

NORTHERN AREA PLANNING COMMITTEE

MINUTES OF THE NORTHERN AREA PLANNING COMMITTEE MEETING HELD ON 6 MARCH 2019 AT COUNCIL CHAMBER - WILTSHIRE COUNCIL OFFICES, MONKTON PARK, CHIPPENHAM SN15 1ER.

Present:

Cllr Tony Trotman (Chairman), Cllr Peter Hutton (Vice-Chairman), Cllr Christine Crisp, Cllr Gavin Grant, Cllr Howard Greenman, Cllr Mollie Groom, Cllr Chris Hurst, Cllr Toby Sturgis, Cllr Bob Jones MBE (Substitute), Cllr Jacqui Lay (Substitute) and Cllr Philip Whalley (Substitute)

Also Present:

Cllr John Thomson

10 Apologies

Apologies were received from Cllr Chuck Berry, Cllr Brian Matthew and Cllr Ashley O'Neill.

Cllr Chuck Berry was substituted by Cllr Jacqui Lay, Cllr Brian Matthew was substituted by Cllr Bob Jones and Cllr Ashley O'Neill was substituted by Phillip Whalley.

11 Minutes of the Previous Meeting

The minutes of the meeting held on 30th January 2019 were presented.

Resolved:

To approve as a true and correct record and sign the minutes.

12 Declarations of Interest

Cllr Gavin Grant declared an interest in agenda item nos. 7a and 7b (member of Malmesbury Town Team). He declared he would participate in the debate and vote for each item with an open mind.

Cllr Toby Sturgis and Cllr Chris Hurst declared an interest in agenda item no. 7b (both have an account with A.C Nurden Ltd). Both declared they would participate in the debate and vote for each item with an open mind.

13 **Chairman's Announcements**

There were no Chairman's announcements.

14 **Public Participation**

The Committee noted the rules on public participation.

15 **Planning Appeals and Updates**

The Committee noted the contents of the appeals update.

16 **Planning Applications**

Attention was drawn to the late list of observations provided at the meeting and attached to these minutes, in respect of applications 18.02180.FUL and 18.06980.FUL as listed in the agenda pack.

The Committee considered the following applications:

17 **18.02180.FUL - Land East of the A429, Malmesbury Bypass, Malmesbury**

Public participation

Richard Morison, on behalf of the Cooperative Group, spoke in objection to the application.

Nicola Earl, local resident, spoke in objection to the application.

Susan McGill, local resident, spoke in objection to the application.

Glen Stidever, the applicant, spoke in support to the application.

Nigel Roberts, the landowner, spoke in support to the application.

Daniel Wheelwright, the agent, spoke in support to the application.

Cllr John Gundry, Malmesbury Town Council, spoke in objection to the application.

Cllr Roger Budgen, Chairman of St Paul Without Parish, spoke in objection to the application.

The Planning Officer, Lee Burman, introduced a report which recommended refusal of planning permission, for Erection of a New Lidl Store and Associated Works Including Car Parking and Landscaping on Land East of the A429, Malmesbury, Wiltshire.

Key issues highlighted included: principle of development; retail impact and the sequential test; impact on the character, appearance and visual amenity of the

locality including trees; impact to heritage assets including the conservation area for the town and archaeology; highways impact and parking; drainage & flood risk; impact on ecology; noise and S106 matters.

Members of the Committee then had the opportunity to ask technical questions of the officer which focused on: Highways access, improvements to cycle and pedestrian access and the lack of a light control system for pedestrian crossing.

Members of the public then had the opportunity to address the Committee, as detailed above. The representations of St Paul Malmesbury Without Parish and Malmesbury Town Councils, as detailed in the report, were also noted.

Cllr John Thomson, Division Member for Sherston, spoke regarding the application with the main points focusing on the development of greenfield sites; the location of the proposal; the desire for a discount retail store; the landscaping of the site; highways issues and the need to preserve the countryside.

Cllr Gavin Grant, Division Member for Malmesbury, spoke regarding the application with the main points focusing on the historical importance of the Malmesbury area; the unique character of the locality; the public concern for the proposal; the risk of taking urban development into the open countryside and the location of the proposal.

The Planning Officer addressed some of the issues raised by the public and local members with the main points focusing on: noise harm; heritage assets; that the application must not be considered in isolation and that planning policy has undergone significant change since similar applications were previously brought to Committee for determination in 2012 and that other material circumstances and considerations have changed significantly in the intervening period including major residential development toward the north of the town.

At the start of the debate the Chairman moved the officer's recommendation, seconded by Cllr Peter Hutton, to refuse planning permission as detailed in the report.

During the debate the main points raised were: the character and history of the locality; the importance of maintaining the functionality of the bypass; breaching the physical boundary between town and agricultural land; the Neighbourhood Plan; highways concerns and the location of the proposal.

Resolved

That planning permission is refused in accordance with the Officer Recommendation and as set out below.

1. The proposed development in the location identified would conflict with the development strategy of the development plan as defined by policies CP1, CP2 and CP13 of the Wiltshire Core Strategy (Jan 2015) and thereby conflict with paragraphs 2, 12 and 47 of the NPPF (Feb 2019).

