

**PARISH** Old Bolsover

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**APPLICATION** Demolition of existing buildings and erection of foodstore and retail terrace, car parking and associated works  
**LOCATION** Sherwood Lodge Oxcroft Lane Bolsover Chesterfield  
**APPLICANT** Mr Mark Rothery  
**APPLICATION NO.** 17/00615/FUL **FILE NO.** PP-06561990  
**CASE OFFICER** Mr Chris Fridlington  
**DATE RECEIVED** 24th November 2017

### **SUPPLEMENTARY REPORT**

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#### **BACKGROUND**

This application proposes demolition of existing buildings and erection of foodstore and retail terrace, car parking and associated works on the Sherwood Lodge site in Bolsover. In May 2018, the Planning Committee resolved to defer a decision and delegate APPROVAL of this application to the Planning Manager in consultation with Chairman and Vice-Chairman of the Planning Committee subject to:

- (1) consultation on amended plans and no new substantive issues arising in any representations on those plans;
- (2) priority entry into a s.106 legal agreement containing obligations related to:
  - a) commuted sum of £150,000 towards highways improvements;
  - b) commuted sum of £5,000 towards public art; and
  - c) the transfer of sufficient land and rights across land in the applicant's control to safeguard the route of a two-way link road between Town End and Oxcroft Lane; and
- (3) various planning conditions.

The reasoned justification for the resolution made in May 2018 is contained in the original officer report attached as Appendix A to this report.

#### **AMENDMENTS**

Following consultation on the amended plans (referred to in the resolution from May 2018 and showing the building moved further away from the site boundary to allow for a two-way link road through the site) the Council received a number of strong objections because the proposed link road would go through the 'intrenchments' in the north-east corner of the site.

Consequently, the plans have been amended to show the food store in its 'original' location (shown overleaf), which would not allow for the provision of a two-way link road through the

site.  
**Proposed Layout**



Other than the consequential withdrawal of the proposals to safeguard the route of a two-way link road between Town End and Oxycroft Lane, and some minor amendments to the external appearance of the food-store; there are no significant changes to any other aspect of the proposals considered by the Planning Committee in May 2018.

**PURPOSE OF THIS REPORT**

Therefore, the purpose of this supplementary report is to allow the Planning Committee to consider the absence of any provision for a link road through the site and whether this means that the proposals are no longer acceptable in planning terms. This report also takes into account policies in the revised National Planning Policy Framework that was published in July 2018.

For the following reasons, officers consider that it is still appropriate to recommend conditional approval of this application on the basis of the most recent amended plans that show the food store in its 'original' location.

## ASSESSMENT

### Policy

From a policy perspective, the proposals continue to be contrary to saved policies in the Local Plan because the site is outside of the town centre (regardless of the location of any particular building within the application site). Moreover, whilst the application site is allocated for retail uses in emerging Local Plan: the current proposals do not fully meet the criteria in the Sherwood Lodge site specific policy (WC6) that requires a link road through the site, amongst other things.

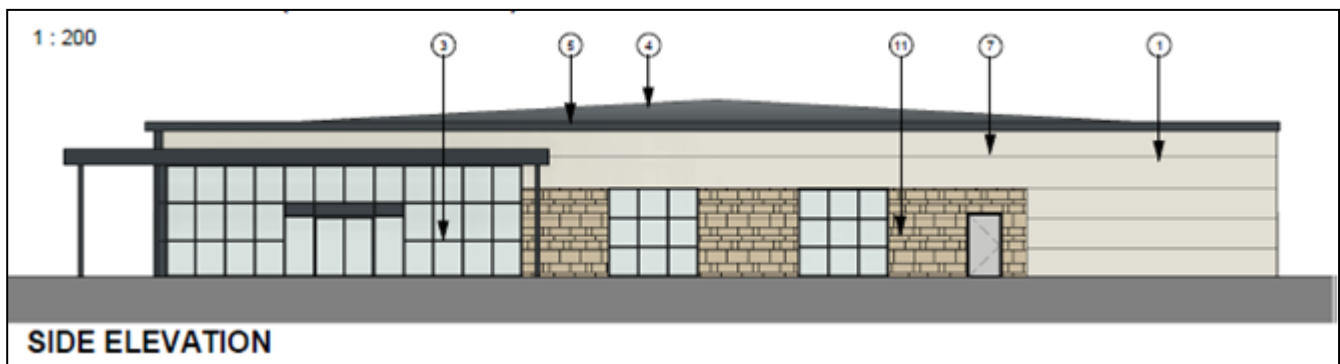
However, the proposals are compliant with policies in the revised National Planning Policy Framework (published July 2018) because the applicant is able to demonstrate that there is no alternative site available within the town centre and can also demonstrate that the proposals would not have an adverse impact on the vitality of the existing town centre. In consultation on the most recently amended plans, the County Council's policy team has confirmed that they still consider the proposed retail units and food store would be more likely to improve the health of Bolsover's town centre.

Therefore, there are no overriding objections to the principle of re-development of the Sherwood Lodge site for the retail uses proposed in this application, which comprises a medium-sized food store and a terrace of five retail units.

### Design Quality

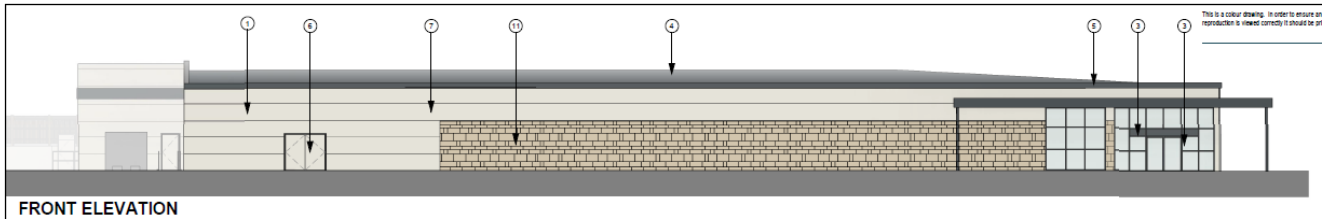
The amended plans do not alter the original conclusions in the original officer report that the proposals do not have any particular architectural interest and fall below the place-making aspirations contained in the site specific policy WC6 in the emerging Local Plan. The revised National Planning Policy Framework also places greater emphasis on the importance of its design compared to its predecessor. However, it is still considered that the design of the proposals are in keeping with the proposed end-use of the site and some attempt has been made to reflect local distinctiveness by the introduction of stone-effect cladding.

### Food Store (Elevation facing Town End)



Therefore, design quality remains a broadly neutral planning consideration in this case other than the Council’s Heritage Conservation Manager continues to object to these proposals on the basis that the loss of Sherwood Lodge combined with the form and massing and overall design quality of the proposed buildings (individually and collectively) would not adequately reflect or respect the special qualities of the surrounding Conservation Area. These views are repeated in similar terms in third party representations on this application.

Food Store (Facing Car Park)



Retail Terrace (Facing Car Park)



Heritage Conservation

In consultation on the most recently amended plans, two key issues have been raised by Historic England and the County Archaeologist.

Firstly, as most recently amended, it is considered that the proposals would not have an unacceptable impact on the ‘intrenchments’ in the north east corner of the application site subject to appropriate planning conditions. In this particular respect, Historic England consider the conservation of the intrenchments, which are part of the historic town defences, to be so important that Historic England’s officers were actively considering scheduling the intrenchments to effectively end any prospect of a ‘link road’ on the line proposed in May 2018.

As a consequence, the proposals for a link road have been withdrawn from this application and by virtue of the applicant’s commercial imperatives to develop the site as proposed on the most recent set of amended plans; there is now no prospect of a link road being provided for through the site. The implications of the absence of a link road are considered in more detail in later sections of this report but as amended; there are now no objections to this application based on its impact on the intrenchments.

## Intrenchments



Secondly, Historic England and the County Archaeologist still have concerns that the loss of the 'historic' Sherwood Lodge building would be harmful to the Conservation Area. As noted above, the Council's Heritage Conservation Manager and local residents continue to object to these proposals because it is considered that the loss of Sherwood Lodge combined with the form and massing and overall design quality of the proposals would not adequately reflect or respect the special qualities of the surrounding Conservation Area.

In these respects, it is considered that there would be "less than substantial harm" to designated heritage assets because of the loss of Sherwood Lodge and the visual impact of the scheme when seen in views to and from the Conservation Area. There would be no significant impact on the setting of Bolsover Castle but the loss of historic parkland, trees and open space would also be harmful to the appreciation and historical significance of the Sherwood Lodge site as a heritage asset in its own right.

The revised National Planning Policy Framework makes it clear that great weight should be given to the conservation of the heritage assets affected by these proposals. However, the revised National Planning Policy Framework also says that where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this

harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use.

The provision for a link road through the site and associated public benefits weighed heavily in this balancing exercise in May 2018, which is a key reason why this application has been returned to the Planning Committee for a final decision.

### Sherwood Lodge



### Highways

The issue of traffic generation and the provision of a secondary access on to Oxcroft Lane have previously resulted in objections from local residents to the current application. At the time of writing, no further comments have been received on highway matters from any third party on the most recently amended plans other than Derbyshire County Council have responded to this latest round of consultation by confirming that they have no objections to the proposals on highways grounds.

In the first instance, County Council consider that the proposals would not have a severe

adverse impact on the local road network through traffic generation despite previously stated local concerns. The proposals would also result in some betterment by providing a signalised junction, pedestrian crossing facilities and replacement bus stop and new shelter. Relocating the bus stops off Town End (sometimes also referred to as the 'market place') would relieve congestion in the centre of the town. In addition, the applicant will be making a financial contribution of £150,000 towards other highway improvements in the town centre but the applicant has left it to this Council (in consultation with the County Council) to specify what improvements this money will pay for.

Equally, the County Council consider that the access from Town End and from a secondary two-way access on to Oxcroft Lane site (shown on the plan, below) would be provided with a safe and suitable, again, despite previous concerns raised by local residents. In these respects, it is considered a condition prohibiting heavy goods vehicles from access the site from the Oxcroft Lane access should address the most pressing concerns raised in previous representations from local residents about highway safety issues. However, it would not be appropriate to consider making the Oxcroft Lane access 'exit only' even though this has also been requested by local residents.

### Access Points



In particular, a two way access point underpins various assumptions made in the transport assessment about how traffic will move to and from the site and how this would disaggregate additional traffic movements on the local road network rather than intensify vehicular movements at particular points such as at the Town End junction. A two-way access point also mitigates for the absence of provision for a link road through the site to a certain extent. For example, some 'linked trips' would mean that Oxcroft Lane is not as heavily trafficked by vehicles moving onwards to the Bolsover North site after visiting the site, and the Town End junction can be avoided by drivers visiting the site from the direction of the Bolsover North site.

This is important because the emerging Local Plan assumes that a link road through the site would mitigate for the impacts on the Town End junction of increasing traffic generation from the Bolsover North site (c.900 dwellings) and the Bolsover East site (c.350 dwellings) as they come forward. However, the mitigation from the ability to make linked trips 'through the site' does not fully compensate for the absence of a formal link road in plan-making terms. Therefore, an approval of this application does have implications for the emerging Local Plan even though there are no sound reasons to refuse this application on highways grounds on the basis of the individual planning merits of the current proposals.

