (R/1911/1C)

HISTORY

13/00384/DETDEM – Determined on the 20/09/13 not to require additional details in respect of the demolition of the former Public House and housing areas on this site.

11/00262/FULMAJ – Now expired planning permission granted on the 31/01/12 for the erection of an A1 retail food store with associated car parking, highway works and landscaping (full application), additional non-food retail units (outline application) and demolition of existing structures.

10/00234/OUTMAJ – outline planning permission granted 16th March 2011 for A1 retail food store and additional non-food retail units with associated car parking, highway works and landscaping.

An application for Judicial Review of this permission has been refused by a Deputy Judge of the High Court.

CONSULTATIONS

Environmental Health Officer – Recommends the inclusion of conditions relating to contamination and noise 26/10/16 Revised condition regarding contamination on the basis of further submitted information. 8/11/16

Economic Development – Proposal supports the Council's Growth Strategy, Economic Development and Housing Strategy and Regeneration Framework. Offers the opportunity to act as catalyst for the regeneration of Shirebrook. Pedestrian access from the site to the town centre should be made as easy as possible. The proposal will grow the local business base, create jobs and provide the opportunity for `linked trips` to enhance the vitality and viability of Shirebrook Town Centre. As such, the proposal is supported by Economic Development. Seek inclusion of a condition to enhance and maximise employment and training opportunities. 16/8/16

Derbyshire County Council (Flood Risk Management) – recommend conditions relating to design and management of surface water drainage and an assessment of drainage infrastructure within the application site, along with associated advisory notes 18/8/16

Derbyshire County Council (Archaeologist) – An Archaeological Written Scheme of Investigation (WSI) was approved for this site in 2013 under an earlier consent related to potential impacts on known archaeological interests on site. Conditions need to be attached to any consent to manage any potential impacts on this archaeology 2/9/16

Highway Authority – Initial observations made relating to additional information required, alongside the need for ongoing consideration by the Highway Authority of the original application drawings 7/9/16.

Crime Prevention Design Advisor – advice offered regarding crime prevention, in particular the provision of a more substantial boundary treatment. Recommends that approval should be conditional upon a lighting scheme for the store exterior and car park, and also a CCTV scheme for the car park and interior and exterior of the store 12/9/16

Shirebrook Town Council – No objections 27/9/16

Derbyshire County Council (Strategic Planning) – Provides for a sustainable form of development consistent with the policies and priorities of the NPPF. Retail impact analysis

appears robust and concludes that the proposals would bring a range of positive benefits to Shirebrook, particularly in terms of impacting positively on the vitality and viability of the town centre, enhancing retail provision in the town, bringing new investments to the town and creating significant numbers of new jobs. This letter also reports the comments of County Councillor Marian Stockdale who is supportive of the proposals as they are much needed in the town, although she is concerned about parking and congestion problems on Market Close and asks if double yellow line parking restrictions can be provided. 19/10

PUBLICITY By press advert, site notice and 46 neighbour letters.

1 letter of objection has been received that raises the following issues: -

- As the former consents for Tesco have expired, this planning application should be determined on its own individual planning merits. This position has been highlighted to Bolsover Council to ensure the application is robustly assessed.
- Consider there to be fundamental issues with the submitted Transport Assessment (this letter has been passed to the Highway Authority for its consideration as part of its assessment of this proposal): -
 - Assessment does not adhere to TRICS (national system for trip generation analysis) Good Practice Guide and underestimates impacts on the local highway network. Renders any impact assessments unrepresentative and therefore renders the results of the included junction impact assessments invalid.
 - Traffic surveys were undertaken at non-representative times and insufficient numbers of junctions were analysed. Times chosen do not correlate with peak flows associated with the use of Lidl stores. Impacts on busy junctions not properly analysed as a result.
 - Despite showing that several junctions are shown to fail due to capacity issues, no mitigation is stated to be necessary. Mitigation should be sought to improve capacity of junctions to accommodate development traffic.
 - The included walking and cycling catchments were calculated using straight line distance (e.g. as the crow flies), this is not considered to be accurate as it does not represent how a person would traverse the environment around them to access the site; effectively overestimates catchment and does not consider the local environment in calculations.
 - Swept path analysis shows service vehicles significantly crossing the centre line and clipping internal kerbing; fails to demonstrate development can be serviced without safety concerns.
 - Details do not detail tactile paving to enable pedestrians to safely traverse the site access and junction leading to unsafe pedestrian movements.
 - Concluded that the submitted material fails to fully assess the potential highway impact of the proposed development and as a result fails to meet local and national policy.

34 letters of support have been received that raise the following issues: -

- Need something like this to jump start Shirebrook into becoming the shopping centre it once was.
- Shirebrook has been badly neglected. It needs help from any quarter.
- Lidl will provide more choice that is needed. A bit of competition is welcome/will increase competition. Needs of the town are not met by Aldi and Co-Op Currently shop outside Shirebrook, but would stay to shop at Lidl. Some retail needs are not currently provided for. Fed up having to go out of Shirebrook to shop. No need to keep travelling out of Shirebrook if Lidl provided for in Shirebrook. Shirebrook needs more supermarket options.
- Town is expanding and there needs to infrastructure to support the town.
- Surely previous planning permission for Tesco's means it will be mere formality for Lidl to be granted the same? Cannot see a problem given Tesco permission on the site.
- Shirebrook need s improvement and a new outlet would improve this long derelict site. Will remove the current eyesore site. Local residents are fed up with the current boarded up site that is subjected to anti-social behaviour.
- Located closer to (writer's) home.
- Every job it brings is a bonus. Employment (hopefully) for locals. Job opportunities are welcome. Will bring jobs and parking that is needed.
- Hopefully Lidl will attract more visitors from outside of Shirebrook. Hopefully if people come from outside Shirebrook, they will shop in existing Shirebrook shops.
- Desperately in need of more shops; we have very little choice and would like Lidl and other companies to come to Shirebrook.
- Regular bus service from local settlements to access the store.
- Will not affect Aldi sales too much; the writer already shops at both stores (Lidl in Sutton in Ashfield)
- What the town needs now is for the Parish and District Councils to redevelop the Market Square

POLICY

Bolsover District Local Plan (BDLP) GEN1 (Minimum Requirements for Development), GEN2 (Impact of Development on the Environment), GEN4 (Development on Contaminated Land), GEN5 (Land Drainage), GEN6 (Sewerage and Sewage Disposal), GEN8 (Settlement Frameworks), GEN13 (Provision For People With Disability), GEN17 (Public Art), SAC12 (Retail Development On The Edge Of Defined Town and Local Centres), SAC15 (Design Of New Shop Fronts and Alteration To Existing Shop Fronts), TRA1 (Location of New Development), TRA10 (Traffic Management), TRA13 (Provision For Cyclists), TRA15 (Design

Of Roads and Paths To Serve New Development), ENV5 (Nature Conservation Interests throughout the District) and ENV8 (Development Affecting Trees and Hedgerows).