2. The proposed development would result in harm to the character, appearance and visual amenity of the locality through the urbanisation of the landscape contrary to Wiltshire Core Strategy Policies CP51 and CP57 (i, ii, & iv);. Policy 13 as informed by aims and objectives tasks 8.1, 8.4 & 8.5 and Vol II (Design Guide) Malmesbury Neighbourhood Plan (Made Feb 2015); and NPPF para 170(b) (Feb 2019), while the proposed location of development precludes future viable agricultural use/s for adjoining farmland to the west and south, which would not represent an efficient use of land contrary to WCS, CP57 (vi).

3. The proposed development would result in less than substantial harm to a designated heritage asset (Setting of the Malmesbury Conservation Area) which is not outweighed by the public benefits of development. The proposals thereby conflict with Wiltshire Core Strategy CP57 (i & iv) and CP58; Malmesbury Neighbourhood Plan Policy 13 as informed by aims and objectives tasks 6.1, 8.1, 8.4 & 8.5 and Vol II (Design Guide); 192, 193, 196, 197 and 200 in the NPPF (Feb 2019), Historic England's The Setting of Heritage Assets Good Practice Advice in Planning: Note 3 (2nd Ed Dec 2017) and the BS7913.

18 **18.06980.FUL - Land At Malmesbury Garden Centre, Crudwell Road, Malmesbury**

Public participation

Richard Morison, on behalf of the Cooperative Group, spoke in objection to the application.

Daniel Wheelwright, the agent for 18.02180.FUL, spoke in objection to the application.

Barbara Bowman, local resident, spoke in support to the application.

Simon Glover, the applicant, spoke in support to the application.

Barry Lingard, local resident, spoke in support to the application.

Dan Templeton, the agent, spoke in support to the application.

Cllr Roger Budgen, Chairman of St Paul Without Parish Council, spoke in objection to the application.

Cllr John Gundry, Malmesbury Town Council, spoke in objection to the the application.

The Planning Officer, Lee Burman, introduced a report which recommended granting planning permission, subject to conditions and the completion of a section 106 planning obligation within 6 months of the date of the meeting, for Full Approval for the Demolition of Existing Buildings and the Erection of a

Class A1 Foodstore (1,782 sq m Gross Internal Floor Area) with Associated Access, Car Parking and Landscaping; and Outline Approval for a Replacement Garden Centre and/or Class B1/B2/B8 Employment Uses. Conditions as revised in late items.

Key issues highlighted included: principle of development; retail impact and the sequential test; impact on the character, appearance and visual amenity of the locality including trees; impact on heritage assets including archaeology; highways impact and parking; drainage & flood risk; impact on ecology; noise & residential amenity and section 106 matters.

Members of the Committee then had the opportunity to ask technical questions of the officer which focused on: landscaping improvements; roadside screening and tree planting.

Members of the public then had the opportunity to address the Committee, as detailed above. The representations of St Paul Malmesbury Without Parish and Malmesbury Town Councils, as detailed in the report, were also noted.

Cllr John Thomson, Division Member for Sherston, spoke regarding the application with the main points focusing possible employment opportunities; the desire to develop the site in question; the low level of objections to the proposal; the development of brownfield sites and highways and traffic issues.

Cllr Gavin Grant, Division Member, spoke regarding the application with the main points focusing on the desire for a discount retail store; the need to ensure a garden centre will remain on the site; possible employment opportunities; highways issues; the desire for the proposal to enhance the retail experience across the Malmesbury area and the need for the applicant to take local needs into consideration and engage with those that live in the vicinity.

The Planning Officer addressed some of the issues raised by the public and local members with the main points focusing on: the robustness and appropriateness of the assessments undertaken; that there is scope for voluntary contribution to S106 from the applicant; pedestrian access; highways issues and the impact to residential amenity.

At the start of the debate the Chairman moved the recommendation of the officers, seconded by Cllr Howard Greenman, to grant planning permission as detailed in the report.

During the debate the main points raised were: possible employment opportunities; the potential for voluntary contribution to S106 from the applicant; a possible speed limit reduction; the traffic flow arrangements; possible adverse effects of noise; drainage issues and concerns over the vitality of Malmesbury town centre.

Resolved

That planning permission is approved in accordance with the Officer Recommendation subject to the conditions as amended in the late items and set out below; and delegation of authority to the Corporate Director Growth, Investment, & Places in consultation with the Chairman to consider submissions from the Malmesbury Town Team, to be made within two months of the date of the Committee meeting, setting out the need and basis for S106 financial contributions toward enhancing town centre vitality and viability. Submissions to include projects toward which funds would be dedicated. The case officer to prepare a report to the Committee Chairman and the Corporate Director as to the adequacy of submissions and compliance with relevant regulations, policies and guidance.

Outline

1. The development hereby permitted shall be begun either before the expiration of three years from the date of this permission, or before the expiration of two years from the date of approval of the last of the reserved matters to be approved, whichever is the later.

REASON: To comply with the provisions of Section 92 of the Town and Country Planning Act 1990 as amended by the Planning and Compulsory Purchase Act 2004.