### Emerging Local Plan

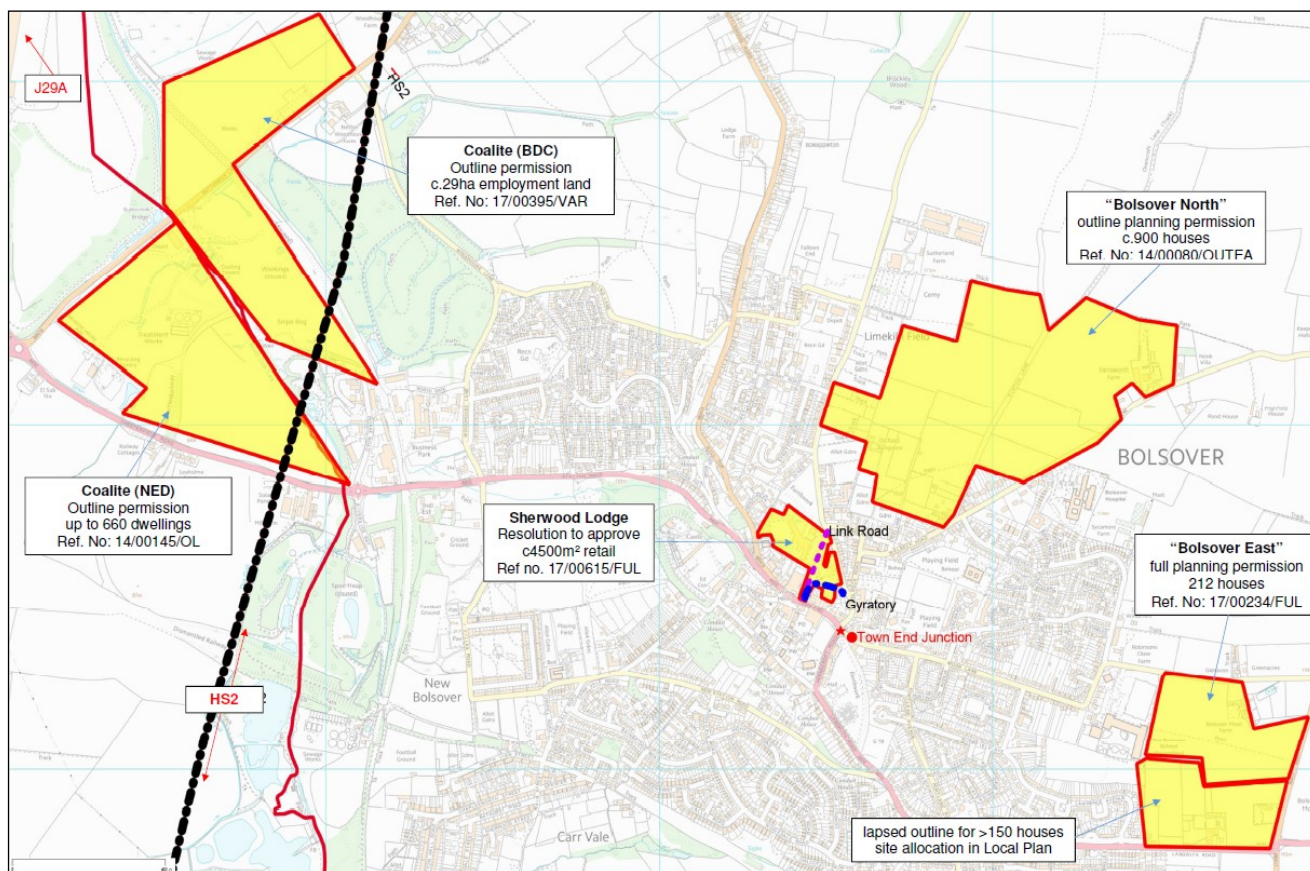
In a wider spatial context, the absence of the provision for a link road through the site is of concern to the local highway authority but the County Council have advised that there remain other alternatives which should be sufficient to avoid the County Council (as the local highway authority) having to withdraw its current positive stance in respect of the acceptability of the emerging Local Plan. These alternatives include other interventions contained in the Local Plan evidence base as well as options presented by other developers as part of their applications for other sites.

One option is looking at more significant junction improvement works at the A632/ Welbeck Road/ Moor Lane junction (the Town End junction, shown overleaf) potentially involving land control outside the limits of the public highway. The use of the proposed contributions from this development towards this intervention would need to be carefully considered (in conjunction with contributions already secured through other permissions) and a strategy formulated as part of the Local Plan which enabled the timely assembly of land and financial contributions, detailed design, procurement and physical delivery of a suitable improvement scheme. However, the 'gyratory' mentioned in the Local Plan evidence base is not considered to be an appropriate option by the County Council or any other interested party.

If permission were to be granted for this application, it would also be necessary to amend (or delete) the Sherwood Lodge site-specific policy WC6 taking into account this policy requires provision of a link road through the site. However, it is also reasonable to say that the current land owner / developer has no intention of delivering a scheme in accordance with WC6 and it seems likely that this policy will be challenged at examination in public regardless of the outcome of this application.



## Town End Junction



Furthermore, there is no realistic prospect of the approved scheme for redevelopment of the Sherwood Lodge site coming forward. This scheme (approved under 12/00324/FULMAJ) forms the basis for policy WC6 and was intended to provide for a link road through the site (as shown on the above plan) but changes in the retail market means this scheme is no longer a viable proposition and the legal agreements made with the County Council in respects of provision of the link road have since lapsed. Therefore, any refusal of this application would not necessarily guarantee WC6 would be retained in its current form and any refusal would not resolve the uncertainty about the provision of a link road or consequential risk to the emerging Local Plan.

For example, if this application were to be refused, all that could be said is that we have a policy proposal WC6 but there can be no realistic expectation that this policy proposal will come forward in the plan period without significant interventions such as compulsory purchase and without public sector funding for the link road. This funding is yet to be secured and it is clear there would be no support from the landowner or developer for an alternative scheme that includes provision of a link road through the site (without affecting the intrenchments).

In these respects, it should also be acknowledged that refusing planning permission frustrates the ability of the developer to start on site at the earliest opportunity but there is no realistic prospect of an alternative scheme coming forward; therefore

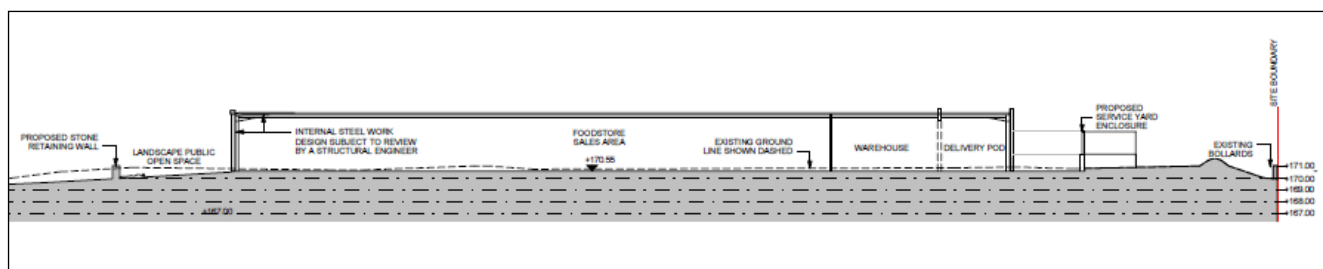
- Refusing planning permission may safeguard the future potential for provision of a link road but does not give rise to any realistic likelihood of the link road coming forward during the plan period;
- Refusing planning permission prolongs the negative impacts of the vacant site on the character and appearance of the Conservation Area;
- Refusing planning permission perpetuates the detrimental impact of the vacant site on the amenities of the local area;
- Refusing planning permission fails to take the opportunity to maintain and enhance the viability and vitality of Bolsover's town centres resulting from the proposed development of the site; and
- Refusing planning permission fails to take into account the clearly expressed views of the local community in terms of improving the retail offer in the town centre.

Therefore, in plan making terms, any approval of this application with no provision for a link road poses a significant risk that the emerging Local Plan (in its current form) would be found unsound. However, there are alternatives to the link road that could mitigate this risk and there is also a real risk that in decision making terms: refusing planning permission could cause greater harm to the social and economic welfare of the local community and the environmental quality of the local area. However, when considering the overall planning balance, the longer-term public benefits of approving this application are significantly diminished by the absence of provision for a link road through the site.

### Neighbourliness

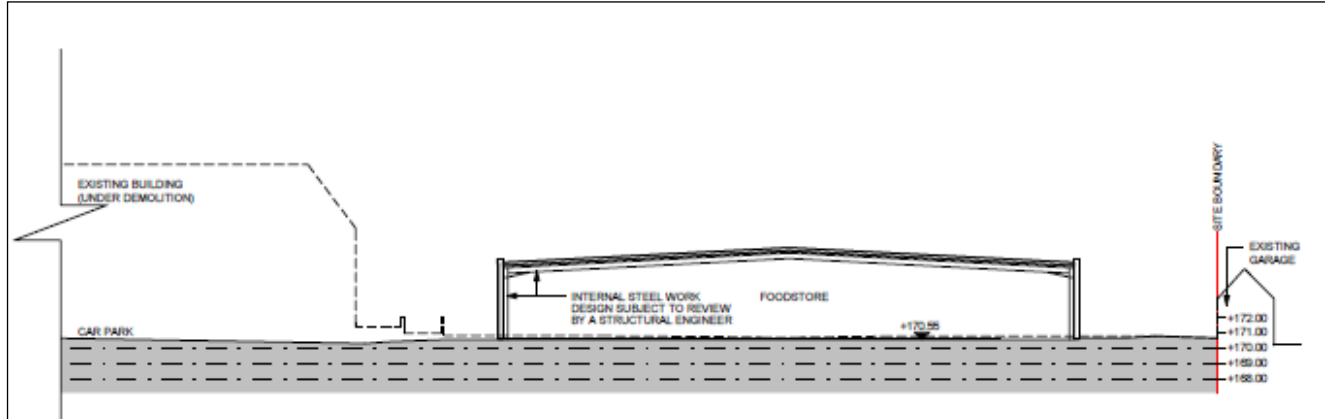
Although no representations have been received in response to notification of the most recently amended plans from owner/occupiers of the properties adjacent to the site at the time of writing; concerns about the impacts of the proposed development on the nearest neighbouring residential properties have been raised in previous rounds of consultation.

### Long Section through Food Store



The above drawing clarifies that the building would be slightly dug in and shows the eaves height at 6m above the finished floor level. The drawing below shows the height of the food store relative to the former offices on the Sherwood Lodge site and a domestic garage beyond the site boundary. The garage is within the curtilage of one of a pair of semi-detached houses, which are the two residential properties most affected by these proposals.