Consultation Draft Local Plan. This version of the Local Plan was approved at the last Planning Committee meeting. Given the draft status of this document, only limited weight can be attributed to its content. That document does not propose any fundamental change to any key policy issues affecting this planning application, in particular, there is no planned amendment to the current town centre boundary as it relates to this site.

National Planning Policy Framework

Key aims of the NPPF include:

- the presumption in favour of sustainable development;
- to achieve sustainable economic growth and develop a prosperous economy; and
- to ensure that the vitality and viability of town centres is maintained and enhanced.

The NPPF states that sustainable development has three dimensions:

“An economic role – contributing to building a strong, responsive and competitive economy...to support growth and innovation; and by identifying and coordinating development requirements, including the provision of infrastructure;

A social role – supporting strong, vibrant and healthy communities, by providing the supply of housing required to meet the needs of present and future generation; and by creating a high quality built environment, with accessible local services that reflect the community’s needs and support its health, social and cultural well-being; and

An environmental role – contributing to protecting and enhancing our natural, built and historic environment...”

Core principles include to proactively drive and support sustainable economic development to deliver the homes, business and industrial units, infrastructure and thriving local places that the country needs; securing high quality design and a good standard of amenity for all existing and future occupants of land and buildings, the conservation of heritage assets in a manner appropriate to their significance so that they can be enjoyed for their contribution to the quality of life of this and future generations.

As the Bolsover Local Plan was prepared and adopted prior to 2004, paragraphs 214 and 215 of the NPPF mean that ‘due weight’ rather than ‘full weight’ should be attached to its policies.

Paragraph 14, states that where there is not an up-to-date Local Plan, local planning authorities (LPAs) should grant planning permission for development unless 'any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole or specific policies in the Framework indicate that development should be restricted; and

Paragraphs 24 to 26, which require LPAs to apply a sequential and retail impact test to larger scale retail and leisure proposals to ensure that development does not impact adversely on the vitality and viability of town centres.

Paragraph 34 states that: - “Plans and decisions should ensure developments that generate significant movement are located where the need to travel will be minimised and the use of sustainable transport modes can be maximised.”

Paragraph 131 - In determining planning applications, local planning authorities should take account of:-

- The desirability of sustaining and enhancing the significance of heritage assets and putting them into viable uses consistent with their conservation
- The positive contribution that conservation of heritage assets can make to sustainable communities including their economic vitality; and
- The desirability of new development making a positive contribution to local character and distinctiveness

Other core principles of the NPPF are to secure sustainable development of high quality design and a good standard of amenity for all existing and future occupants of land and buildings.

Other (specify) N/A

ASSESSMENT

The main consideration is the principle of retail development in this location and wider regeneration objectives for Shirebrook. Other considerations include potential impacts of the proposal on: the character and appearance of the area, including the suitability of the design of the proposals; the amenities of local residents; transport and highway safety; historic assets; contamination; drainage; and biodiversity.

As has been pointed out in representations, the retail consents previously granted for Tesco on this site and adjoining land have now expired and as such there is no valid consent for retail development on this site, which limits the weight that can be attributed to those former consents.

The national planning policy context has also changed with the introduction of the NPPF that was only a draft at the time the most recent planning permission for the retail development of this site was drafted.

Notwithstanding this, the site remains a sustainably located site well related to the town centre. The proposed site is in an edge-of-centre location in the context of the sequential test, although the site adjoins the south-eastern edge of the town centre defined in the Bolsover District Local Plan (BDLP) and is only approximately 100 metres (m) from the Market Place, which is the main hub for retail provision in the town centre. The site is very well situated and therefore likely to facilitate high levels of pedestrian linkages between the proposed foodstore and other retail and service businesses within the town centre and, as such, would generate significant spin-off benefits for the centre. The site is also located adjacent to a large area of existing residential development and would be well placed to facilitate high levels of walk-in trade from these residential areas. The site would be very accessible to public transport with the town's main bus stops located around the Market Place a short distance from the site. Five bus services per hour pass the site on Portland Road linking Shirebrook with Mansfield and other settlements in the locality.

Retail and Economic Impacts

Derbyshire County Council has provided advice on Town Centre and Retail Issues, including the associated retail analysis submitted in the planning application documents and have commented on these as follows (included in italics): -

“4 Town Centre and Retail Issues

4.1 Paragraphs 23 to 27 of the NPPF seek to ensure that the vitality and viability of town centres is maintained and enhanced and that new retail and leisure developments should be subject to the sequential and retail impact tests, to ensure that new development proposals outside centres do not harm the vitality and viability of town and district centres.

Sequential Analysis

4.2 Shirebrook is defined as a town centre under Saved Policy SAC1 of the BDLP, which seeks to ensure that new retail proposals are of an appropriate scale and do not harm the vitality and viability of the town centre or any other nearby centre. As noted above, the application site is located on the edge of the town centre. Consequently, in the context of paragraph 24 of the NPPF, an analysis is required of other potentially available, suitable and viable sites within the town centre, which might be able to accommodate the proposed foodstore development.

4.3 The applicant's Planning and Retail Statement (PRS) has appropriately identified three possible locations within the town centre, which might be able to accommodate retail development including the Top Cat site, housing allocation site HOU3 on Long Lane and various vacant units within the town centre.