2. No development shall commence on site until details of the following matters (in respect of which approval is expressly reserved) have been submitted to, and approved in writing by, the Local Planning Authority:

- (a) The scale of the development;**
- (b) The layout of the development;**
- (c) The external appearance of the development;**
- (d) The landscaping of the site;**

The development shall be carried out in accordance with the approved details.

REASON: The application was made for outline planning permission and is granted to comply with the provisions of Section 92 of the Town and Country Planning Act 1990 and Article 5 (1) of the Town and Country Planning (Development Management Procedure) (England) Order 2015.

3. An application for the approval of all of the reserved matters shall be made to the Local Planning Authority before the expiration of three years from the date of this permission.

REASON: To comply with the provisions of Section 92 of the Town and Country Planning Act 1990.

4. No part of the development shall be first brought into use until all the existing buildings on site have been permanently demolished and all of the demolition materials and debris resulting there from has been removed from the site.

REASON: In the interests of the character and appearance of the area [and neighbouring amenities].

5. No development shall commence on site until a scheme of hard and soft landscaping has been submitted to and approved in writing by the Local Planning Authority, the details of which shall include:-

- location and current canopy spread of all existing trees and hedgerows on the land;
- full details of any to be retained, together with measures for their protection in the course of development;
- a detailed planting specification showing all plant species, supply and planting sizes and planting densities;
- finished levels and contours;
- means of enclosure;
- car park layouts;
- other vehicle and pedestrian access and circulation areas;
- all hard and soft surfacing materials;
- minor artefacts and structures (e.g. refuse and other storage units, signs, lighting etc);
- tree(s), of a size and species and in a location to be agreed in writing with the Local Planning Authority, shall be planted in accordance with BS3936 (Parts 1 and 4), BS4043 and BS4428

REASON: The application contained insufficient information to enable this matter to be considered prior to granting planning permission and the matter is required to be agreed with the Local Planning Authority before development commences in order that the development is undertaken in an acceptable manner, to ensure a satisfactory landscaped setting for the development and the protection of existing important landscape features.

6. All soft landscaping comprised in the approved details of landscaping shall be carried out in the first planting and seeding season following the first occupation of the building(s) or the completion of the development whichever is the sooner; All shrubs, trees and hedge planting shall be maintained free from weeds and shall be protected from damage by vermin and stock. Any trees or plants which, within a period of five years, die, are removed, or become seriously damaged or diseased shall be replaced in the next planting season with others of a similar size and species, unless otherwise agreed in writing by the local planning authority. All hard landscaping shall also be carried out in accordance

with the approved details prior to the occupation of any part of the development or in accordance with a programme to be agreed in writing with the Local Planning Authority.

REASON: To ensure a satisfactory landscaped setting for the development and the protection of existing important landscape features.

7. No development shall commence on site until a landscape management plan, including long-term design objectives, management responsibilities and maintenance schedules for all landscape areas (other than small, privately owned, domestic gardens) has been submitted to and approved in writing by the Local Planning Authority. The landscape management plan shall be carried out as approved in accordance with the approved details.

REASON: The application contained insufficient information to enable this matter to be considered prior to granting planning permission and the matter is required to be agreed with the Local Planning Authority before development commences in order that the development is undertaken in an acceptable manner, to ensure the proper management of the landscaped areas in the interests of visual amenity.

8. No development above damp course level shall commence on site until details of the works for the disposal of sewerage including the point of connection to the existing public sewer have been submitted to and approved in writing by the Local Planning Authority.

REASON: The application contained insufficient information to enable this matter to be considered prior to granting planning permission and the matter is required to be agreed with the Local Planning Authority before development commences in order that the development is undertaken in an acceptable manner, to ensure that the proposal is provided with a satisfactory means of drainage and does not increase the risk of flooding or pose a risk to public health or the environment.

9. No external lighting shall be installed on site until plans showing the type of light appliance, the height and position of fitting, illumination levels and light spillage spillage in accordance with the appropriate Environmental Zone standards set out by the Institute of Lighting Engineers in their publication "Guidance Notes for the Reduction of Obtrusive Light" (ILE, 2005)", have been submitted to and approved in writing by the Local Planning Authority. The approved lighting shall be installed and shall be maintained in accordance with the approved details and no additional external lighting shall be installed.

REASON: In the interests of the amenities of the area and to minimise unnecessary light spillage above and outside the development site.

10. The permitted replacement Garden Centre shall be on a like for like basis involving the same total of indoor floorspace as referenced on the

application form (84.2 sq m), Polytunnels as permitted (254.6 m sq m) and outdoor retail floorspace as existing; with any cafe/restaurant also limited to the floorspace identified in the application form (97 sq m); and with the same mix and range of goods sold at present.

REASON: In the interests of the vitality and viability of the Town Centre.

FULL

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

REASON: To comply with the provisions of Section 91 of the Town and Country Planning Act 1990 as amended by the Planning and Compulsory Purchase Act 2004.

11. The development hereby permitted shall not, at any time, be subdivided into a larger number of units and the net sales area shall be limited to 1,315sq m with no less than 80% of the sales area being used for convenience goods sales; and No more than 20% of the sales area being used for comparison goods sales.

REASON: To enable the Local Planning Authority to consider individually whether planning permission should be granted for additional units on the site and in the interests of the vitality and viability of the town centre.

12. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking or re-enacting or amending that Order with or without modification), the site shall be used solely for purposes within Class A1 of the Schedule to the Town and Country Planning (Use Classes) Order 1987 (as amended)(or in any provisions equivalent to that class in any statutory instrument revoking or re-enacting that Order with or without modification).

REASON: The proposed use is acceptable but the Local Planning Authority wish to consider any future proposal for a change of use, other than a use within the same class(es), having regard to the circumstances of the case.

13. No development above ground floor slab level shall commence on site until the exact details and samples of the materials to be used for the external walls and roofs have been submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details.

REASON: The application contained insufficient information to enable this matter to be considered prior to granting planning permission and the matter is required to be agreed with the Local Planning Authority before

development commences in order that the development is undertaken in an acceptable manner, in the interests of visual amenity and the character and appearance of the area.

14. No development shall commence on site until a scheme for the discharge of surface water from the site (including surface water from the access / driveway), incorporating sustainable drainage details for the detailed part of submission for the Aldi store including the storm system being sized to take flows from the outline part of the application with assigned discharges for each of the future sites limiting total flow from whole site to 29.3 l/s, has been submitted to and approved in writing by the Local Planning Authority.

REASON: To ensure that the development site as a whole can be adequately drained

15. The Aldi store part of development shall not be first occupied until surface water drainage has been constructed in accordance with the approved scheme.

REASON: To ensure that the development can be adequately drained

16. The development hereby permitted shall not be brought into use until details of the storage of refuse, including details of location, size, means of enclosure and materials, have been submitted to and approved in writing by the Local Planning Authority, and; the approved refuse storage has been completed and made available for use in accordance with the approved details. The approved refuse storage shall thereafter be maintained in accordance with the approved details.

REASON: In the interests of public health and safety.

17. The development hereby permitted shall not be brought into use until details of recycling facilities (including location and range of facilities) have been submitted to and approved in writing by the Local Planning Authority, and; the approved recycling facilities have been completed and made available for use in accordance with the approved details. The approved recycling storage shall thereafter be maintained in accordance with the approved details.

REASON: In the interests of public health and safety.

18. There shall be no customers/members of the public on the site outside the hours of (22:00pm) and (08:00am) from Mondays to Saturdays nor (17:00pm) to (10:00am) Sundays and Bank Holidays.

REASON: To ensure the creation/retention of an environment free from intrusive levels of noise and activity in the interests of the amenity of the area.

19. No materials, goods, plant, machinery, equipment, finished or unfinished products/parts of any description, skips, crates, containers, waste or any other item whatsoever shall be placed, stacked, deposited or stored outside any building on the site.

REASON: In the interests of the appearance of the site and the amenities of the area.

20. The development hereby approved shall not be brought into first operation until the Draft Travel Plan Entiran 27 July 2018 has been submitted in Final form to and approved in writing by the Local Planning Authority. The Travel Plan shall include full details of implementation and monitoring and shall be implemented in accordance with these agreed details. The results of the implementation and monitoring shall be made available to the Local Planning Authority on request, together with any changes to the plan arising from those results.

REASON: In the interests of road safety and reducing vehicular traffic to the development.

21. The development hereby permitted shall not be brought into use until a scheme to restrict shopping trolleys leaving the site has been submitted to and approved by the Local Planning Authority and; the approved scheme has been brought into operation. The approved scheme shall thereafter be maintained in operation in accordance with the approved details.

REASON: In the interests of the character, appearance and amenities of the area.

22. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking or re-enacting or amending those Orders with or without modification), no development within Part 7, Classes (a) (c) & (d) shall take place on the building or within the curtilage of the building subject of this permission.

REASON: In the interests of the amenity of the area and to enable the Local Planning Authority to consider individually whether planning permission should be granted for additions, extensions or enlargements.

OUTLINE AND FULL

23. The development hereby permitted shall be carried out in accordance with the following approved plans and documents:

Design and Access Statements Rev E
160389 1501 P5
160389-1500-P4
SK202 REV A

SK203 REVA
Received 01/02/2019

10632-0050 REV D
Drainage Strategy Craddy's
Received 08/02/2019

160389 1601 P1
160389 1403 P7
Topographical Survey
SK203 Swept Path analysis
160389 1400 P6
Tree Protection Plan
Archaeological Evaluation
Landscape Addendum
Ecological Addendum
11593/PO9
11593/PO8
Received 21/12/2018

160389 1402 P2
160389 1401 P3
B2340-MJA-P105-4756-B
160389 - 1100 P4
Received 27/07/2018

REASON: For the avoidance of doubt and in the interests of proper planning.

24. No part of the development shall be first brought into use until all the existing buildings on site have been permanently demolished and all of the demolition materials and debris resulting there from has been removed from the site.

REASON: In the interests of the character and appearance of the area [and neighbouring amenities].

25. No intrusive groundworks shall commence within the site area indicated as Areas ABCD on plan ref 160389 1403 P7 until:

a. A written programme of archaeological investigation, which should include on-site work and off-site work such as the analysis, publishing and archiving of the results, has been submitted to and approved by the Local Planning Authority; and

b. The approved programme of archaeological work has been carried out in accordance with the approved details.