## Cross Section through Food Store



This drawing gives some sense of perspective (in terms of size and scale) and the nearest window in either property 'facing' is set back from the existing garage around 15m from the eaves of the proposed building (albeit at a slightly oblique angle and at first floor level). Existing site boundaries mean the outlook from the ground floor windows would not be affected significantly in either of the pair of semi-detached properties closest to the site and at a maximum height of around 8m, the food store would not block an unacceptable amount of light to either property.

Therefore, officers still consider the intervening distances between the proposed development and the two nearest residential properties limits the extent to which the new units (and the food store in particular) could be over bearing, impact on privacy, or affect the outlook of these properties.

The Council's environmental health protection officer is also satisfied noise and air quality issues could be dealt with by appropriate planning conditions and the local highway authority is satisfied that the traffic generated by the proposed development would not in itself give rise to road safety issues. Therefore, the proposed development would not be unneighbourly and complies with policies GEN1 and GEN2 subject to planning conditions including restrictions on trading hours and delivery times and constraints on the use of the secondary off Oxcroft Lane by large vehicles.

## Other Matters

The original officer's report (attached as Appendix A) concluded there were no other technical issues that would prevent an approval of this application and there is no reason to consider that policies in the revised National Planning Policy Framework changes this assessment. Therefore, the key issue in the determination of the application is whether the planning balance reached by the Planning Committee in May 2018 would now be different in the absence of a provision of a link road through the site.

In terms of consultation and publicity for this application, it should be noted that there has been four separate consultations with statutory consultees, four separate neighbour notifications, four separate press adverts and four separate site notices based on consultation

on the original plans and subsequent amendments. The fourth and final round of consultation on the plans now being considered gave rise to a single third party representation and consultation responses from the County Archaeologist, Historic England, this Council's Heritage Conservation Manager and the County Council's Flood Team and Highways Department. These responses have all been addressed in the above report other than the Flood Team's response can be addressed by planning conditions.

In previous rounds of consultation, objections to the proposals have been received on the following grounds:

- the potential adverse impact on heritage assets including impacts on the surrounding Conservation Area and the intrenchment, and the demolition of Sherwood Lodge;
- inappropriate/inadequate design standards;
- potential for the development to be unneighbourly
- potential traffic impacts; and
- diminished amenity of footpath network.

It is considered these matters have been adequately addressed in this report and the original officer report. Similarly, this report takes into account that over the previous rounds of consultation over 100 representations were made in support of this application which taken together expressed significant public interest in re-development of the Sherwood Lodge site taking into account its current condition, articulated a clearly expressed need for a new food store in the town and demonstrated that many residents go out of town for their food shopping. The extra jobs the scheme would create were also welcomed in many of these representations

### The Planning Balance

In conclusion, it can be seen from the above technical assessment of the planning merits of the current proposals that there will be less than substantial harm to designated and non-designated heritage assets and that the proposed scheme does not fully accord with the Council's aspirations for redevelopment of the Sherwood Lodge site or the requirements of adopted planning policies. In addition, the proposals do not make provision for a link road through the site, which would have a consequential impact on the emerging Local Plan. These aspects of the proposals weigh against granting planning permission for the current application.

However, the Planning Committee has already acknowledged that granting planning permission for the current application would result in the following benefits:

- The physical regeneration of a key landmark site within the town centre.
- The creation of around 200 new jobs
- Reducing the need to travel outside Bolsover to shop, ensuring more money is spent locally, whilst improving sustainability.
- Bringing more food shopping choice for local residents and visitors to the town.

It has also been acknowledged there is significant public interest in re-development in the site and that there would be wider public benefits that would result from the grant of planning permission for this scheme. For example, regeneration of a disused site and the provision of local employment opportunities are clearly important to the local community and there is an equally clear 'qualitative need' for the proposed development if not a 'quantitative need' for the amount and type of retail uses proposed in this application.

In terms of qualitative need, officers still consider that the provision of a medium-sized food store on the Sherwood Lodge site would improve Bolsover's retail offer and the introduction of a 'discounter' such as Lidl or Aldi, for example, and a wider range of choice of shops in the town would be of particular benefit to local residents. In addition, the food store proposals plus the terrace of retail units would encourage more people to shop in the town reducing 'leakage' caused by people doing their shopping elsewhere. The proposals might also achieve a degree of 'clawback' by visitors to the town and local residents being more likely to shop locally and use other shops in the town centre.

Therefore, officers still considered that the proposals have the capacity to enhance the vitality and viability of the town centre as a whole even without a link road. It is also considered by officers that the deteriorating condition of the site continues to have a negative impact on the amenities of the local area whilst it has been vacant not least because the site has attracted anti-social behaviour and detracts from the character and appearance of the town.

It is therefore concluded that granting planning permission for the current application would result in a number of substantial socio-economic and environmental benefits that should be afforded substantial weight in the planning balance. From a decision making perspective, it is also concluded that these public benefits of granting planning permission for the revised proposals significantly and demonstrably offset and outweigh concerns about the design of the proposals and the harm to heritage assets that would result from an approval for this application.

From a plan making perspective, this balancing exercise fails to take into account that the absence of a link road through the site poses a serious risk to the soundness of the emerging Local Plan in its current form. However, from a decision making perspective, an approval has the advantage of obtaining a further £150,000 towards highway improvements and there is also the alternative of pursuing more significant improvements to the Town End junction to mitigate the impacts of proposals coming forward in the town over the plan period.

In this respect, there is a reasonable alternative open to the plan-making function of the Council to allow the emerging Local Plan to go forward but there is no alternative option for re-development of the Sherwood Lodge site and no alternative funding for purchase of the site and provision of a link road. From a decision-making perspective, this means that safeguarding a route for a link road from the site by refusing planning permission for the current application would not safeguard the plan-making position or the site-specific policy WC6 but would prevent re-development of the site for the foreseeable future.

Consequently, in overall planning terms, it is considered that it would be the failure to allow the re-development of the site as proposed in this application rather than the absence of the

provision of a link road through the site that would cause greater harm to the social and economic welfare of the local community and the environmental quality of the local area.

Accordingly, the current application is recommended for approval.

## **RECOMMENDATION**

The current application be approved subject to (a) prior entry into a s.106 legal agreement requiring financial contributions of £5000 towards public art and £150,000 towards highways improvements and (b) subject to the following planning conditions:

### **Statutory Time Limit**

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

**Reason:** In accordance with the provisions of s.91 of the Town and Country Planning Act 1990, as amended, and in the interests of the proper planning of the local area.

### **Amended Plans**

2. The development hereby permitted shall be carried out in complete accordance with the amended plans, Drawing No.s:

- 7177-SMR-00-ZZ-DR-A-2003-S3-P15 – Proposed Site Plan
- 7177-SMR-00-ZZ-DR-A-2004-S3-P6 – Proposed External works
- 7177-SMR-00-ZZ-DR-A-2005-S3-P8 - Site sections
  
- 7177-SMR-00-GF-DR-A-2101-S3-P5 – Proposed Ground Floor Plan - Foodstore
- 7177-SMR-00-ZZ-DR-A-2102-S3-P6 – Proposed Roof Plan – Foodstore
- 7177-SMR-00-ZZ-DR-A-2103-S3-P7 – Proposed Elevations – Foodstore
  
- 7177-SMR-00-GF-DR-A-2201-S4-P3 – Proposed Ground Floor Plan – Retail Units
- 7177-SMR-00-ZZ-DR-A-2202-S4-P3 – Proposed Roof Plan – Retail Units
- 7177-SMR-00-ZZ-DR-A-2203-S4-P3 – Proposed Elevations – Retail Units

**Reason:** For clarity and for avoidance of doubt and in the interests of the proper planning of the local area.

### **Archaeology**

3. 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 must include an assessment of significance and research questions; and:

- i. The programme and methodology of site investigation and recording
  - ii. The programme for post investigation assessment
  - iii. Provision to be made for analysis of the site investigation and recording
  - iv. Provision to be made for publication and dissemination of the analysis and records of the site investigation
  - v. Provision to be made for archive deposition of the analysis and records of the site investigation
  - vi. Nomination of a competent person or persons/organization to undertake the works set out within the Written Scheme of Investigation
4. No development shall take place other than in accordance with the archaeological Written Scheme of Investigation approved under condition 3 (above).
5. The development must 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 3 (above) and the provision to be made for analysis, publication and dissemination of results and archive deposition has been secured.

**Reasons:** In order to secure appropriate investigation of potential archaeological deposits in accordance with saved Local Plan policy CON13 and national planning policies in the Framework.

### **Drainage**

6. The site shall be developed with separate systems of drainage for foul and surface water on and off site. The development hereby permitted shall not commence until drainage plans for the disposal of surface water and foul sewage 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.

**Reason:** To ensure that the development is provided with a satisfactory means of drainage as well as reduce the risk of creating or exacerbating a flooding problem and to minimise the risk of pollution.

7. There shall be no piped discharge of surface water from the development prior to the completion of surface water drainage works in full accordance with details that have been submitted to and approved by the Local Planning Authority. No

development shall take place until details of the proposed means of disposal of surface water drainage , including but not exclusive to :-

- a) evidence to demonstrate that surface water disposal via infiltration or watercourse are not reasonably practical;
- b) evidence of existing positive drainage to public sewer and the current points of connection ; and
- c) the means of restricting the discharge to public sewer to the existing rate less a minimum 30% reduction, based on the existing peak discharge rate during a 1 in 1 year storm event, have been submitted to and approved by the Local Planning Authority .

Furthermore, Surface water run-off from hard-standing (equal to or greater than 800 square metres) and/or communal car parking area(s) of more than 49 spaces must pass through an oil , petrol and grit interceptor/separator of adequate design that has been submitted to and approved by the Local Planning Authority, prior to any discharge to an existing or prospectively adoptable sewer .

**Reason:** To ensure that the principles of sustainable drainage are incorporated into this proposal as far as is practicable and to ensure the sufficient detail of the construction, operation and maintenance of a sustainable drainage system is provided to the Local Planning Authority in accordance with saved Local Plan policies GEN5 and GEN6 and national planning policies in the Framework.

### **Biodiversity and Landscaping**

8. No removal of hedgerows, trees or shrubs shall take place between 1st March and 31st August inclusive, unless a competent ecologist has undertaken a careful, detailed check of vegetation for active birds' nests immediately before the vegetation is cleared and provided written confirmation that no birds will be harmed and/or that there are appropriate measures in place to protect nesting bird interest on site. Any such written confirmation should be submitted to the local planning authority prior to works commencing.

**Reason:** In the interests of safeguarding ecological interests in accordance with saved Local Plan policy ENV5 and national planning policies in the Framework.

9. Before preparation of any groundworks and foundations on site for the development hereby approved, a scheme of hard and soft landscaping shall be submitted to and approved in writing by the Local Planning Authority and these works shall be carried out in accordance with the approved details. These details shall include proposed boundary treatments, proposed finished levels and contours, hard surface finishes, including samples, details of any retaining walls, steps, railings, walls, gates or other supporting structures, car parking layouts, other vehicle and pedestrian access and circulation areas, minor artefacts and structures (e.g. street furniture, play equipment, refuse and other storage units).