4.4 The Top Cat site is located in the northern part of the town centre and was previously considered as part of the sequential analysis for the two planning applications for Tesco stores on the current application site referred to above. DCC's Officers' views on the Top Cat site remain the same for the current application as those made on the Tesco proposals in that the site would not appear to be either available or suitable to accommodate the proposed foodstore, for the reasons set out below.

4.5 Firstly, the Top Cat premises are currently operational with the company trading and there is no evidence to suggest that the site or premises are being actively marketed for sale. There is no current or extant planning permission for a foodstore use on the site or alternative uses. The site and premises do not therefore appear to be available either now or in the foreseeable future to accommodate the proposed foodstore development.

4.6 Secondly, the Shirebrook Town Centre Masterplan produced by BDC in 2007, considered that the further concentration of town centre activity northwards would be undesirable and would not contribute to BDC's Masterplan aims to re-anchor the south of the town centre, create a high street and facilitate regeneration for the Market Square area. The Top Cat site would not therefore meet the aims of the Masterplan and BDC's desire for new retail development to be located to the south of the town centre to assist in its regeneration aspirations.

4.7 For the reasons above, the Top Cat site is not considered to be either available or suitable to accommodate the proposed foodstore development.

4.8 Housing allocation site HOU3 was identified in the BDLP and covers a site area of 0.5 ha, in comparison with the foodstore application proposals which cover a site area of 1.01 ha. In site size terms alone, the housing allocation site would not be of a sufficient scale to accommodate the proposed foodstore and its associated car parking. The site has no highway frontage which would not meet the needs of a modern food retailer and would be difficult to serve with a suitable highway access. Furthermore, the site is currently subject to an outline planning application for residential use and is pending a decision by BDC. It is possible, therefore, that the site will be developed for housing purposes in the near future. On the basis of the above, the applicant's conclusions in paragraph 6.14 of the PRS are considered to be appropriate that the site is not suitable or available to accommodate the proposed foodstore development.

4.9 Finally, the applicant's PRS has identified a range of premises within the town centre, which are all currently vacant. However, the conclusions in paragraph 6.16 of the PRS are considered to be robust in that all of the premises are located within existing parades of shop units and are too small either individually or in combination to accommodate the foodstore development and its associated parking.

4.10 On the basis of the assessment above, it is considered that the applicant's conclusions in paragraph 6.17 of the PRS are robust and that there are no sequentially preferable sites within Shirebrook town centre, which would be able to accommodate the proposed foodstore and its associated parking spaces.

Retail Impact Analysis

4.11 As the foodstore proposals incorporate a gross floorspace of 2,270 sq m and sales floorspace of 1,424 sq m, in accordance with paragraph 26 of the NPPF, there is no requirement for the applicant to submit a detailed RIA in support of the planning application as it is under the NPPF floorspace threshold of 2,500 sq m. However, the applicant's PRS includes a broad assessment (Section 7) of the likely impact effects of the proposed foodstore. Dee's Officers have reviewed this assessment and consider that it provides a robust analysis of the potential impacts of the foodstore.

4.12 It should be noted that, due to their larger scale, both planning applications for proposed Tesco stores on the site referred to above were supported by detailed RIAs. DCC's Officers assessed both the RIAs and deemed them to be largely robust. They concluded that, although the overall trading impacts of the proposed foodstores on existing businesses within the town centre would be likely to be significant, given the close proximity of the stores to the town centre and their good pedestrian linkages, the overall impacts of the stores would be likely to be positive and help maintain and enhance the vitality and viability of the town centre overall. It is a logical conclusion, therefore, that the proposed Lidl foodstore, with its significantly smaller gross and net trading floorspace, would be likely to have significantly less trading impacts on existing businesses within the town centre and, given its close proximity to the town centre and excellent pedestrian linkages to it, the proposed foodstore would be likely to have significant positive benefits for the vitality and viability of the town centre overall.

4.13 The application proposals are also considered likely to have a range of other positive sustainability and regeneration benefits, which are appropriately identified in paragraph 8.3 of the applicant's PRS, which include:

- the scheme will bring new investment into the Shirebrook area and could act as a catalyst for further new development;
- the proposal will deliver a well-designed, modern foodstore that provides for the discount food shopping needs of the community;
- the scheme will facilitate the redevelopment of an important brownfield site on the edge of Shirebrook town centre in a very sustainable location; and
- The proposals will deliver significant numbers of new jobs for the area both in the construction and operational phases of the proposed development, which will generate additional expenditure in the area.”

In considering the economic impacts of the development, that are a material consideration in the NPPF, the Council's Economic Development (ED) Team has advised that it supports the proposals and advises that the proposal supports a range of economic development strategies and plans: -

1) Growth Strategy

The District's Growth Strategy (2014) includes these Strategic Priorities:

- Supporting Enterprise: maintaining and growing the business base
- Unlocking Development Potential: unlocking the capacity of major employment sites

Alongside this priority are a series of Objectives including:

- Identifying and supporting businesses capable of growth
- Encouraging competitiveness, creativity and enterprise
- Developing and promoting the districts as competitive business locations
- Continuing to work in partnership with the public and private sector to develop, manage and enhance key strategic employment areas
- Work towards maintaining an appropriate supply of suitably located employment land and premises
- Work with established firms and to promote the appropriate development of land in their ownership, particularly large single companies

2) Economic Development and Housing Strategy

The District's Economic Development and Housing Strategy (2015) includes the Strategic Priorities:

- Supporting Enterprise: maintaining and growing the business base
- Maximise employment, skills and training opportunities
- Unlock development potential: unlocking the capacity of major employment sites
- Enable Town Centre development: realise the vitality and viability of town centres

This proposal supports these key corporate priorities and objectives to grow the business base and support the Town Centres and, therefore, is aligned to the

District's growth ambitions.

3) Regeneration Framework

In addition to the above already-adopted strategies, the Council has commissioned consultants to prepare a District-wide Regeneration Framework which will cover Shirebrook Town Centre. A key aim of the emerging Regeneration Framework is to promote the development opportunities of Shirebrook and its Town Centre.