REASON: To enable the recording of any matters of archaeological interest.

26. The development hereby permitted shall not be first brought into use until the first five metres of the access, measured from the edge of the carriageway, has been consolidated and surfaced (not loose stone or gravel). The access shall be maintained as such thereafter.

REASON: In the interests of highway safety.

27. No development shall commence on site (including any works of demolition), until a Construction Method Statement, which shall include the following:

- a) the parking of vehicles of site operatives and visitors;**
- b) loading and unloading of plant and materials;**
- c) storage of plant and materials used in constructing the development;**
- d) the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;**
- e) wheel washing facilities;**
- f) measures to control the emission of dust and dirt during construction;**
- g) a scheme for recycling/disposing of waste resulting from demolition and construction works; and**
- i) hours of construction, including deliveries;**

has been submitted to, and approved in writing by, the Local Planning Authority. The approved Statement shall be complied with in full throughout the construction period. The development shall not be carried out otherwise than in accordance with the approved construction method statement.

REASON: The application contained insufficient information to enable this matter to be considered prior to granting planning permission and the matter is required to be agreed with the Local Planning Authority before development commences in order that the development is undertaken in an acceptable manner, to minimise detrimental effects to the neighbouring amenities, the amenities of the area in general, detriment to the natural environment through the risks of pollution and dangers to highway safety, during the construction phase.

28. Prior to the commencement of any works on site, including site clearance, vegetation clearance, ground works, demolition and boundary treatment works, an Ecological Mitigation and Enhancement Strategy (EMES) shall be submitted to the local planning authority for approval in writing. This shall include the results of further survey of any boundary trees identified as having moderate or high suitability for roosting bats within and/or bordering both the full and outline areas of the application site. It shall also include, and be informed by, the results of a dedicated reptile survey of the whole hybrid application site and an updated badger survey; the results of the latter may need to be submitted to the LPA as an addendum if the EMES has already been submitted and approved by the

LPA prior to the badger survey being undertaken. The surveys must be conducted by suitably experienced and qualified professional ecological consultants. Any mitigation and compensation necessary as a result of the findings of the aforementioned further surveys must also be presented in the EMES and/or addendum. Specific details of all ecological avoidance, mitigation and compensation measures as well as ecological enhancements shall be clearly detailed within the EMES as well as being shown on a corresponding site plan. In addition to the wildflower, hedgerow and tree planting, ecological enhancement shall also include but not be limited to, the provision of nesting features for birds and roosting features for bats which should be installed on buildings and/or suitable trees. The development shall be carried out in strict accordance with the approved strategy.

REASON: To ensure compliance with the Conservation of Habitats and Species Regulations 2017, the Wildlife and Countryside Act 1981 (as amended) and Section 41 of the NERC Act (2006); and to ensure full details of all ecological avoidance, mitigation and compensation measures as well as ecological enhancements, are provided and implemented in accordance with Paragraph 118 of the NPPF, Section 40 of the NERC Act (2006) and CP50 of the Wiltshire Core Strategy (Adopted January 2015) given that insufficient details were submitted prior to determination of the planning application.

29. Prior to the commencement of any works on site, including ground works, demolition, site clearance, vegetation clearance and boundary treatment works, a Landscape and Ecology Management Plan (LEMP) shall be submitted to the local planning authority for approval. The LEMP shall provide details of the proposed maintenance and management of the site; and details and corresponding plans of landscape planting. The development site shall be managed and maintained in accordance with the measures set out in the approved LEMP in perpetuity unless otherwise agreed in writing with the local planning authority.

REASON: To ensure the appropriate maintenance and management of habitats that provides a function for biodiversity.

30. Prior to the commencement of development works on site, a lighting strategy for biodiversity and site lighting plan that has been prepared with input by, and/or has been reviewed and verified by, the commissioned ecological consultancy shall be submitted to the local planning authority for approval in writing. The strategy shall illustrate the location, height and specification of proposed luminaires, together with a lux plot/lighting contour plan and details of mitigating fixtures to be used such as cowls, louvres or baffles. All lighting shall be installed in accordance with the approved lighting strategy and no other external lighting shall be installed without prior written consent from the local planning authority.

REASON: To minimise light spillage onto boundary habitats and features, sensitive areas for protected and priority species and adjacent habitats,

and to maintain dark corridors for wildlife, particularly commuting and foraging bats, and due to insufficient details having been submitted prior to the determination of the planning application as the submitted Proposed External Lighting & Luxplot plan (Drawing no. B2340-MJA-P105-4756-B, 6 July 2018) covers only the Aldi store site (full application area).

31. Prior to the commencement of development works on site, including ground works, demolition, site clearance, vegetation clearance and boundary treatment works, an AIA and Tree Protection Plan for the area of the application site subject to the outline aspect of the application shall be submitted to the local planning authority for approval in writing. Thereafter development shall be carried out in strict accordance with the approved AIA and Tree Protection Plan.

REASON: To ensure appropriate retention and protection of trees at the site, and on account of the information submitted to the Council to date, namely the AIA and Tree Protection Plan (Bosky Trees, 31st October 2018), having only covered the full application area and not the outline application area.