The information shall also include indications of all existing trees and hedgerows on the land, including those to be retained, together with measures for their protection which shall comply in full with BS5837:2012 Trees in relation to design, demolition & construction – Recommendations, in the course of the development, together with a scheme for the subsequent maintenance of any trees, shrubs and hedges retained on the site and any proposed to be planted as part of the approved landscaping scheme. Soft landscape details shall include planting plans, written specifications, schedules of plants - noting species (which should be indigenous), planting sizes and proposed density.

**Reason:** To conserve the natural environment and enhance the character and appearance of the completed development, and to ensure the proposed development would not result in a net loss of biodiversity in accordance with saved Local Plan policies GEN 2 and ENV5 and national planning policies in the Framework.

## 10. Construction Method Statement

No development shall take place until a Construction Method Statement has been submitted to, and approved in writing by, the local planning authority. The approved Statement must be adhered to throughout the construction period. The Statement must provide for:

- a) The precise details of how construction phase vehicles will access the site from the public highway.
- b) The parking of vehicles of site operatives and visitors.
- c) Loading and unloading of plant and materials.
- d) Storage of plant and materials used in constructing the development and the provision of temporary offices.
- e) Wheel washing facilities.
- f) Measures to control the emission of dust and dirt during construction.
- g) Access and protection measures around the site for pedestrians, cyclists and other road users, including arrangements for diversions and the provision of associated directional signage if required.
- h) Measures to be taken to prevent pollution of the received ground and surface water.
- i) Hours that construction will take place on site.

- j) Details of the routes to be taken by construction traffic through the local road network to the site and any limitations on the times of vehicular movements to and from the site.

**Reason:** In the interests of highway safety and to safeguard residential amenity in accordance with saved Local Plan policy GEN2 and national planning policies in the Framework.

## Highways

- 11. Before any other operations are commenced, a scheme of phasing and works programme for the development shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall include temporary and permanent means of access to the site and temporary and permanent on-site parking and manoeuvring provision.
- 12. Prior to any operations commencing on site, a scheme shall be submitted to and approved in writing by the Local Planning Authority, in consultation with the County Highway Authority, for the proposed new junction into the site from Town End (A632). The scheme shall generally be in accordance with application drawing 17-2950SKHA-001 to provide a signalised junction, pedestrian crossing facilities and replacement bus stop and new shelter facilities. The approved scheme shall be implemented, laid out and constructed prior to the first occupation of any premises hereby permitted.

For the avoidance of doubt, the developer will be required to enter into an Agreement under Section 38/278 of the Highways Act 1980 and obtain appropriate Traffic Regulation Orders in order to comply with the requirements of this condition.

- 13. The premises, the subject of the application, shall not be taken into use until the access onto Oxcroft Lane has been laid out and constructed in accordance with a scheme first submitted to and approved in writing by the Local Planning Authority, generally in accordance with the approved application drawing. Thereafter, this access point shall not be used by any vehicle with a gross access weight greater than 3.5 tonnes. For the avoidance of doubt, the applicant will be required to enter into an Agreement under Section 278 of the Highways Act 1980 to comply with this condition.
- 14. 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 to the site, the loading and unloading of service/delivery vehicles has been provided within the site, laid out in accordance with the approved application drawing and maintained throughout the life of the development free of any impediment to its designated use.
- 15. The Approved Travel Plan shall be implemented in accordance with the timescales specified therein, to include those parts identified as being

implemented prior to occupation and following occupation, unless alternative timescales are agreed in writing with the Local Planning Authority. The Approved Travel Plan shall be monitored and reviewed in accordance with the agreed Travel Plan targets.

**Reasons:** In the interests of highway safety, efficient traffic movement and sustainable travel in accordance with saved Local Plan policies GEN1 and GEN2 and national planning policies in the Framework.

## Amenity

16. Notwithstanding the information already provided, the development hereby approved shall not be brought into use unless and until:
  - a) Further information has been submitted regarding the acoustic assessment dated 21st February 2018 along with an updated scheme specifying the provisions to be made for the control of sound emanating from the site has been submitted to and approved in writing by the Local Planning Authority. The assessment shall identify and quantify all sound sources from the development and shall assess the significance of the sound impact, taking into account the uncertainty of the assessment at the boundary of any neighbouring dwellings in accordance with the methodology described in the British Standard BS4142:2014 Methods for rating and assessing industrial and commercial sound. The scheme shall also include details of a delivery management scheme.
  - b) Upon completion of all works within the approved scheme a validation report shall be completed by a competent person and shall be submitted to and approved in writing by the Local Planning Authority.
  - c) The approved scheme has been implemented in full and retained thereafter.
17. A scheme to monitor and control noise and vibration generated during the construction phase of the development shall be submitted to and approved in writing by the local planning authority prior to work commencing. This should be included within a comprehensive Construction Environmental Management System
18. No floodlighting, security lighting or other external means of illumination of the site shall be provided, installed or operated in the development, except in accordance with a detailed scheme which shall provide for lighting that is low level, hooded and directional, and has been submitted to and approved in writing by the Local Planning Authority. The scheme shall be implemented in accordance with the approved details and retained thereafter.

**Reasons:** To avoid unacceptable levels of noise, light pollution and disturbance with particular regard to the residential amenities of the nearest neighbouring residential properties in accordance with saved Local Plan policies GEN1 and GEN2

### **External Facing Materials**

19. Before preparation of any foundations on site for the food store and retail units hereby approved, samples of materials to be used on the external surfaces of the approved buildings shall be made available for inspection on site and adequate notice given to the Local Planning Authority who will arrange inspection and thereafter approve in writing. The approved materials shall be used in the implementation of the development.

**Reasons:** In the interests of the character and appearance of the completed development in accordance with the requirements of saved Local Plan policy GEN2 with due regard to the location of the development within the designated Bolsover Conservation Area.

### **Operational Matters**

20. The premises hereby permitted shall not be open for customers outside the following hours:
- a) 07:00 - Midnight on Mondays to Saturdays other than on bank holidays;  
and
  - b) 08.00-22.00 on Sundays and Bank Holidays
21. The premises labelled food store on the approved plans shall be used for a convenience food store and for no other purpose including any other purpose in Class A of the Schedule to the Town and Country Planning (Use Classes) Order 1987) (as amended) or in any provision equivalent to that class in any statutory instrument revoking and re-enacting that order with or without modification.
22. The terrace of retail units (numbered 1-5 on the approved plans) shall be used for A1, A3, AA and D1 uses and for no other purposes including any other purpose in Classes A and D of the Schedule to the Town and Country Planning (Use Classes) Order 1987) (as amended) or in any provision equivalent to that class in any statutory instrument revoking and re-enacting that order with or without modification.

**Reason:** To enable the Local Planning Authority to regulate and control the development of land having regard to the exceptional circumstances that justified approval of the development.

## APPENDIX A: ORIGINAL OFFICER REPORT

**PARISH** Old Bolsover

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**APPLICATION** Demolition of existing buildings and erection of foodstore and retail terrace, car parking and associated works  
**LOCATION** Sherwood Lodge Oxcroft Lane Bolsover Chesterfield  
**APPLICANT** Mr Mark Rothery Bramham  
**APPLICATION NO.** 17/00615/FUL **FILE NO.** PP-06561990  
**CASE OFFICER** Mr Chris Fridlington  
**DATE RECEIVED** 24th November 2017

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### SITE

The Sherwood Lodge site lies adjacent to Bolsover town centre and was formerly the site of Bolsover District Council's main offices. The offices have since been vacant for over four years and site clearance works have started on site. However, the 'original' Sherwood Lodge building, which is a former mine-owner's house dating from 1897, still remains on site. This building is a non-designated heritage asset that would contribute positively to the special qualities of the surrounding designated Bolsover Conservation Area if it were to be repaired and restored following demolition of the modern extensions to the building that had previously detracted from its character and appearance.

The entire site is also within the designated Conservation Area and the length of 'intrenchment' earthworks at the site's north-eastern boundary is nationally important and should be treated as a scheduled monument. In addition, there are visible relics of the former parkland within the 1.2 hectares of the important open space surrounding Sherwood Lodge and a number of large mature trees along the boundary and to the south of the building. A formal memorial garden lies behind the Lodge but outside of the application site. The site is also crossed by a public right of way and a further right of way skirts its northern boundary.

### BACKGROUND

This application concerns the redevelopment of the Sherwood Lodge site, which extends to around 3 hectares in area. The land was sold by the Council and planning permission was granted planning permission for a large food store on this site with associated petrol filling station in 2012.

This permission (12/00324/FULMAJ) has since been implemented and demolition of a number of buildings on the site has been carried out but a condition attached to the permission for the food store requires the retention of the 'original' Sherwood Lodge building until works started on building the large food store. This condition is why the original Sherwood Lodge building has been retained on site because significant changes in the retail market since 2012 mean the consented food store is no longer viable and will not be going ahead.

The current application now seeks full planning permission for alternative proposals for re-development of the site. The current proposals include a medium sized food store, a terrace of four retail units and associated parking and access arrangements as shown on the amended plan, below.

## PROPOSALS

In summary, the current application proposes the provision for 4,400m<sup>2</sup> of retail space to be divided into two blocks on a north-south axis with car parking provision occupying a broadly central position within the site between the two blocks. The larger of the two blocks would accommodate a medium size food store with a floor area of 2,402m<sup>2</sup> that would face towards Town End. A smaller terrace of additional retail units would run parallel to the west of the food store.

### Proposed Site Layout

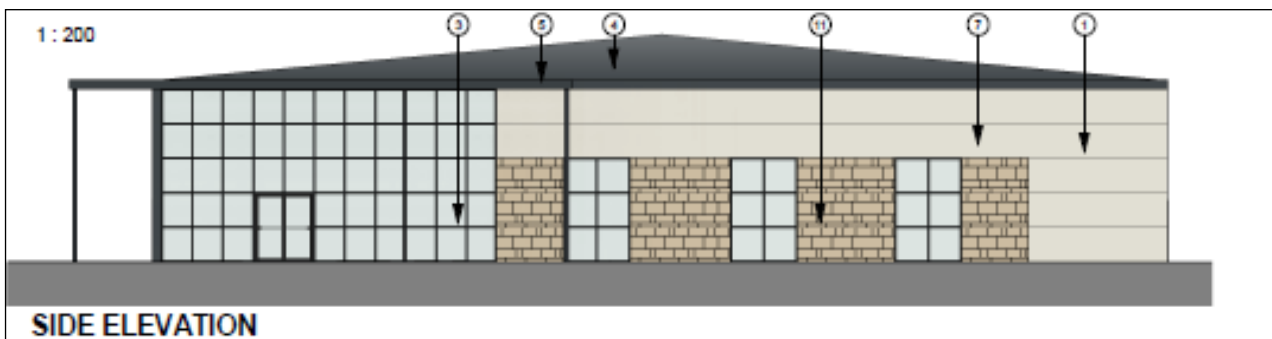


The main vehicular access to the site would be from Town End and a secondary access to the site would be provided on to Oxcroft Lane with each block having separate servicing configurations with service areas proposed to the rear of the retail terrace and to the side of the proposed food store. A new network of footpaths would run through the site and are intended to improve links to the town centre and areas beyond the site to the north. Areas of new public open space would be introduced to the front of the site while the previous approval for removal of public open space behind Sherwood Lodge has been 'scaled back' to provide a greater separation distance between the proposed units and the nearest neighbouring residential properties.