The ED Team has also advised that from an economic development perspective the most important benefit that needs to be realised from the proposal is the potential for `linked trips` by shoppers at Lidl to visit the other shops and businesses within Shirebrook Town Centre itself. Encouraging more shoppers into the town centre and its retail core to spend money there will enhance its vitality and viability. Therefore, it is vital that pedestrian connectivity is maximised so as to achieve these benefits for the town centre. It needs to be made as easy as possible for shoppers to move from the store to the town centre. Better access is essential to create an additional direct pedestrian crossing from the Lidl store on Portland Road to connect with the Market Place. Intuitive routes following perceived desire lines should lead people naturally from the new site to the town centre and vice-versa. Linked to the need for good access and connectivity for pedestrians to practically get from the Lidl store to the bus station on Market Street.

The ED Team conclude that the planning application offers the opportunity to act as catalyst for the regeneration of Shirebrook. Pedestrian access from the site to the town centre should be made as easy as possible. The proposal will grow the local business base, create jobs and provide the opportunity for `linked trips` to enhance the vitality and viability of Shirebrook Town Centre.

In seeking to support local opportunities for skills, training and employment in the District the ED team has requested inclusion of a condition to secure a scheme to maximise such provision. Notwithstanding that request, there is no planning policy that would support such a condition and such a condition would fail the test of including a planning condition on any decision. The scheme would not be unacceptable without the condition. On this basis, it is recommended that such a condition should not be included, although reference to the issue can be raised in an advisory note.

Design Considerations

The proposed building is Lidl's 'Future' store design that the company is rolling out nationally to deliver a uniform appearance. This limited the degree to which amendments to deliver local vernacular detailing could be secured. Nevertheless, the building does provide a contemporary building for the area that would not be inappropriate in its location. The building has white rendered lower panels that are reflective of other rendering on buildings in the locality, including on several town centre shops. Whilst a greater use of materials to reflect local vernacular, in particular the use of brick, would have been more welcome, this contemporary design is not considered to be inappropriate in this location.

Site constraints have limited the degree to which some amendments could be achieved to deliver design improvements. In order to address the street better, it would have been preferred for the building to be located forward in the site towards the Portland Road

frontage, with the larger glazed areas onto that highway frontage. However, the presence of a culvert across the site is a significant constraint. Whilst in theory this could be diverted, the cost of doing so would be prohibitive to this scheme; hence the building could not be re-positioned.

Outside of the constraints listed above regarding the applicant's corporate styling and the culvert, the application has been amended to deliver improvements to the design, including the provision of an additional pedestrian access is a more convenient location to facilitate access from the town centre. This has been shown to be directly aligned with a proposed crossing over Portland Road and the main store entrance, to deliver a direct and accessible route to the store, conveniently located to link the store to the town centre. Additional landscaping has been provided on the boundaries of the site, including tree planting on the site boundaries and within the car park, in order to assist with breaking up the bulk and mass of the large front elevation.

The alignment of a proposed security fence at the rear of the site has also been amended to ensure that this is set to the rear of landscaping to provide an improved interface between the site and the adjoining residential areas to the south. It is considered that the relationship between the site and the nearest dwellings is appropriate in terms of securing a reasonable level of amenity in terms of the bulk and mass of the buildings and separation distances and landscape treatments.

Given the proximity of dwellings to the site, it is considered that a condition should be included on any planning permission to control the position and direction of lighting, in order to ensure that this does not impact on the amenities of local residents.

The Crime Prevention Design Advisor has raised concern about the provision of an apparent footpath link to the open space area to the east, given a history of anti-social behaviour on that site that he feels will be likely to bring such problems to the store; he has advised that it be removed. It is understood that this link is shown on the prospect of potential future development of that land (previously subject to planning permission for retail development under the earlier 'Tesco' consents). At the present time, that boundary at the point of that access is made up of a metal railing around the adjacent play area and so access would not be instantly afforded unless and until the fence is removed by the adjoining land owner and it is not considered necessary to remove this element of the scheme, nor to impose any condition about it, although an advisory note can be included.

The Crime Prevention Design Advisor has also advised that any consent should be conditional upon a lighting scheme for store exterior and car park, and also a CCTV scheme for car park, store exterior and store interior. He states that as there is no real visual link between the store and the majority of the car park, consequently formal surveillance will be essential, as well as the maximisation of casual supervision from footfall within the car park. Policy GEN1 discusses the need for the design of development to minimise opportunities for crime and as such, a condition requiring such security measures is considered appropriate to ensure compliance with that policy.

Overall, the design is considered to be acceptable. Conditions to secure the delivery of the details are proposed. In terms of the design, the scheme is considered to comply with the

requirements of policies GEN1 and GEN2 and design objectives of the NPPF.

Environmental Health

The Environmental Health Officer has agreed with the content of the revised contamination study and remediation strategy submitted to deal with identified contamination on site. On this basis, the Environmental Health Officer has recommended conditions requiring that remediation is carried out as stated, along with control over any unexpected contamination and importation of soils. Such conditions will ensure compliance with condition GEN4 (Development on Contaminated Land).

In respect of noise, the Environmental Health Officer considers that further information is required before the submitted noise assessment can be agreed, as it may be that alteration of the external plant area may be required or restrictions on night time deliveries. However, it is felt that an acceptable scheme could be agreed and so a condition has been recommended to require the submission of a scheme for approval and implementation to control noise levels at the development. Such a condition is considered necessary to ensure compliance with policy GEN2 (Impact of Development on the Environment).

Highway and Transport considerations

The objection in respect of highway issues was passed to the Highway Authority for consideration as part of its overall assessment of the proposals.

The Highway Authority initially sought contributions from the developers to upgrade two junctions that are currently exceeding capacity, these being at Main Street/Common Lane Junction and Portland Road/Station Road Junction. Notwithstanding this request, it is apparent that these junctions already require upgrading without the proposed development and the applicants have expressed the view that they should not be responsible for upgrading these junctions under those circumstances. Additionally, it has become apparent that funding is already available for junction improvements as part of contributions already made to wider highway improvements from the 'South Shirebrook' developments. On this basis, the Highway Authority has accepted that such contributions could not reasonably be sought.