32. The full and outline aspects of the development shall be undertaken in strict accordance with the recommendations and measures stipulated in Section 4 and 5 of the Preliminary Ecological Appraisal (Tyler Grange, 18 May), R03c_Ecology Addendum to Address Consultation Response (Tyler Grange), the Habitat Features Plan (11593/PO8), the Landscape and Ecology Strategy Plan (11593/PO9) and AIA and Tree Protection Plan (Bosky Trees, 31st October 2018). The development shall be carried out with liaison with, and supervision by, a suitably qualified and competent ecological consultant where applicable. The development shall also be carried out in strict accordance with the pending EMES, CEMP, LEMP, lighting strategy for biodiversity and AIA and Tree Protection Plan (the latter is with respect of the outline aspect of the application) once submitted to, and approved in writing by the local planning authority.

REASON: To ensure appropriate and adequate protection and mitigation for ecological receptors including protected and priority species and habitats is implemented in accordance with the NPPF and CP50 of the Wiltshire Core Strategy (Adopted January 2015), and to ensure compliance with the Conservation of Habitats and Species Regulations 2017, the Wildlife and Countryside Act 1981 (as amended) and Section 41 of the NERC Act (2006).

33. The development hereby approved shall not commence until a Construction and Environmental Management Plan (CEMP) has been submitted to and approved in writing by the local planning authority. The CEMP shall include details of the following relevant measures:

a) An introduction consisting of construction phase environmental management plan, definitions and abbreviations and project description and location;

- b) A description of management responsibilities;**
- c) A description of the construction programme;**
- d) Site working hours and a named person for residents to contact;**
- e) Detailed Site logistics arrangements;**
- f) Details regarding parking, deliveries, and storage;**
- g) Details regarding dust mitigation;**
- h). Details of the duration of identified works that may affect amenity and measures to mitigate the impact of construction on the amenity of the area and safety of the highway network; and**
- i) Communication procedures with the LPA and local community regarding key construction issues – newsletters, fliers etc.**
- j) Identification of biodiversity protection zones/buffer zones and tree root protection zones/areas;**
- k) The location and timing of works that need to be scheduled and undertaken in such a way as to avoid/reduce potential harm to ecological receptors;**
- l) Details of the times pre-construction and during construction when specialist ecologists need to be present on site to supervise specific elements of the works and details of the responsibilities of the ecologist/ ecological clerk of works (ECoW);and**
- m) Location and types of protective fences, exclusion barriers and warning signs to be installed for the site clearance and construction periods.**
- n) Pollution prevention measures**

Development shall be carried out in full accordance with the approved CEMP. There shall be no burning on site at any time. Hours of construction shall be limited to 0730 to 1800hrs Monday to Friday, 0730 to 1300hrs Saturdays and no working on Sundays or Bank Holidays; with any 'one off' departures from this being agreed with the LPA prior to works commencing.

REASON: To protect local; amenity from adverse effects of noise, dust and odour

34. Prior to occupation a lighting scheme must be submitted for the approval of the Local Planning Authority in accordance with the Institute of Lighting Professional's Guidance notes for the reduction of obstructive light. The scheme must be designed by a suitably qualified person in accordance with the recommendations for environmental zone E2 in the ILP document "Guidance Notes for the Reduction of Obtrusive Light GN01:2011.

35. Before commencement of operation of the approved lighting scheme the applicant shall appoint a suitably qualified member of the institute of lighting professionals (ILP) to validate that the lighting scheme as installed conforms to the recommendations for environmental zone E2 in the ILP document "Guidance Notes for the Reduction of Obtrusive Light GN01:2011

REASON: To protect local amenity from adverse effects of light

36. Prior to the commencement of building works above ground of the relevant part of the development, full details of any internal and external plant equipment and trunking, including building services plant, ventilation and filtration equipment and commercial kitchen exhaust ducting / ventilation, shall be submitted to and approved in writing by the Local Planning Authority. All flues, ducting and other equipment shall be installed in accordance with the approved details prior to the use commencing on site and shall thereafter be maintained in accordance with the manufacturer's instructions.

REASON: To protect local; amenity from adverse effects of noise

37. Prior to first use of the development hereby permitted an assessment of the acoustic impact arising from the operation of all internally and externally located plant shall be undertaken in accordance with BS 4142: 2014 by a suitably qualified person. The assessment shall be submitted to the Local Planning Authority together with a scheme of attenuation measures to ensure the rating level of noise emitted from the proposed plant shall be less than background. The scheme shall be submitted to and approved in writing by the Local Planning Authority. A post installation noise assessment shall be carried out to confirm compliance with the noise criteria and additional steps to mitigate noise shall be taken, as necessary. The details as approved shall be implemented prior to occupation of the development and thereafter be permanently retained.

REASON: To protect local amenity from adverse effects of noise

38. Hours of operation of any store must be limited to 0800 to 2200hrs and deliveries limited to 0700 to 2300 hrs Monday to Friday. Deliveries shall be limited to 0700 to 1300hrs on Saturdays and Sundays/Bank Holidays. Hours of operation on Sundays and Bank Holidays should be no more than 1000 to 1600hrs.