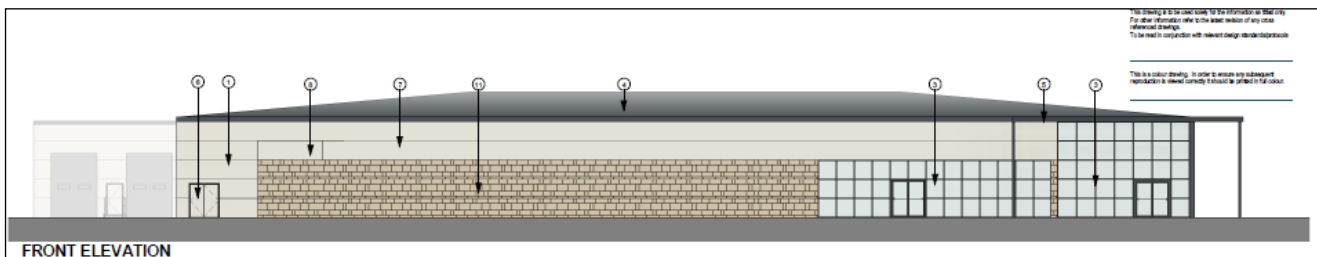
## AMENDMENTS

The original submission has been amended and the changes to the scheme include revisions to the external appearance of the proposed retail units. The following extracts from the amended plans show the main elevations of the proposed units 'as amended':

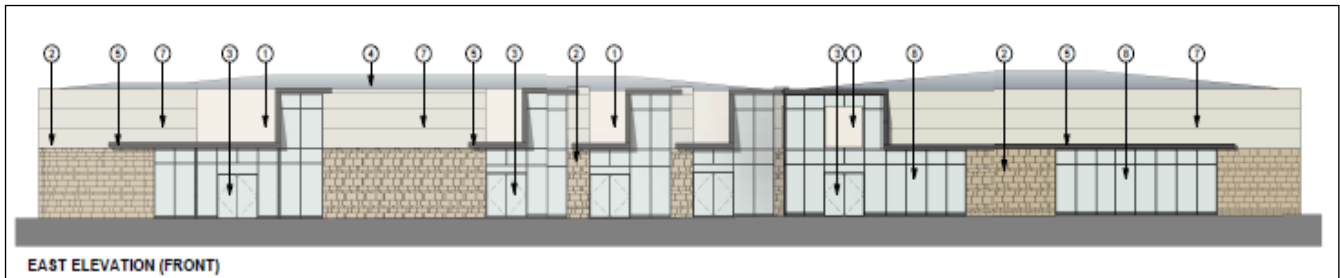
### Food Store – Elevation facing Town End



### Food Store – Elevation facing Car Park



### Retail Terrace – Elevation facing Car Park



The schedule of materials for these units includes horizontal metal cladding above a stone effect cladding at lower levels for the walls of the buildings, powder coated frames for doors and windows and a composite roof panel arrangement.

Further amendments were required to move the buildings away from the ‘intrenchment’ earthworks within the development site and improve the width of a corridor to the rear of the food store that would in effect be ‘gifted’ to the Council as part of the land required to provide a link road from Town End to Oxcroft Lane. The applicant has also made a further offer of a financial contribution of £150,000 towards highway improvements and suggested a further revision to the siting of the buildings.

## KEY ISSUES

In respect of the Council’s aspirations for the regeneration and redevelopment of Bolsover town centre, the Sherwood Lodge site, is allocated as an edge of town centre allocation within the emerging Local Plan.

*Policy WC6: Bolsover Edge of Town Centre Allocation* from the emerging Local Plan says that proposals for the development of this site will be permitted where they are comprehensive, guided by an approved masterplan for the site and:

- a) Provide for an acceptable two way vehicular access road between Town End and Oxcroft Lane;
- b) Ensure the provision of pedestrian access and linkage between Cavendish Walk and the site;
- c) Provide for at least one Convenience retail store in excess of 1,200m<sup>2</sup>;
- d) Provide for other town centre related uses which may include retail, leisure, employment, residential or community facilities;
- e) Ensure that a suitable level of public parking is made available as part of the scheme;
- f) Give special consideration to the historic grounds and remaining building on the western side of the site, as identified heritage assets;
- g) Contribute to the planned Bolsover town cycle network through the provision of cycling



facilities within the site;

- h) Contribute towards place-making through the delivery of a high quality designed development that creates an attractive and locally distinctive new urban neighbourhood utilising public art as appropriate;
- i) Contribute towards the efforts to tackle climate change through its approach to sustainable construction, renewable energy and energy conservation within the site's general layout, design and orientation;
- j) Mitigate the loss of the green space through a financial contribution to be towards the improvement of a green space within Bolsover Town.

Therefore, the extent to which the current proposals meet these criteria is one key issue in the determination of this application given that these criteria reflect the exceptional circumstances that warranted approval of the previous proposals for retail development on the Sherwood Lodge site. Retail development on the site was, and continues to be, contrary to saved policies in the current Local Plan.

Furthermore, the Bolsover Transport Study (2016) says the provision of a new link road through the Sherwood Lodge is required to provide relief to the Town End / Moor Lane / Welbeck Road junction ('the Town End junction'). The Addendum to this study completed October 2017 says without the Sherwood Lodge Link Road, the Town End junction will reach capacity and as the planned quantum of development in Bolsover comes forward, including the major residential development at Bolsover North, there will be significant increases of queuing traffic at this junction.

Consequently, if the current proposals do not provide for an acceptable two way vehicular access road between Town End and Oxcroft Lane in accordance with Policy WC6(a) in the emerging Local Plan: granting planning permission for this application may undermine the proper planning of the local area and the sustainable growth of the District as a whole because the link road is a fundamental requirement of the emerging Local Plan. It is therefore considered that WC6(a) must be afforded substantial weight in the determination of this application.

A further key issue in the determination of this application is the weight to be afforded to the benefits of granting planning permission for the current application, which the applicant says includes:

- The physical regeneration of a key landmark site within the town centre.
- The creation of around 200 new jobs
- Reducing the need to travel outside Bolsover to shop, ensuring more money is spent locally, whilst improving sustainability.
- Bringing more food shopping choice for local residents and visitors to the town.

## RELEVANT PLANNING HISTORY

There is no record of planning permission having been granted for the previous use of the Sherwood Lodge site by the Council but there has been number of permissions granted for the extension of the original building to create more office space including:

BOL/173/4 - Outline planning permission 'to extend the existing Urban District Council Offices to form new headquarters' was granted on 23/03/73

BOL.184/7. Full planning permission for 'extensions to Sherwood Lodge office building' was granted on 15/2/84. This permission was implemented.

BOL.292/90 - A further outline planning permission 'for centralised offices, including link to Sherwood Lodge' was granted on 08/04/92

BOL.792/304 - Full planning permission 'for centralised offices, including link to Sherwood Lodge' was granted on 30/09/92. This permission was also implemented.

There have been other applications for minor developments on the site but the planning history that is more relevant to the current application includes the following approvals:

12/00324/FULMAJ – Full planning permission granted for demolition of existing council offices and dwelling houses and erection of foodstore, petrol filling station, service yard, car parking and associated works on 21/12/2012.

12/00325/CON – Conservation Area Consent granted for demolition of existing council offices and houses on 21/12/2012.

15/00545/DISCON – Partial discharge of pre-commencement Conditions 2 (Phasing of Works Programme), Condition 4 (Compound Details), Conditions 22 and 23 (Written Scheme of Archaeological Investigation), Condition 25 (Archaeological Method Statement), Condition 33 (Contamination) and Condition 34 (Drainage Details) of planning permission 12/00324/FULMAJ on 23/11/2015.

17/00117/DISCON – Partial discharge of pre-commencement Conditions 2 (Phasing of Works Programme); 4 (Compound Details); 22 and 23 (Written Scheme of Archaeological Investigation); 25 (Construction Management Plan); 33 (Contamination); and 34 (Drainage Details) of planning permission 12/00324/FULMAJ, to allow for the demolition of the former Council Offices (excluding the historic Sherwood Lodge) and of the former residential properties on 15 May 2017.

These approvals are relevant to the current application insofar as they establish the principle of allowing retail development on the Sherwood Lodge site subject to the criteria in policy SS7 in the emerging Local Plan. However, they do not establish a 'precedent' that would mean planning permission should be 'automatically' granted for the current proposals.

In this respect, the issue of precedent is rarely relevant to planning decisions in any event but in this case a 'precedent' does not exist because the previously approved proposals are

substantially different from the current proposals in planning terms and give rise to materially different planning considerations.

Amongst other things, the current proposals do not include the provision or delivery of a link road through the site from Town End to Oxcroft Lane. Equally, the previous proposals included a food store and petrol filling station compared to the current proposals, which do not include a petrol filling station but do include additional retail units (around 2000m<sup>2</sup> for comparison goods) outside of the existing town centre and a medium sized food store as opposed to a large food store.

Furthermore, the emerging Local Plan is a relevant planning consideration that did not exist at the time of the previous approval.

## **CONSULTATIONS**

Bolsover Civic Society – Support the future development of the Sherwood Lodge site but set out in some detail their reservations about the original submission. Revised plans have been submitted following discussions between the applicant and the Civic Society in response to their consultation response on the original application but the Civic Society have not yet made any detailed formal comments on the revised application.

Bolsover District Council (Community Arts Development Officer) – Requests contribution of 1% of development costs towards public arts

Bolsover District Council (Heritage Conservation Manager) - Objects to proposals in their current form and advises that the submitted heritage statement is inadequate suggesting that the submission of a more detailed statement and a comprehensively revised scheme that addresses these assets, the issues of harm, and looks at the whole context of the proposal within its setting would be needed to move the proposals forward in heritage conservation terms.

Bolsover District Council (Environmental Health) – No objections subject to conditions

Bolsover District Council (Leisure Services) – Requests contributions towards compensatory open space in the town, which may be a contribution to the development of a skate park or similar facility within Hornscroft Park or at another suitable location. Concerns are also raised about the design of the development and the lack of facilities for cyclists.

Bolsover District Council (Senior Engineer) – No objections subject to conditions

County Archaeologist – Objects on the grounds of the potential impacts of the proposed development on the ‘internchments’ and raises significant concerns about the impact of the proposals on the surrounding Conservation Area and the loss of Sherwood Lodge.

DCC Flood Team – Object on the basis of insufficient information submitted with the application to allow proper assessment of the drainage strategy.

DCC Highways – No objections to the proposals on highway safety grounds, subject to

conditions and a legal agreement securing the offer of a commuted sum.