The Highway Authority has also sought a contribution from the developer to enhance public transport serving the site. This was also declined by the developers as they do not accept that these are necessary to make the development acceptable stating that "As set out in the submitted TA (paragraph 4.2) there are a minimum of 5 buses per hour within easy walking distance of the site". On this basis they consider that access by bus is excellent and readily available. In subsequent correspondence the Highway Authority has acknowledged that such a contribution would be desirable and not necessary to make the development acceptable; on this basis, the request fails to meet the tests for S106 requirements and the absence of any contribution should not preclude the grant of planning permission.

The Highway Authority remains concerned that the local street network may be subject to inappropriate parking or traffic activity due to the presence of the store. It is therefore proposed that the roads in the vicinity of the store be subject to monitoring by the Highway Authority and where persistent and significant problems with free and safe traffic movement are identified as a result of store traffic, the Highway Authority be empowered to promote and introduce such Traffic Regulation Orders as may be deemed appropriate. On this basis, the

Highway Authority is seeking contributions up to a maximum of £6,000 for a period of up to 3 years post store opening. The applicants are not willing to agree to this contribution as they consider it to be unnecessary and unreasonable. They state that this is as the proposed scheme has a large car park, as required by the County's own standards, and there is also a free public car park directly opposite the site, on the other side of Portland Road. On this basis they consider that the likelihood of on-street parking as a direct result of the development is very unlikely. The applicant's decline of this request was only received around the date of the deadline for the preparation of this report and as such, whilst the comments of the Highway Authority have been sought on this issue, they are still awaited and an update will be provided to the Committee when it meets. Notwithstanding this outstanding response there is some sympathy with the view of the applicant about the adequacy of the proposed car parking.

Contributions are sought by the Highway Authority towards the ongoing monitoring of the submitted Travel Plan, which the applicants have agreed to pay. This will need to be subject to a S106 planning obligation.

The Highway Authority has suggested a condition to require access through the car park for community transport vehicles including pick up and drop off facilities close to the store entrance. Notwithstanding this request, the applicant has stated that it considers that there is no justification for this and it has not been shown to be necessary, reasonable or relevant. Notwithstanding this issue, the layout of the site is such that it is likely that such vehicles would be able to traverse car park, that provides for two-way traffic throughout (aisles are between 7m and 8.1m wide) and includes a paved area in front of the main entrance where passenger drop off would be possible. On this basis, it is agreed that a condition is not required.

The Highway Authority recommended the inclusion of refuges on Portland Road to encourage pedestrian use and their safety and connectivity with the existing town centre. However the applicants suggested a controlled crossing as an alternative as they considered this preferable for pedestrians. It is the applicant's view that that there is no (highway safety) reason for refuges as "Portland Road is only 7.3m wide and not very heavily trafficked". The provision of a crossing that provides greater priority for pedestrians couples with the general objective of providing improved linkages with the town centre, in addition to safety objectives such that support has been given by officers of this Council to a pedestrian priority crossing instead of refuges. Notwithstanding this offer from the developers, the Highway Authority does not favour this option as it considers that there is no substantive evidence to demonstrate that a demand for such facility will come about, hence its request for pedestrian refuges. The Highway Authority is also concerned that the introduction of a controlled crossing would create an ongoing (cost/maintenance) liability. It is worth noting that the provision of pedestrian refuges would require road widening that would impact on the layout of the site, presumably reducing the proposed landscaping areas. Officers have pressed for the Highway Authority to re-consider its position on this issue, as it is felt that a crossing that prioritises pedestrians over vehicles would be preferable and would not result in the weakening of other design benefits of the scheme if refuges were introduced. At the time of writing this report this issue is not fully resolved and an update will be provided to Planning Committee when it meets.

A further suggested condition that seeks to restrict control of access points into the site, other than as shown on the planning application drawings is considered unnecessary, as this is otherwise controlled through existing legislative control and so is not proposed for inclusion.

Archaeology.

The Archaeologist has referred to his advice on the earlier applications as the proposals will impact a site on the Derbyshire Historic Environment Record (HER 12510) relating to a possible medieval moated site, with a farmhouse on the central platform by the 19th century. An archaeological Written Scheme of Investigation (WSI) for part of the site was approved in 2013, and an initial phase of two or three evaluation trenches was excavated in 2013 on the western edge of the moated site. The archaeologist has advised that this work has never been submitted in report form, and the archaeological requirement on this previous consent is therefore incomplete. He did however monitor the evaluation on behalf of the local planning authority: archaeological visibility was much hampered by a depth of later made ground, but remains of the moat were revealed at some considerable depth. The evaluation did therefore identify remains of the moat, but the central platform of the site was not investigated. It is probable that this archaeological site will be impacted by groundworks of the current scheme, particularly as the proposed store seems to sit over the western part of the moated site. There is also however, because of the depth of the archaeological remains, some potential for them to be preserved *in situ*.

There is consequently a requirement under NPPF paragraph 141 for:

- 1) the results of the previous archaeological work to be made publically accessible through production of a report for the Derbyshire Historic Environment Record; and
- 2) a conditioned scheme of archaeological work to mitigate any impacts of the development proposals on the archaeological features, or to ensure preservation of the features beneath the proposed development.

The archaeologist has recommended therefore, the inclusion of conditions to any planning permission to secure these works in line with the NPPF that would also satisfy the requirements of Policy CON13 (Archaeological Sites and Ancient Monuments) of the Bolsover District Local Plan.

Ecology Impacts

Policy ENV5 considers Nature Conservation Interests throughout the District and Policy ENV8 considers the affects of development on trees and hedgerows.

Given that this is a cleared site, there is unlikely to be any significant biodiversity interest on the site and indeed, the conclusions at the time of the earlier planning application's for this site, when buildings and gardens were still present, concluded that no adverse impacts are likely.

Given the provision of soft landscaping areas around the site, the development would provide a suitable degree of biodiversity interest. The landscaping provision is to be required by planning conditions.