REASON: To protect local; amenity from adverse effects of noise

39. The development shall be carried out as specified in the approved Arboricultural Impact Assessment & Tree Protection Plan prepared by BOSKYTREES Arboricultural Consultancy dated 31st October 2018 and shall be supervised by an arboricultural consultant, if required.

REASON: To prevent trees on site from being damaged during construction works.

40. If, during development, contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing with the Local Planning Authority) shall be carried out until a remediation strategy detailing how this contamination will be dealt with has been submitted to and approved in writing by the

Local Planning Authority. The remediation strategy shall be implemented as approved.

REASON: To prevent pollution of controlled waters.

INFORMATIVES:

1. The submitted CEMP must include safeguarding measures to deal with the following pollution risks: - the use of plant and machinery - wheel washing and vehicle wash-down and disposal of resultant dirty water - oils/chemicals and materials - the use and routing of heavy plant and vehicles - the location and form of work and storage areas

2. Please note that Council offices do not have the facility to receive material samples. Please deliver material samples to site and inform the Planning Officer where they are to be found.

3. The consent hereby granted shall not be construed as authority to carry out works on the highway. The applicant is advised that a license may be required from Wiltshire's Highway Authority before any works are carried out on any footway, footpath, carriageway, verge or other land forming part of the highway.

4. The applicant should note that under the terms of the Wildlife and Countryside Act (1981) and the Habitats Regulations (2010) it is an offence to disturb or harm any protected species, or to damage or disturb their habitat or resting place. Please note that this consent does not override the statutory protection afforded to any such species. In the event that your proposals could potentially affect a protected species you should seek the advice of a suitably qualified and experienced ecologist and consider the need for a licence from Natural England prior to commencing works. Please see Natural England's website for further information on protected species.

5. The applicant is requested to note that this permission does not affect any private property rights and therefore does not authorise the carrying out of any work on land outside their control. If such works are required it will be necessary for the applicant to obtain the landowners consent before such works commence.

If you intend carrying out works in the vicinity of the site boundary, you are also advised that it may be expedient to seek your own advice with regard to the requirements of the Party Wall Act 1996.

6. The applicant should note that the costs of carrying out a programme of archaeological investigation will fall to the applicant or their successors in title. The Local Planning Authority cannot be held responsible for any costs incurred.

7. The applicant should note that the grant of planning permission does not include any separate permission which may be needed to erect a structure in the vicinity of a public sewer. Such permission should be

sought direct from Thames Water Utilities Ltd / Wessex Water Services Ltd. Buildings are not normally allowed within 3.0 metres of a Public Sewer although this may vary depending on the size, depth, strategic importance, available access and the ground conditions appertaining to the sewer in question.

8. This permission does not permit the display of any advertisements which require consent under the Town and Country Planning (Control of Advertisements) (England) Regulations, 2007 or under any Regulation revoking and re-enacting or amending those Regulations, including any such advertisements shown on the submitted plans.

9. This permission shall be read in conjunction with an Agreement made under Section 106 of the Town and Country Planning Act, 1990 and dated the [INSERT].

10. Any alterations to the approved plans, brought about by compliance with Building Regulations or any other reason must first be agreed in writing with the Local Planning Authority before commencement of work.

11. The further approval of the Local Planning Authority in respect of those matters reserved by condition(s) [INSERT] of outline planning permission dated [INSERT] is required before development commences.

19 **Urgent Items**

There were no urgent items.

(Duration of meeting: 3.00 - 6.00 pm)

The Officer who has produced these minutes is Craig Player of Democratic Services, direct line 01225 713191, e-mail craig.player@wiltshire.gov.uk

Press enquiries to Communications, direct line (01225) 713114/713115

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NORTHERN AREA PLANNING COMMITTEE ADDITIONAL INFORMATION

06th March 2019

This is information that has been received since the committee report was written. This could include additional comments or representation, new information relating to the site, changes to plans etc.

7a 18.02180.FUL Land East of the A429 Malmesbury - Lidl

Late Representations

a) 3 further representations from members of the public have been submitted expressing support for the proposals.

b) The Malmesbury Town Team has made a submission identifying that it does not support either of the proposals on the agenda due to the impact to the Town Centre. The Town Team also raises concerns as to the officer report recommendation and conclusions in respect of S106 contributions. Supporting information is provided as to the project work of the Town Team in hand and proposed and the benefits that the Town Team considers these will achieve.

Officer Response

The additional information and covering statement have been reviewed but it is considered that the officer recommendation as is set out in the report including as it relates to S106 matters remains appropriate. The additional information, whilst helpful, indicates that there is no robust methodology for assessing requirements, relating those in scale and kind to the impact of development, project work to be undertaken and the mitigation effects of the actions undertaken. It remains pertinent that no significant harm as result of development is identified by the Council's retail advisors such that consent ought to be refused on this basis and the Town Team also make clear that their work and the projects identified are at least in part aimed at mitigating the impacts to the town centre of changing retail trends being experienced by town centres nationally.

c) The applicant team has made further submissions to the case officer and members of the committee identifying a number of matters within the officer report which they consider are factually incorrect or inaccurate. Additionally a further "rebuttal" statement in respect of the assessed impact to heritage assets is submitted.