Historic England – Object on the grounds of the potential impacts of the proposed development on the ‘internchments’ by virtue of the proximity of the development and raise significant concerns about the impact of the proposals on the surrounding Conservation Area and the loss of Sherwood Lodge.

Old Bolsover Town Council - fully support the application for the following reasons:

The Town Council have had concerns about the future of this site since hearing that the original plans for the large superstore were not going to be delivered whilst the site was left to fall derelict and became a magnet for anti-social behaviour. Therefore, the Town Council see the scheme as having a major positive impact on the regeneration of the town and that a food store with competitive pricing will bring residents back to shopping where they live rather than travelling out to the supermarkets in surrounding towns such as Staveley, Clowne, Shirebrook and Mansfield.

The Town Council go on to say that further retail units will also enhance the area as the rest of the town cannot provide the larger modern units retailers require and these new retailers will add to the retail mix in the town as well as creating much needed employment opportunities. In addition, the Town Council notes that the scheme also provides additional car parking which is better connected to the Town Centre and shoppers returning to the town centre will also have a positive impact on other businesses in the town.

The Town Council also support the retention of the green area at the rear of the site providing good pedestrian access through the site connecting Hilltop to the retail units and Oxcroft but would like to see the addition of a small public toilet block within the development.

Peak and Northern Footpaths Society – Comment that the impact of a development on public rights of way, recorded or unrecorded, is a material consideration when deciding if planning consent is to be granted, and in what form.

Yorkshire Water – No objections subject to conditions

The above representations summarised in this report are also published in full on the Council’s website.

## **PUBLICITY**

The original application was publicised by way of a site notice, press advert and neighbour notification.

In response to this publicity, the Council received 61 representations in support of the current application. However, over half of these representations simply registered support for the application seemingly in response to a mail-out sent out on behalf of the applicant. Nonetheless, it is clear from a large number of these representations that there is significant public interest in re-development of the Sherwood Lodge site taking into account its current

condition, there is also a clearly expressed need for a new food store in the town and that many residents go out of town for their food shopping. The extra jobs the scheme would create are also welcomed in many of these representations.

The Council also received 15 representations stating objections to the proposals although 8 of these objections were made using the same template letter. The key planning issues raised in these representations, including some very detailed observations, are as follows:

- the potential adverse impact on heritage assets including impacts on the surrounding Conservation Area and the intrenchment, and the demolition of Sherwood Lodge;
- inappropriate/inadequate design standards;
- potential for the development to be unneighbourly
- potential traffic impacts; and
- diminished amenity of footpath network.

Subsequently, amended plans were received and the revised application was re-publicised by way of a site notice, press advert and letters to all interested parties who had previously commented on the original application.

In response to this publicity, the Council received 37 representations in support of the current application. Again, over half of these representations simply registered support for the application seemingly in response to a mail-out sent out on behalf of the applicant. However, in these responses, there was a further clear expression of the need for an additional food store in Bolsover and it was again made clear that many residents go out of town for their food shopping.

## **POLICY**

### National Planning Policy Framework ('the Framework')

The following paragraphs from the Framework are considered to be the most relevant to the determination of the current application:

Paragraph 2: Status of Development Plan and National Planning Policy Framework

Paragraphs 6-10: Achieving sustainable development

Paragraphs 11-16: Presumption in favour of sustainable development

Paragraph 17: Core planning principles

Paragraphs 24-27: Ensuring the vitality of town centres

Paragraph 32: Transport network

Paragraphs 56- 66: Design

Paragraphs 70, 72, 73 and 75: Promoting healthy communities

Paragraphs 109 and 118: Conserving and enhancing the natural environment

Paragraphs 120 and 121: Contamination and land stability

Paragraphs 128 – 137: Conserving and enhancing the historic environment

Paragraphs 173: Ensuring viability and deliverability

Paragraph 196: Primacy of Development Plan

Paragraphs 203-206: Planning conditions and obligations

Paragraphs 215-216: Weight to be given to relevant policies in existing plans and relevant policies in emerging plans.

### Bolsover District Local Plan ('the adopted Local Plan')

The following saved policies in the adopted Local Plan are relevant to this application:

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)  
CLT1 (Protection of Existing Buildings Which Serve the Community)  
CLT6 (Existing Outdoor Playing Space and Amenity Open Space)  
TRA1 (Location of New Development)  
TRA10 (Traffic Management)  
TRA12 (Protection of Existing Footpaths and Bridleways)  
TRA13 (Provision for Cyclists)  
TRA15 (Design of Roads and Paths to Serve New Development)  
CON1 (Development in Conservation Areas)  
CON2 (Demolition of Unlisted Buildings or Structures in Conservation Areas)  
CON3 (Important Open Areas within Conservation Areas)  
CON13 (Archaeological Sites and Ancient Monuments)  
CON14 (Bolsover Area of Archaeological Interest)  
ENV5 (Nature Conservation Interests throughout the District)  
ENV8 (Development Affecting Trees and Hedgerows)

Paragraph 215 of the Framework say due weight should be given to relevant policies in existing plans according to their degree of consistency with this framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given).

It is considered that these policies are generally consistent with Framework other than it is relevant to this application that Paragraph 134 of the Framework goes further than saved Local Plan policies CON1, CON2 and CON3 that are otherwise consistent with section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990, which says that "special attention shall be paid to the desirability of preserving or enhancing the character or appearance of a conservation area."

Paragraph 134 of the Framework says where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal, including securing its optimum viable use.

## Bolsover District Publication Local Plan ('the emerging Local Plan')

The most relevant policy in the emerging Local Plan is Policy WC6: Bolsover Edge of Town Centre Allocation, as set out above. Paragraph 216 of the Framework says from the day of publication, decision-takers may also give weight to relevant policies in emerging plans according to:

- the stage of preparation of the emerging plan (the more advanced the preparation, the greater the weight that may be given);
- the extent to which there are unresolved objections to relevant policies (the less significant the unresolved objections, the greater the weight that may be given); and
- the degree of consistency of the relevant policies in the emerging plan to the policies in this Framework (the closer the policies in the emerging plan to the policies in the Framework, the greater the weight that may be given).

The emerging Local Plan is now at a very advanced stage of preparation but it is accepted that the applicant objects to policy WC6. However, the following sections of this report explain in more detail how the policy criteria in WC6 are consistent with policies in the Framework.

## **ASSESSMENT**

### Principle

In principle, the proposals are contrary to saved policies in the current Local Plan but the acceptability of re-development of the Sherwood Lodge site for retail uses has been established by the previous approval for a large food store on the site.

Nonetheless, the previous approval was based on the individual planning merits of those proposals and as the current proposals are materially different to the approved development; the existing outline consent does not create a precedent that means the current application should be 'automatically' granted planning permission. This is reflected by the subsequent site allocation in the emerging Local Plan for town centre uses as set out in Policy WC6 in the emerging Local Plan.

In these respects, Policy WC6 is permissive of retail development on the Sherwood Lodge site but also sets out ten criteria (a-j) based on the positive aspects of the previously approved scheme that provides a framework to assess the relative planning merits of the current application.

Of the criteria in Policy WC6, the current application complies with WC6(c), WC6(d), and WC6(e) because the current proposals provides for at least one convenience retail store in excess of 1,200m<sup>2</sup>; provides for other town centre related uses; and ensures that a suitable level of public parking is made available as part of the scheme. Therefore, the current

proposals can be deemed to be 'acceptable in principle' with due regard to policies in the emerging Local Plan.

The proposals also meet the requirements of national planning policies in the Framework in terms of the proposed retail uses outside of Bolsover's town centre having passed the 'sequential test' and having been determined to be unlikely to have a significant adverse on the vitality and viability of the town centre. Therefore, an exception to the adopted Local Plan to allow retail units on a site adjacent to the town centre would also be acceptable in principle even in the absence of the emerging Local Plan policy.

However, representations on this application go further than this assessment insofar as it is generally considered that the proposals will actually have a beneficial impact on the town centre not least by improving the current retail offer. The County Council's policy team also advise that the proposals would be unlikely to harm the vitality and viability of Bolsover town centre and would be more likely to maintain and enhance the health of the town centre overall.

Taken together, these factors would normally weigh heavily in favour of granting planning permission for the current application subject to further consideration of all other relevant planning considerations.

In this case, it is considered the most relevant planning considerations are (i) whether the proposals conserve or enhance the surrounding Conservation Area and accord with the key provisions of WC6 relating to the conservation and enhancement of on-site heritage assets (WC6(f)); and (ii) whether the redevelopment of the site would provide for an acceptable two way vehicular access road between Town End and Oxcroft Lane in accordance with WC6(a).

### Heritage

In the first instance, saved Local Plan policies CON1 (Development in Conservation Areas); CON2 (Demolition of Unlisted Buildings or Structures in Conservation Areas); CON3 (Important Open Areas within Conservation Areas); CON13 (Archaeological Sites and Ancient Monuments) provide a framework to assess the impact of the current proposals on heritage assets.

These policies are consistent with core planning principles in the Framework and paragraphs 131, 132, 135 and 137 of the Framework because they seek to conserve 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.

These local and national planning policies also underpin the requirements of Policy WC6(f), which says that as identified heritage assets: special consideration should be given to the historic grounds and remaining building on the western side of the site (i.e. the original Sherwood Lodge building and relic parkland). The entire site is also within the designated Conservation Area and the length of 'intrenchment' earthwork at the site's north-eastern boundary is nationally important and should be treated as though it were a scheduled monument.



In terms of the 'intrenchment', amended plans have been received seeking to address the County Archaeologist's and Historic England's concerns about the potential impact of the proposals on this significant heritage asset because of the proximity of a service area to these earthworks. However, neither the County Archaeologist nor Historic England have yet confirmed that these changes are sufficient to avoid harm to the 'intrenchment'.

In addition, the County Archaeologist, Historic England and the Council's Heritage Conservation Manager have all raised concerns about the adequacy of the submitted Heritage Impact Assessment in terms of justifying the demolition of Sherwood Lodge and the impacts of the proposals on the character and appearance of the surrounding Conservation Area.

There are also some concerns raised about the impact of the proposals on the setting of Bolsover Castle but from an officer perspective; these impacts are highly likely to be negligible taking into account

- i. the intervening built development, topography and mature trees between the Castle and the application site;
- ii. the intervening built development, topography and mature trees between the site and viewpoints looking towards the Castle; and
- iii. the location of the site adjacent to the existing town centre, which would help the units merge with the existing built development when seen from the higher parts of the Castle.

Nonetheless, the demolition of Sherwood Lodge would fail to conserve the special qualities of this non-designated heritage asset as a matter of fact and by virtue of their form, massing and external appearance, the retail units do not fully reflect or respect the styles and traditions of the vernacular buildings within the surrounding Conservation Area. It is not considered the use of stone to provide an attractive entrance to the site would offset the impact of the use of the modern materials throughout the retail units by virtue of their relative size and scale and visual impact.