Public Art

The applicants have acknowledged Policy GEN17 in the submitted application documents,

but, despite several requests, have not indicated whether they are offer a contribution for public art under this policy. Notwithstanding this the agent has indicated that in principle, the developer is seeking to avoid incurring any additional costs in connection with this development. Given that the policy only 'seeks to negotiate' a contribution to public art, it cannot be demonstrated that the proposal is unacceptable without it such that permission should not be withheld in the absence of such a contribution.

Drainage and Flood Risk

In respect of Policies GEN5 (Land Drainage), Derbyshire County Council's Flood Risk Management Team has recommended conditions relating to design and management of surface water drainage and an assessment of drainage infrastructure within the application site, along with associated advisory notes. The inclusion of such conditions is considered reasonably necessary to ensure compliance with that policy.

There are no known issues in respect of foul drainage and there should be no conflict with policy GEN6 (Sewerage and Sewage Disposal) in this regard.

Other Matters

Listed Building: N/A

Conservation Area: N/A

Crime and Disorder: No significant issues arise

Equalities: No known issues

Access for Disabled: No known issues

Trees (Preservation and Planting): N/A

SSSI Impacts: N/A

Biodiversity: No significant issues arise

Human Rights: No significant issues arise

RECOMMENDATION

Subject to satisfactory resolution of the outstanding issues in respect of a crossing for Portland Road and contributions to traffic monitoring, to DEFER decision and delegate to Assistant Director Planning in consultation with Chairman and Vice-Chairman of Planning Committee subject to:

- Completion of S106 Planning Obligation to cover Travel Plan monitoring; and
- Conditions deemed necessary including those set out below in précis form to be formulated in full by the Assistant Director of Planning:

Conditions

1 The development shall be begun before the expiration of three years from the date of this permission.

2 The soft landscaping details shown on drawing R/1911/1C shall be implemented in full not later than the first planting season following the occupation of the development hereby approved. If within a period of five years from the date of the planting of any tree or shrub that tree or shrub may die, be removed, uprooted or become seriously damaged it shall be replaced by another of the same species during the first available planting season, unless a variation of the landscaping scheme is approved in writing with the Local Planning Authority.

3 Prior to their installation on site, details of the new edging to the back of highway footpath, the 1800mm close boarded timber fence and 1800mm acoustic timber fence shall have been submitted to and approved in writing by the Local Planning Authority. The approved details shall be provided in the locations shown on drawing 1898 P402 Rev. J prior to the store opening to the public for retail sales.

4 The contamination remediation scheme details included with this application must be carried out in accordance with its terms prior to the commencement of development other than that required to carry out remediation, unless otherwise agreed in writing by the Local Planning Authority. The Local Planning Authority must be given two weeks written notification of commencement of the remediation scheme works. Following completion of measures identified in the approved remediation scheme, a verification report (referred to in PPS23 as a validation report) that demonstrates the effectiveness of the remediation carried out must be produced, and is subject to the approval in writing of the Local Planning Authority.

5 In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken in accordance with the requirements of condition 4, and where remediation is necessary a remediation scheme must be prepared and subsequently approved in writing by the Local Planning Authority. Following completion of measures identified in the approved remediation scheme a verification report must be prepared, which is subject to the approval in writing of the Local Planning Authority.

6 In the event that it is proposed to import soil onto site in connection with the development, the proposed soil shall be sampled at source and analysed in a laboratory that is accredited under the MCERTS Chemical testing of Soil Scheme for all parameters requested (where this is available), the results of which shall be submitted to the Local Planning Authority (LPA) for consideration. Only the soil approved in writing by the Local Planning Authority shall be used on site.

7 Notwithstanding the information submitted with the planning application, prior to any building works on the store above foundation level, further information shall have been submitted to and approved in writing by the Local Planning Authority to supplement the noise assessment and the delivery management scheme dated 5th July 2016; this shall provide further clarification of the sound levels during night time and a scheme submitted specifying the provisions to be made for the control of sound. The assessment shall demonstrate that the rating level of the sound, corrected for acoustic features, measured at or calculated to, a position representing any residential boundary which may suffer a loss of aural amenity from sound associated with the development, does not exceed the background sound level unless agreed in writing with the Local Planning Authority. The scheme, as approved, shall be implemented in full prior to the first use of the development and validated by a competent person. The scheme, as validated, shall be retained thereafter.

8 Prior to the installation of any external lighting a detailed scheme shall have first been submitted to and approved in writing with the Local Planning Authority. The scheme shall be

implemented as approved prior to the store opening to the public for retail sales and shall be designed to minimise light spillage outside of the site it is designed to serve, and into the sky.

9 No development shall take place until a detailed design and associated management and maintenance plan of surface water drainage for the site, in accordance with Defra's non-statutory technical standards for sustainable drainage systems, has been submitted to and approved in writing by the Local Planning Authority. The approved drainage system shall be implemented in accordance with the approved detailed design prior to the use of the building commencing.

10 No development shall take place until a reasonable assessment is undertaken of the drainage infrastructure within the curtilage of the applicant's land ownership, identified to be the point of surface water drainage discharge.

11 No development shall take place until a Written Scheme of Investigation for archaeological work has been submitted to and approved by the local planning authority in writing, and until any pre-start element of the approved scheme has been completed to the written satisfaction of the local planning authority. The scheme shall include an assessment of significance and research questions; and

1. The programme and methodology of site investigation and recording
2. The programme for post investigation assessment
3. Provision to be made for analysis of the site investigation and recording
4. Provision to be made for publication and dissemination of the analysis and records of the site investigation
5. Provision to be made for archive deposition of the analysis and records of the site investigation
6. Nomination of a competent person or persons/organization to undertake the works set out within the Written Scheme of Investigation

12 No development shall take place other than in accordance with the archaeological Written Scheme of Investigation approved under condition 11.

13 The development shall not be occupied until the site investigation and post investigation assessment has been completed in accordance with the programme set out in the archaeological Written Scheme of Investigation approved under condition 11 and the provision to be made for analysis, publication and dissemination of results and archive deposition has been secured.