Officer Response

The case officer and senior conservation officer have reviewed the submissions and conclude that the recommendation remains appropriate and is unaltered by the submissions. In general terms many of the issues identified and statements made in this further submission are matters of judgement and opinion which differ from that of officers rather than factual inaccuracies or incorrect assessment. Additionally many of the comments contained in the submissions restate previous submissions made by the applicant team, which it is asserted have not been considered or taken into account. Officers can confirm as is set out in the report that all submissions made by the applicant team have been considered in full. It is however acknowledged that the following clarification is required:-

Section 10 para 2. The applicant team assert the reference to the site being the least sequentially preferable is incorrect and contradicts previous elements of the report.

Officer comment – this is a misinterpretation and misreading of the report taking a single sentence out of context. The reference here is to the sequential test in general terms with out of centre locations being the least sequentially preferable. If the paragraph is read as whole this is clear to the reader but for absolute clarity it is confirmed that this particular sentence is a generic comment re: the sequential test and out of centre locations and not a comparative assessment with the Malmesbury garden centre site.

7b 18.06980.FUL Land at Malmesbury Garden Centre – Mixed Use including Aldi

Late Representations

a) 5 further representations from members of the public have been submitted expressing support for the proposals.

b) The Malmesbury Town Team has made a submission identifying that it does not support either of the proposals on the agenda due to the impact to the Town Centre. The Town Team also raises concerns as to the officer report recommendation and conclusions in respect of S106 contributions. Supporting information is provided as to the project work of the Town Team in hand and proposed and the benefits that the Town Team considers these will achieve.

Officer Response

The additional information and covering statement have been reviewed but it is considered that the officer recommendation as is set out in the report including as it relates to S106 matters remains appropriate. The additional information, whilst helpful, indicates that there is no robust methodology for assessing requirements, relating those in scale and kind to the impact of development, project work to be undertaken and the mitigation effects of the actions undertaken. It remains pertinent that no significant harm as result of development is identified by the Council's retail advisors such that consent ought to be refused on this basis and the Town Team also make clear that their work and the projects identified are at least in part aimed at mitigating the impacts to the town centre of changing retail trends being experienced by town centres nationally.

c) The applicant team has made further submissions to officers following publication of the Committee report. A number of comments have been made on points of clarification and corrections including in relation to recommended conditions.

Officer response

Officers have reviewed the submission and do not consider that the recommendation as set out in the report requires amendment or is affected by the submissions made. The following clarifications, corrections and amendments are considered necessary and appropriate:-

Correction:-

Conclusion, Para 2 sentence 3 refers to Aldi and this should refer to Lidl.

Clarification:-

Proposed highways measures will be secured through a S278 Agreement under the Highways Act 1980.

Amendments:-

The recommended conditions should be amended as follows:-

8. No development above damp course level shall commence on site until details of the works for the disposal of sewerage including the point of connection to the existing public sewer have been submitted to and approved in writing by the Local Planning Authority.

REASON: The application contained insufficient information to enable this matter to be considered prior to granting planning permission and the matter is required to be agreed with the Local Planning Authority before development commences in order that the development is undertaken in an acceptable manner, to ensure that the proposal is provided with a satisfactory means of drainage and does not increase the risk of flooding or pose a risk to public health or the environment.

14. No development shall commence on site until a scheme for the discharge of surface water from the site (including surface water from the access / driveway), incorporating sustainable drainage details for the detailed part of submission for the Aldi store including the storm system being sized to take flows from the outline part of the application with assigned discharges for each of the future sites limiting total flow from whole site to 29.3 l/s, has been submitted to and approved in writing by the Local Planning Authority.

REASON: To ensure that the development site as a whole can be adequately drained

23. The development hereby permitted shall be carried out in accordance with the following approved plans and documents:

Design and Access Statements Rev E
160389 1501 P5
160389-1500-P4
SK202 REV A
SK203 REVA
Received 01/02/2019

10632-0050 REV D
Drainage Strategy Craddy's
Received 08/02/2019

160389 1601 P1
160389 1403 P7
Topographical Survey
SK203 Swept Path analysis
160389 1400 P6
Tree Protection Plan
Archaeological Evaluation
Landscape Addendum
Ecological Addendum
11593/PO9
11593/PO8
Received 21/12/2018

160389 1402 P2
160389 1401 P3
B2340-MJA-P105-4756-B
160389 - 1100 P4
Received 27/07/2018

REASON: For the avoidance of doubt and in the interests of proper planning.

37. Prior to first use of the development hereby permitted an assessment of the acoustic impact arising from the operation of all internally and externally located plant shall be undertaken in accordance with BS 4142: 2014 by a suitably qualified person. The assessment shall be submitted to the Local Planning Authority together with a scheme of attenuation measures to ensure the rating level of noise emitted from the proposed plant shall be less than background. The scheme shall be submitted to and approved in writing by the Local Planning Authority. A post installation noise assessment shall be carried out to confirm compliance with the noise criteria and additional steps to mitigate noise shall be taken, as necessary. The details as approved shall be implemented prior to occupation of the development and thereafter be permanently retained.

REASON: To protect local amenity from adverse effects of noise