

<b>Date of Meeting</b>	16 <sup>th</sup> May 2018
<b>Application Number</b>	17/09445/FUL
<b>Site Address</b>	Land at Hungerdown Lane/Bristol Road  Chippenham  Wiltshire  SN14 0JP
<b>Proposal</b>	Joint Application by Middlefield SPV, GreenSquare Group Ltd and Lidl UK for the Construction of 35 100% Affordable Dwellings with Associated Car Parking, Hard and Soft Landscaping, and a New Lidl Neighbourhood Discount Foodstore, with Associated Car Parking, Landscaping and Access Arrangements
<b>Applicant</b>	Middlefield SPV, Greensquare Group Ltd & Lidl UK
<b>Town/Parish Council</b>	CHIPPENHAM
<b>Electoral Division</b>	CHIPPENHAM CEPEN PARK AND REDLANDS
<b>Grid Ref</b>	390534 174014
<b>Type of application</b>	Full Planning
<b>Case Officer</b>	Charmian Eyre-Walker

### Reason for the application being considered by Committee

#### 1. Purpose of Report

The purpose of the report is to assess the merits of the proposal against the policies of the development plan and other material considerations and to consider the recommendation that the application be approved.

The application has been called to Committee by Cllr Andy Phillips on the basis that the access onto Hungerdown Lane, which Lidl have to have should be egress only. Both Lidl and Greensquare should have access from Bristol Rd and egress onto Hungerdown Lane to prevent overcrowding.

#### 2. Report Summary

Issues to be addressed:

- Principle of the development.
- Impact on town centre vitality and viability.
- Impact on highway safety and convenience

- Design
- Drainage
- Impact on heritage assets

14 letters of objection received together with a petition of 41 signatures; 2 letters of support and a further 15 letters of comment.

Waitrose and Aldi representatives have objected.

Chippenham Town Council comment that they have no objections subject to some issues being resolved ( see later section in report)

### **3. Site Description**

The proposal relates to a relatively flat site of approximately 2.38 hectares bounded on 2 sides by Hungerdown Lane and Bristol Road and housing on the other with a vacant site to the south which is owned by Wiltshire Council. The original buildings on the site, Middlefield Day Centre for adults and a Children's Resource Centre were demolished and the site has been vacant and unused for a number of years.

There is a range of housing in the immediate vicinity and the Hathaway medical centre approx. 200m to the west.

The site is flood zone 1.

### **4. Planning History**

16/00997/DEM – Proposed two storey traditional brick built building demolition – approved

### **5. The Proposal**

The proposal is for a 2206sqm foodstore to the eastern part of the site with 35 affordable dwellings on the western section together with associated access, landscaping, parking.

Access is to be gained from Hungerdown Lane for the foodstore and through the Middlefield residential development for the housing element.

### **6. Planning Policy**

#### Wiltshire Core Strategy

CP1 Settlement Strategy

CP2 Delivery Strategy

CP3 Infrastructure

CP 10 Spatial Strategy: Chippenham Community Area

CP43 Providing Affordable Homes

CP56 Contaminated Land

CP57 Ensuring High Quality Design and Place Shaping

CP58 Ensuring Conservation of the Historic Environment

CP60 Sustainable Transport

CP61 Transport and New Development  
CP67 Flood Risk  
CP68 Water Resources

Saved Policies from North Wiltshire Local Plan 2011

NE18 Noise and Pollution

National Planning Policy Framework

Achieving Sustainable Development – Core Planning Principles (paras 7, 14 and 17)

Chapter 2 Ensuring vitality of town centres

Chapter 6 Delivering a wide choice of high quality homes

Chapter 7 Requiring good design

## **7. Consultations**

Chippenham Town Council has no objections but has the following concerns and requests that they be addressed by Wiltshire Council:

“That gates be installed on the car park to prevent any antisocial behaviour on the Lidl site at night.

Delivery hours to the Lidl site be limited at night time.

That no delivery lorries to be able to park on site overnight.

That a litter management plan be adhered to.

That an electrical car charging point be installed in the car park.

A lighting plan to be produced to consider and reduce the impact of unnecessary lighting on the neighbouring residential properties.

Overall safety on the highways is a concern and the town council requests that a survey be undertaken that considers traffic, pedestrian and cyclist safety in the whole area, and in particular the safety of children travelling to and from the two senior schools and residents accessing the Lidl store from Cepen Park North, including the Folly Roundabout and the need for a pelican crossing on Bristol Road (A420) in the vicinity of Hathaway Medical Centre.

Vehicle access into Middlefield is a concern as the roads are of limited width and potentially dangerous.”

Highways has no objections subject to conditions, but, in relation to the housing element requires a traffic regulation order be prepared prior to occupation. This amendment to the parking restrictions in the vicinity will help keep the roads clear for the benefit of site access. It will be a measure that the parking enforcement team can then act upon if there any obstructions.

A construction traffic management plan should be conditioned. I consider that construction traffic and contractor car parking is a key issue. I recommend a condition that the construction access is via the new right hand turn lane. This may have implications for the build of the supermarket, but I consider the construction access needs to be via an alternative to Middlefields.

Drainage does not object.

Urban Design Officer has worked on the design of the layout and is now satisfied with it, having made detailed comments which are available on line.

Public Art require a contribution of £15000 for public art on site.