14 Before any other operations are commenced, a scheme shall be submitted to the Local Planning Authority for written approval indicating the proposed temporary means of construction access, site accommodation, storage of plant and materials, wheel wash facilities, parking and manoeuvring of site operatives and visitors vehicles and loading, unloading and manoeuvring of goods vehicles.

15 Before any other operations are commenced, detailed designs shall be submitted to the Local Planning Authority for written approval indicating vehicular access for the food store to Portland Road incorporating 2.4m x 45m visibility splays in each direction.

16 Before any other operations are commenced, excluding demolition and site clearance, the access and on-site facilities the subject of condition 14 above shall be laid out and constructed in accordance with the approved scheme and maintained throughout the construction period free from any impediment to their designated use.

17 Before any other operations are commenced, detailed designs shall be submitted to the Local Planning Authority for written approval indicating:

- a. Vehicular access for the food store to Portland Road incorporating 2.4m x 45m visibility splays in each direction.
- b. Pedestrian crossing facilities on Portland Road.

18 Prior to occupation of the building hereby approved, the permanent access to Portland Road and other frontage works the subject of condition 15 above shall be laid out and constructed in accordance with the approved drawings, the area in advance of the visibility sightlines being maintained clear of any object greater than 1m in height relative to the adjoining nearside carriageway channel level throughout the life of the development.

19 Before any operations are commenced, detailed designs shall be submitted for written approval by the Local Planning Authority showing Market Close works. For the avoidance of doubt this will involve the stopping up of the existing turning head, which will form part of the development site, and provision of alternative turning facilities for that section of highway.

20 The premises, the subject of the application, shall not be taken into use until the permanent on-site car parking and manoeuvring space for staff and visitors and space for loading/ unloading and turning of service/ delivery goods vehicles has been laid out in accordance with the approved drawings, surfaced as shown on the latest revised planning application drawings and maintained throughout the life of the development free from any impediment to its designated use.

21 The premises, the subject of the application, shall not be taken into use until the on-site and off-site facilities for cyclists and pedestrians, the subject of condition 17 above have been laid out in accordance with the approved drawings and constructed in a manner to be agreed with the Local Planning Authority and maintained throughout the life of the development free from any impediment to their designated use.

22 Before any other operations are commenced, excluding demolition and site clearance, the access and on-site facilities the subject of condition 14 above shall be laid out and constructed in accordance with the approved scheme and maintained throughout the construction period free from any impediment to their designated use.

23 Prior to the any works commencing on the building above foundation level, details of security measures, including CCTV and lighting, shall have been submitted to and approved in writing by the Local Planning Authority and the measures agreed by way of this condition shall be implemented before the development is first brought into use and shall remain in use as approved thereafter.

Reasons

- 1 To comply with the requirements of Section 51 of the Planning and Compulsory Purchase Act 2004.
- 2 To ensure that satisfactory landscaping is provided within a reasonable period and to provide a reasonable period for the replacement of trees and shrubs in the interests of the visual amenity of the area and in compliance with Policy GEN1 of the Bolsover District Local Plan.
- 3 To ensure that satisfactory boundary treatments are provided in the interests of visual and residential amenities and in compliance with Policies GEN1 and GEN2 of the Bolsover District Local Plan.
- 5 To ensure the site is suitable for its intended use, to protect the quality of the water environment and in compliance with Policy GEN4 of the Bolsover District Local Plan.
- 6 To ensure the site is suitable for its intended use, to protect the quality of the water environment and in compliance with Policy GEN4 of the Bolsover District Local Plan.
- 7 To protect the amenity of the occupants of nearby dwellings and in compliance with Policy GEN2 of the Bolsover District Local Plan.
- 8 To protect the amenity of the occupants of nearby dwellings, in order to prevent opportunities for crime and in compliance with Policies GEN1 and GEN2 of the Bolsover District Local Plan.
- 9 To ensure that the principles of sustainable drainage are incorporated into this proposal and sufficient detail of the construction, operation and maintenance of sustainable drainage systems is provided to the Local Planning Authority and in accordance with the requirements of policies GEN2 and GEN5.
- 10 To ensure the proposed surface water runoff can be appropriately discharged from the site and in order to comply with policies GEN2 and GEN5 of the Bolsover District Local Plan.
- 11 In the interests of affording protection for the potential archaeological interest of the site and in compliance with Policy CON13 of the Bolsover District Local Plan.
- 12 In the interests of affording protection for the potential archaeological interest of the site and in compliance with Policy CON13 of the Bolsover District Local Plan.
- 13 In the interests of affording protection for the potential archaeological interest of the site and in compliance with Policy CON13 of the Bolsover District Local Plan.
- 14 In the interests of highway safety and in compliance with Policy GEN1 of the Bolsover District Local Plan.

15 In the interests of highway safety and in compliance with Policy GEN1 of the Bolsover District Local Plan.

16 In the interests of highway safety and in compliance with Policy GEN1 of the Bolsover District Local Plan.

17 In order to provide facilities for cyclists and pedestrians to encourage sustainable travel patterns and in accordance with the requirements of policies GEN1, TRA13 and TRA15 of the Bolsover District Local Plan.

18 In the interests of highway safety and in compliance with Policy GEN1 of the Bolsover District Local Plan.

19 In order to ensure appropriate replacement turning provision is made for the Market Close highway for that lost as result of this development in the interests of highway safety and in compliance with Policy GEN1 of the Bolsover District Local Plan.

20 To avoid the need for vehicles to park and manoeuvre in the adjacent highways, in the interests of highway safety and in compliance with Policy GEN1 of the Bolsover District Local Plan.

21 In order to provide facilities for cyclists and pedestrians to encourage sustainable travel patterns and in accordance with the requirements of policies GEN1, TRA13 and TRA15 of the Bolsover District Local Plan

22 In the interests of highway safety and in compliance with Policy GEN1 of the Bolsover District Local Plan.

23 In order to ensure that appropriate crime prevention measures are implemented as part of the development and in compliance with policy GEN2 of the adopted Bolsover District Local Plan.