Unfortunately, the retail units will have a noticeable visual impact on the surrounding Conservation Area taking into account their size and scale and the fact that these buildings would be seen from a wide range of vantage points from within the Conservation Area. Therefore, officers consider the development proposals will detract from the significance of the Conservation Area and diminish its historic and architectural interest.

Consequently, whilst it is acknowledged that the redevelopment of the site would undoubtedly give rise to some immediate improvements to the environmental quality of the local area: over the lifetime of the development, the current proposals would not conserve or enhance the surrounding Conservation Area. In these respects, the current proposals would conflict with saved Local Plan CON1, CON2 and CON3. Insofar as it has not yet been demonstrated that the proposals would conserve the 'intrenchment', the proposals also conflict with saved Local Plan policy CON13.

However, with due regard to the specialist advice from the Council’s conservation officer, the County Archaeologist and Historic England, these harmful impacts of the proposals are considered to amount to ‘less than substantial harm’ in terms of national planning policies. Therefore, it is necessary to weigh the identified harm to heritage assets against the public benefits of granting planning permission for the proposals in accordance with national planning policy set out in Paragraph 134 of the Framework.

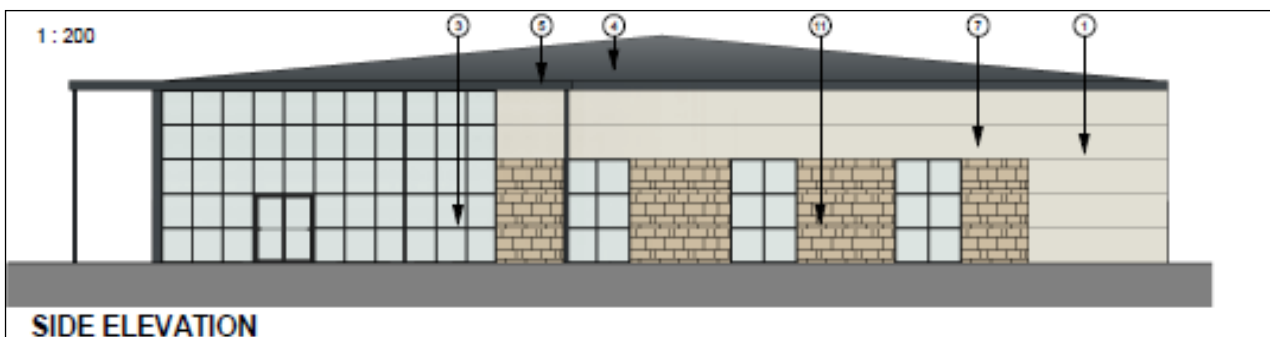
In this respect, if redeveloping the site resulted in a development of a high standard of contemporary design then the objections to the external appearance of the proposed buildings and the loss of Sherwood Lodge on conservation grounds might be better mitigated by the public benefits of granting planning permission for the current application.

### Design

Policy criteria WC9(h) says that development proposals on the Sherwood Lodge site should contribute towards place-making through the delivery of a high quality designed development that creates an attractive and locally distinctive new urban neighbourhood utilising public art as appropriate. Paragraph 63 of the Framework also says in determining applications, great weight should be given to outstanding or innovative designs which help raise the standard of design more generally in the area.

In this case, it is acknowledged that revised plans have been submitted primarily in response to detailed comments made by the Bolsover Civic Society in respect of the original submission. It is also recognised that by introducing cladding reminiscent of traditional stone detailing for example (see below), the revised plans now show buildings with a better link to local distinctiveness. However, they are still not ‘attractive’ buildings and taken as whole, the current proposals might be acceptable for a retail park in a less sensitive location but they cannot be described as being of high quality contemporary design.

### Food Store – Elevation facing Town End



The Council has not yet received any further representations from the Civic Society in respect of the revised proposals. Nonetheless, it should be noted that Paragraph 66 of the Framework says applicants will be expected to work closely with those directly affected by their proposals

to evolve designs that take account of the views of the community. Paragraph 66 goes on to say proposals that can demonstrate this in developing the design of the new development should be looked on more favourably.

Therefore, any further comments received by the Civic Society on the revised submissions may not be a determining factor in the determination of this application but they would be a relevant planning consideration that could be balanced against an officer conclusion that

- (i) the proposed development fails to properly reflect or respect the locally distinctive character of the surrounding Conservation Area; and
- (ii) is not of a high enough design quality to otherwise make a positive contribution to the character and appearance of the local area and avoid harm to the Conservation Area.

### Open Space and Public Art

The harm to the Conservation Area resulting from the current proposals would also be exacerbated by the loss of the original Sherwood Lodge building and some of the relic parkland. From an officer perspective, this harm would not be offset by the design of the development proposals, as noted above, or offset or outweighed by the approach to open space and public art that has been taken in this application even though the current proposals retain more open space on the Sherwood Lodge site than the previously approved scheme and the applicant has also offered to make a contribution towards public art.

Specifically, Old Bolsover Town Council will be gifted the retained green space area, which is 25% greater than the previous approved Morrison's, with 40 more trees retained. By way of a contribution towards public art: the applicant has agreed to pay the sum of £4,000 for the installation of a bespoke stone carved bench in honour of the local celebrated author Fred Kitchen, located in the public realm area between the Town End car park and proposed food store. Bolsover Civic Society have already designed and costed the art installation.

Therefore, granting planning permission for the current proposals would undoubtedly result in some additional public benefits in place making terms but the proposals would still result in a net loss of important open space on the site and there are shared concerns about the utility of the retained open space given its location to the rear of a service yard and lack of natural surveillance. The contribution towards public art would also fall short of 1% of development costs.

Consequently, the current proposals do not fully accord with the place-making aspirations of emerging policy WC9(h) and do not meet the normal requirements of saved Local Plan policy GEN17 in respect of public art. The current proposals also fail to meet the requirements of emerging policy WC6(j) and saved Local Plan policy CLT6 that require the loss of the existing open space to be mitigated through a financial contribution towards the improvement of a green space within Bolsover, which has not yet been offered by the applicant.

Consequently, the current proposals are also inconsistent with the provisions of paragraphs

73 and 74 of the Framework, which set out the value of providing open space within development proposals and a presumption against building on existing important open spaces. Unfortunately, these objections are not fully addressed by reference to the previous approval because a financial contribution towards replacement open space in Bolsover was secured by way of a legal agreement attached to the existing outline permission.

Therefore, the less than substantial harm to the Conservation Area resulting from these proposals as set out above would not be offset or outweighed through the retention of open space or the provision of public art as proposed in this application.

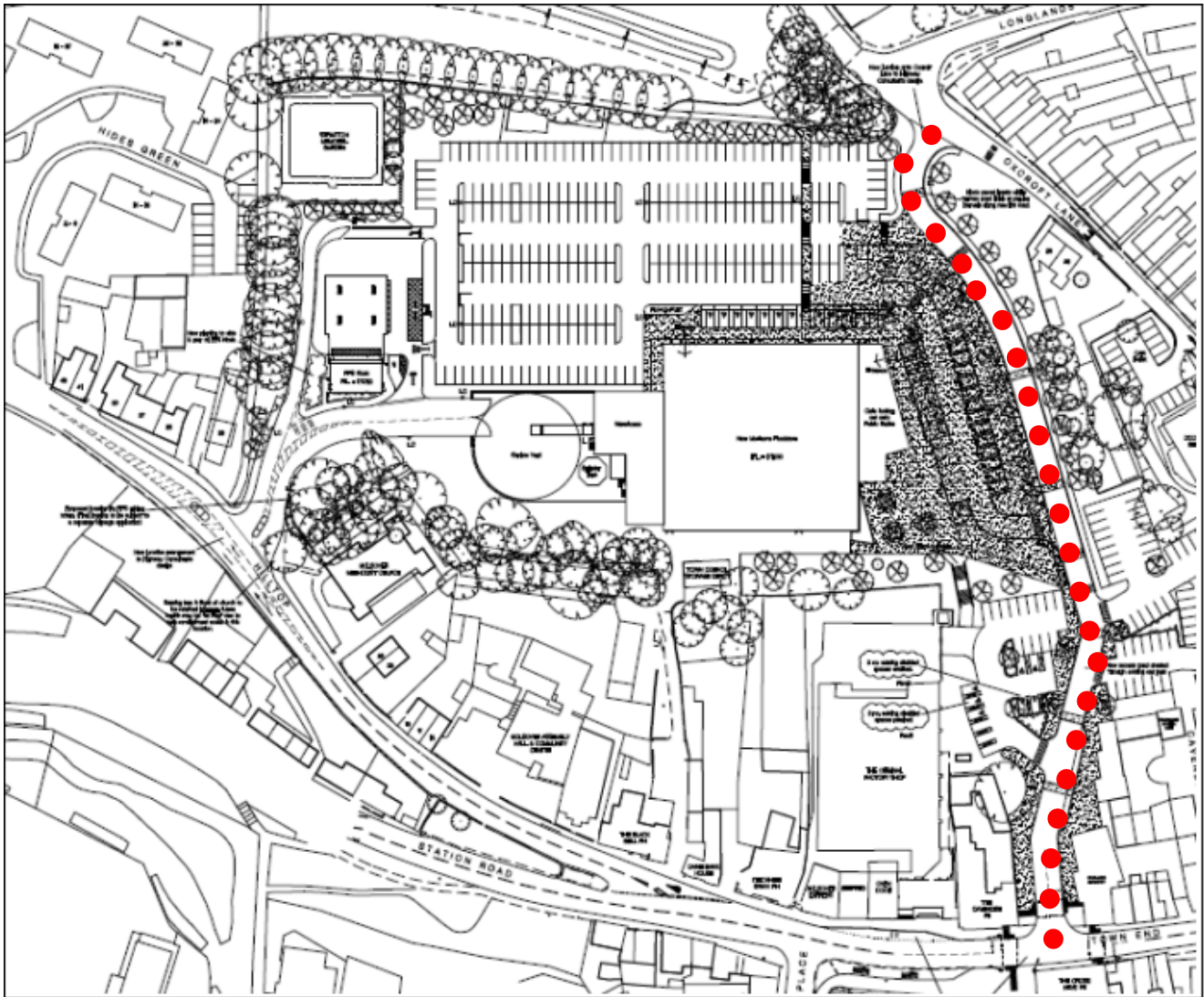
However, as explained in more detail in later sections of this report, the wider public benefits that might be achieved through any approval of the scheme could be judged to outweigh the identified 'less than substantial harm' to heritage assets with regard to paragraph 134 of the Framework. In this respect, the provision of a link road through the Sherwood Lodge site takes on particular significance because it would provide a substantial public benefit that would also weigh very heavily in the determination of this application.

### The 'Link Road'

The previous approval for a large food store on the Sherwood Lodge site included the provision of a link road through the site as shown by the 'dotted line' running north to south on the plan (below). As the delivery of this link road was secured by a s.278 agreement with the local highway authority, this link road was taken into account in the Bolsover Transport Study that was undertaken to understand how residential development coming forward in Bolsover over the next fifteen years would impact on the local road network.

Subsequently, the s.278 agreement has not been enforced because it was considered by all interested parties that there was no realistic likelihood that the large food store would come forward despite the original permission (12/00324/FULMAJ) having been implemented.

Approved 'Link Road' (12/00324/FULMAJ) - The dotted line shows the line of the 'link road'



In many respects, allowing the s.278 agreement to lapse gives rise to significant concern because the Bolsover Transport Study (2016) says the provision of a new link road through the Sherwood Lodge is required to provide relief to the Town End junction of Town End / Moor Lane / Welbeck Road. The Addendum to this study completed October 2017 says without the Sherwood Lodge Link Road, the Town End junction will reach capacity and as the planned quantum of development in Bolsover comes forward, including the major residential development at Bolsover North, there will be significant increases of queuing traffic at this junction.

However, Policy WC6(a) carries forward this requirement for a 'link road' and says that proposals for the development of this site will be permitted where they are comprehensive, guided by an approved masterplan for the site and provide for an acceptable two way vehicular access road between Town End and Oxcroft Lane.

This policy requirement is considered to be consistent with national planning policies in paragraph 32 of the Framework where it is said that to promote sustainable transport: local

planning authorities should take account of whether improvements can be undertaken within the transport network that cost effectively limit the significant impacts of a development and development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe.

In this case, the first set of amended plans (subject of the second round of publicity) did not show the provision of a two way vehicular access road between Town End and Oxcroft Lane. Instead the applicant proposed to effectively gift an area of land to the east of the food store to the Council. Unfortunately, this strip of land was not wide enough to accommodate a two way road, which normally has a carriageway width of between 7.1m and 7.5m. An additional 1.8m for a footway and/or 3m for a cycle way would also be required to provide adequate connectivity.

Therefore, whilst the land originally offered by the applicant may have some contributory use as part of a future route through the site, additional land would have been needed to provide a two way vehicular access road between Town End and Oxcroft Lane, which would require the acquisition of a significant area of third party land. In addition, the proposed development would not have fully met the requirements of WC6(g) because the provision of cycling facilities, as originally proposed, would not have made an especially positive contribution to the planned Bolsover town cycle network. This issue could be addressed by provision of a cycle way alongside a link road through the site.

Naturally, the applicant's further offer of a financial contribution of £150,000 towards highway improvements is welcomed and has allowed the Local Highway Authority to withdraw their objections to the current application. Nonetheless, this offer would not in itself be sufficient to allow the Council or the Local Highway Authority acquire additional third party land and pay for the link road. Therefore, officers were not able to conclude that the revised application would 'provide for' the link road that is required to mitigate for the impact of committed development in Bolsover.

This means that even though a link road is not required to deal with the traffic generated by the proposed development: granting planning permission for the revised application would have had a severe adverse impact on the local road network. However, in light of these issues, the applicant has suggested a compromise that would allow for the transfer of sufficient land to the Council to safeguard a two way vehicular access road between Town End and Oxcroft Lane.

## Indicative Site Layout



As this plan was submitted at the time of writing, there are still issues for both the Council and the applicant to consider, and the Council may also need to consult on the application, before this revised layout can be fully taken into account in the determination of this application.

However, in principle, this layout could be sufficient to allow officers to recommend approval of this application when taking into account that there are no other relevant planning considerations that otherwise carry as much weight in the determination of this application as the identified harm to conservation assets and the provision of the link road for the following reasons:

## Accessibility and Connectivity

The indicative plans might provide the opportunity to implement a cycle link through the site, as noted above, and this link through the site might offset concerns that the character and amenity of the links through the site and the retained public rights of way would be adversely affected by the presence of the car park and service areas.

In all other respects, the revised plans show a scheme that would be accessible for all and the proposed development would not necessarily have a prejudicial impact on the existing public right of ways through the site. Pedestrian access to the site would be maintained from Hill Top, Oxcroft Lane and Town End and some consideration has been given to the provision of pedestrian access and linkage between Cavendish Walk and the site. The retained open space also helps to provide a 'greener' development than would have been achieved by the previously approved scheme.

## Climate Change

Policy criteria WC6(i) says the current proposals should contribute towards the efforts to tackle climate change through its approach to sustainable construction, renewable energy and energy conservation within the site's general layout, design and orientation.

The submitted application does not appear to address this policy criteria and it remains of concern that the County Council are still not satisfied with the approach taken to sustainable drainage despite having site of the applicant's revised drainage strategy and despite Yorkshire Water and the Council's engineers having no overriding objections to the proposals in respect of drainage.

Therefore, the environmental credentials of the development do not weigh in favour of an approval of this application but these issues may be dealt with by an appropriate planning condition attached to any permission for the current application.

## Ground Conditions

There is a significant change in levels across the Sherwood Lodge site but there are no land stability issues. The Council's environmental health protection officer is satisfied that an appropriate planning condition can be used to address any potential pollutants on the land. Therefore, these issues do not weigh heavily in the determination of this application.

## Neighbourliness

There are some concerns about the impacts of the proposed development on the nearest neighbouring residential properties. However, the intervening distances between the proposed development and residential properties limits the extent to which the new units could be over bearing, impact on privacy, or affect the outlook of these properties. The Council's environmental health protection officer is also satisfied noise and air quality issues



could be dealt with by appropriate planning conditions and the local highway authority is satisfied that the traffic generated by the proposed development would not in itself give rise to road safety issues. Therefore, the proposed development would not be unneighbourly and complies with policies GEN1 and GEN2 in this respect.

### Wildlife

Other than the loss of trees from the site, it is considered unlikely that the proposals would have any other adverse impacts on any species or habitat of particular nature conservation value. A condition securing a landscaping and ecological construction and management should be used if permission were to be granted for the scheme to ensure that trees to be retained and bats and birds would be appropriately protected during the construction phase and to ensure that appropriate landscaping would be carried out prior to the proposed retail units being taken into use.

### The Planning Balance

In light of the above technical assessment of the planning merits of the current proposals, it can be seen that there will be less than substantial harm to designated and non-designated heritage assets and that the proposed scheme does not fully accord with the Council's aspirations for redevelopment of the Sherwood Lodge site or the requirements of adopted planning policies.

However, the above assessment also finds that the proposed redevelopment of the site is not without merit and if the location of the buildings could be revised: the route of a link road through the site could be safeguarded and this link road is an essential pre-requisite of sustainable growth in Bolsover. There are also no other technical matters that would prevent permission being granted for the current application subject to appropriate conditions.

Therefore, a balanced decision has to be taken on this application with full regard to the wider public benefits that might be achieved by granting planning permission for this application. The applicant says the benefits of granting planning permission for the current application includes:

- The physical regeneration of a key landmark site within the town centre.
- The creation of around 200 new jobs
- Reducing the need to travel outside Bolsover to shop, ensuring more money is spent locally, whilst improving sustainability.
- Bringing more food shopping choice for local residents and visitors to the town.

In principle, officers agree with this assessment not least because it acknowledged there is significant public interest in re-development in the site and that there would be wider public benefits that would result from the grant of planning permission for this scheme. For example,

regeneration of a disused site and the provision of local employment opportunities are clearly important to the local community and there is an equally clear 'qualitative need' for the proposed development if not a 'quantitative need' for the amount and type of retail uses proposed in this application.

In terms of qualitative need, it is considered that the provision of a medium-sized food store on the Sherwood Lodge site would improve Bolsover's retail offer and the introduction of a 'discounter' such as Lidl or Aldi, for example, and a wider range of choice of shops in the town would be of particular benefit to local residents.

In addition, the food store proposals plus the terrace of retail units would encourage more people to shop in the town reducing 'leakage' caused by people doing their shopping elsewhere. The proposals might also achieve a degree of 'clawback' by visitors to the town and local residents being more likely to shop locally and use other shops in the town centre. Therefore, the proposals have the capacity to enhance the vitality and viability of the town centre as a whole.

It is also considered by officers that the deteriorating condition of the site has resulted in a negative impact on the amenities of the local area whilst it has been vacant not least because the site has attracted anti-social behaviour and detracts from the character and appearance of the town. Therefore, granting planning permission for the current application would result in significant socio-economic and environmental benefits that should be afforded substantial weight in the planning balance.

In these respects, if the only key issue to determine in this application related to whether the less than substantial harm to the significance of designated and non-designated heritage asset resulting from the development proposals, as identified above, would be outweighed by the public benefits of granting planning permission: officers would be likely to recommend approval of this application given the qualitative need for the development and the potential for the scheme to enhance the vitality and viability of the town centre, as a whole.

However, this conclusion would be very finely balanced and the absence of a link road through the site would have posed a serious problem. To address this problem, indicative plans have been submitted showing how the food store building could be sited a further 3-4 metres to the west so the additional land to the east, which is intended to be offered to the Council, would be wide enough to accommodate a link road accommodating vehicular traffic in both direction and a foot way if not a cycle link.

If this plan can be agreed then it would significantly alter the decisional balance in the determination of this application because the route of the link road would be 'safeguarded' and whilst the proposals would not deliver a two way vehicular access road between Town End and Oxcroft Lane at least it could be 'provided for' by the Council (or others) without relying on acquisition of third party land.

At the time of writing, ongoing negotiations are taking place to achieve this compromise to get to a positive outcome and avoid a 'lose-lose' situation. In summary, refusing planning permission for the application will mean the socio-economic and environmental benefits of re-development of the site would not be realised and the applicant's development proposals will

be stalled on a site that has already proven to be difficult to dispose of in any other way. The Council would also still have to find a way to 'provide for' a link road.

Therefore, officers consider if the current application were to provide for a link road as shown by the indicative plans then granting planning permission for the current application would achieve such substantial public benefits for the town and the District as whole, these benefits would significantly and demonstrably outweigh the adverse impacts of the proposed development on conservation interests and offset any residual concerns that the proposals do not fully accord with local and national policies as identified in the above report.

## **RECOMMENDATION**

**Accordingly, the current application is provisionally recommended for APPROVAL subject to confirmation and receipt of amended plans showing the revised siting of the proposed buildings and subject to a legal agreement related to the provision of public art and transfer of land, appropriate planning conditions and re-consultation on the revised plans showing relocation of the buildings.**

### Statement of Decision Process

The Council has sought to work positively and pro-actively with the applicant to find an appropriate compromise that better balances the respective aspirations of the Council and the developer in respects of the redevelopment of the site.

### Human Rights

Any human rights issues have been considered and addressed in the preparation of this report.

### Equalities

It is not considered a decision on this application would have a direct or indirect impact on any particular group of people with a shared protected characteristic but it is recognised that the provision of an additional food store in the town may be of a particular advantage to people with disabilities and older local residents, for example. Similarly, a severe adverse impact on the local road network might affect people with the same or other protected characteristics. This analysis has been considered in the weight afforded to both the negative and positive aspects of the scheme in the above report.

### EIA Screening Opinion

The development is not Schedule I development but does comprise urban development as described in column one of Schedule II of the EIA Regulations 2017. In this case, it is not considered the impacts of the proposed development are of such magnitude or complexity that EIA is required to assess the environmental effects of the current proposals.

### Site Location Plan