Notes

1. Attention is drawn to advise contained with consultations received in connection with this planning application that can be viewed on the Council's website at www.bolsover.gov.uk - go to the planning application pages where instructions on how to search using the application reference number can be found. Comments to note include:

- Derbyshire County Council (Planning) dated 13th October 2016
- Derbyshire County Council (Flood Risk Management Team) dated 18th August 2016
- Derbyshire County Council (Highways) – appendices attached to letter dated 25th October 2016

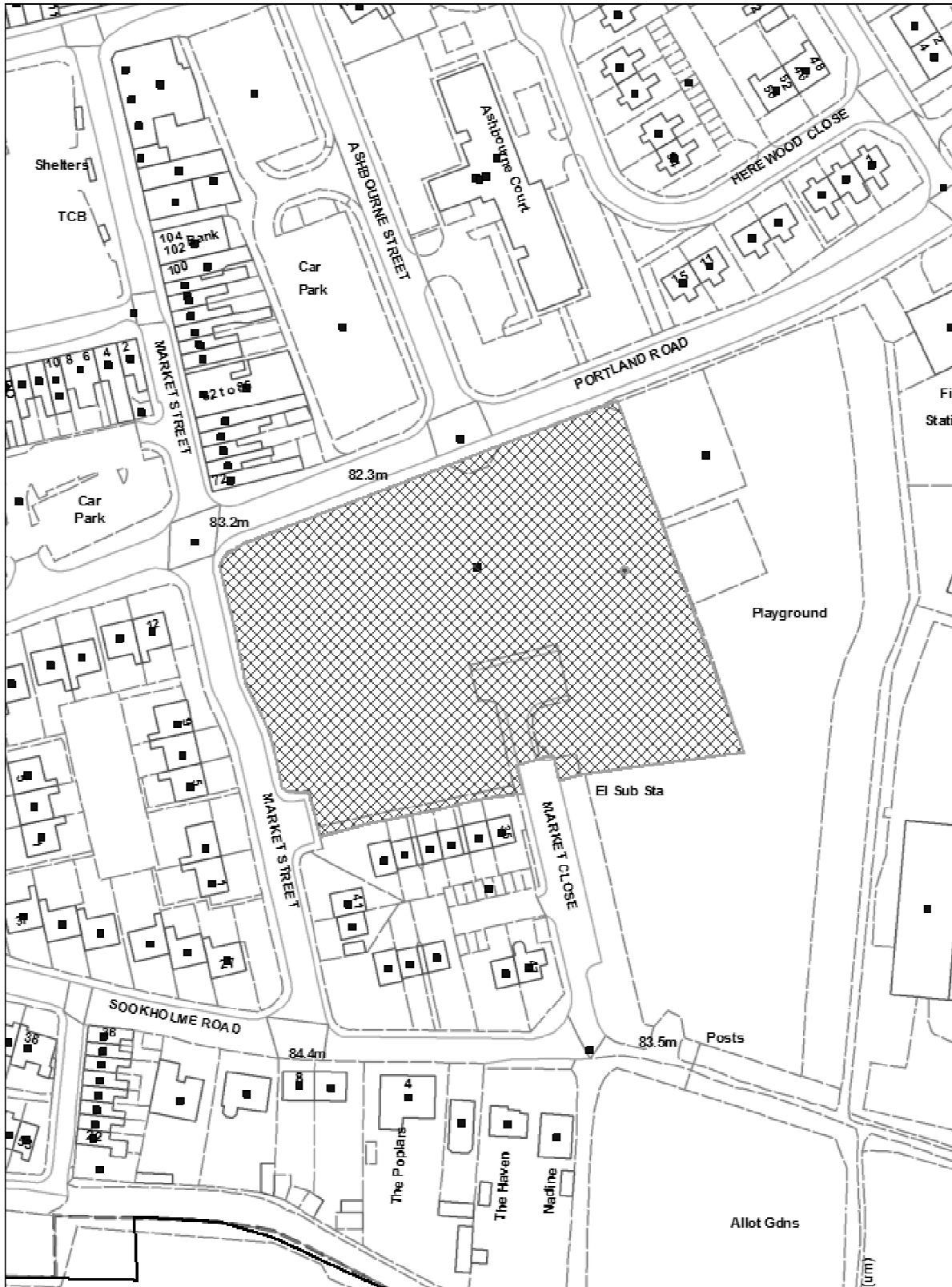
2. The inclusion of conditions 4 and 5 is in no way an indication that this site is currently considered to be contaminated, merely that the potential for contamination exists on this site. We do not currently have any entries on our register of contaminated land as we are presently at the stage of inspecting the District and identifying potentially contaminated sites. If any of these sites warrants regulatory action, an entry will be made on the public register.

3. In respect of condition 19, suggested turning facilities are shown on drawing numbers HA1 and HA2 that were included with the consultation response of the Highway Authority dated 25th October 2016 that can be viewed on the Council's website, along with all other application documents related to this planning application.

4. The Crime Prevention Design Advisor has raised concerns about the provision of a footpath link from the site to the open space land to the east. Whilst there is no objection to the provision of this feature to facilitate access to potential future developments of that land, it is advised that a secure means of enclosure is maintained on that boundary unless and until such a time as the access would provide a functional link to appropriate adjoining development.

5. The Council is keen to maximise the local opportunities for skills, training and employment in the District and the developer is encouraged to enhance and maximise local employment and training opportunities during the construction and post construction stages of the project. Please contact the Council's Economic Development Team for further information and assistance.

Not Set



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NO.	DESCRIPTION	DATE
1	ISSUED FOR PERMITTING	2018.05.23
2	ISSUED FOR PERMITTING	2018.05.23
3	ISSUED FOR PERMITTING	2018.05.23
4	ISSUED FOR PERMITTING	2018.05.23
5	ISSUED FOR PERMITTING	2018.05.23
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20	ISSUED FOR PERMITTING	2018.05.23

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Prepared by:
 Portland Road, Schwanauk,
 Dattfeldstrasse

Proposed LULU Site Plan

Date: May 2018
 Scale: Planning Issue
 Sheet: 1:500 @ A3
 Author: TC
 Checked: MH
 Date: 18.05.2018
 File: P:\4000_18-000