Technical Services Officer states that using the dwelling mix provided on the proposed site layout the requirement for the 35 dwellings would be 1950m<sup>2</sup> POS including 150m<sup>2</sup> equipped play. It would appear that the majority of the POS requirement is met on-site; however there is no on-site equipped play space. The Play area at Little Battens Park off Barken Road is within the distance thresholds to be directly related to the site and as such we would require an off-site contribution of £21,900.00 to upgrade the facilities there.

The site also generates a requirement for 974.05m<sup>2</sup> sports pitches which would equate to an off-site contribution of £9,740.50 for the upgrade of Chippenham Sports Club.

Spatial Planning Officer originally objected on the grounds of impact on the town centre, but following the Retail Consultants response does not object.

Landscape officer has no objections.

Archaeology has no objections

Tree Officer has no objections subject to conditions

Education does not object subject to a S106 contribution.

Ecology has not yet responded

Chippenham Without Parish Council, although not a statutory consultee wished it to be noted that they objected to the mixed use and thought it would be better as totally housing given the shortage of housing land.

Wessex Water do not object

Housing support the application and state:

We can confirm that there is demonstrable affordable housing need in the Chippenham Community Area and that a 40% on-site affordable housing contribution at nil subsidy is required from these proposals in line with policy approaches (ie: 14 of the homes to be provided on site will be required to be secured at nil subsidy in line with policy) with a tenure split of 60% affordable rented homes (8) and 40% intermediate (Shared Ownership) housing (6) – based on current demonstrable need and reflecting mix proposals we would suggest the following units:

Affordable Rent (8 units)

4 x 2 bed 4 person houses

4 x 3 bed 5 person houses

Shared Ownership (6 units)

2 x 2 bed 4 person houses

4 x 3 bed 5 person houses

6

Council's Retail Consultant The Council consulted a retail consultant who has given the detailed advice, which is summarised below (Full reports are available on line) :

## Sequential Test

Their review of the sequential test considered a number of aspects, namely the applicants approach to flexibility, whether the conclusions reached in relation to the assessment of alternatives for Langley Park foodstore remain valid and also whether Langley Park can provide a suitable and available alternative to the application site.

The assessment concludes that the degree of flexibility outlined in section 8 of the RPS is not sufficient and smaller sites/stores should also be considered. They have, however, concluded that any of the alternative sites in and around Chippenham Town Centre do not require re-assessing as their circumstances have not changed since the previous analysis in 2016.

The one previously analysed site is the Bath Road car park site and the consultant has extended the analysis to include Langley Park, given its sequentially preferable location and current proposal to provide a foodstore on the site.

The Bath Road car park site has been promoted for retail led development by the Council for a number of years and can be generally considered an available site on the basis of the intentions of the Council and the development plan allocation. Beyond the general principles, there also needs to be consideration of whether it can become genuinely suitable and available for the proposed development. There are a number of constraints and the Council has parted company with its previous development partner. There is no need to reach an alternative conclusion to that reached with the Aldi proposal at Langley Park, namely that the Bath Road car park site is not a genuine suitable and available alternative.

Although Langley Park is a suitable site, when appropriate levels of flexibility in scale and format are taken into account, this is based on a recent permission for a foodstore. The decision maker will need to make its decision on the availability of the site at the point of determination of the current application.

An important starting principle of the sequential test is that availability should be judged on the basis of the proposed development and not the identity of the occupier. Therefore just because the part of the site at Langley Park is in the control of Aldi, that does not make it unavailable for the Hungerdown Lane proposal. This principle is confirmed in the Exeter and Mansfield High Court judgement. Attention is also drawn to a proposal outside Epsom town centre where there was a proposal for a food store by Aldi. There was a sequentially preferable site in Epsom which was owned by Lidl and was subject to an application by Lidl for a food store. The Lidl site was vacant at the time of the public inquiry. Taking into account the Mansfield judgement, the Inspector agreed that the Lidl store was available as an alternative to the Aldi site.

As matters stand Langley Park is an available and suitable alternative site.

## Impact

Given the location of the site there is a need to assess the impact of the proposal on the health and

investment in nearby town centres. The focus is on Chippenham.

Subject to the applicant providing further justification on the level of trade diversion from stores outside Chippenham the trade diversion, they are satisfied with the applicant's monetary trade diversion. The forecast is that the proposed store will divert £0.82m of retail expenditure away from class A1 shops in the town centre.

Concerns over the robustness of the base data being used to underpin the applicant's assessment, due to the decision of the applicant to provide only a "broad brush" financial impact assessment. The consultant therefore cannot confirm:- the applicant's level of solus impact ( 2.1% for convenience goods and 0.16% for comparison goods) are accurate: the applicant's % levels impact for commitments (8.5% for convenience goods and 4.2% for comparison) are accurate: The applicant's level of cumulative impact (10.5% for convenience goods and 4.4% for comparison goods) are accurate.

The above concern is based on the age of the evidence base data for the applicant's broad brush assessment, the need to make numerous manual adjustments to the base data and the possibility that shopping patterns could have changed naturally in any event.

The consultant concluded that it was not possible to be precise over whether (A) the scale of the solus impact associated with the proposed store is of concern, and (B) whether the scale of cumulative impact represents a threat to the future health of Chippenham Town Centre.

These issues were raised in connection with Aldi also.

The applicant was provided with this summary and has subsequently undertaken a household survey and provided an Addendum Retail Statement. This has been analysed by the Consultant (report available in full on line) and is summarised as follows:

The additional evidence has responded positively to the concerns over the robustness of the evidence base data used to underpin the applicant's original financial impact analysis. In particular the a new household survey has been completed, which provides data on main food, top-up food and non-food shopping and also linked trips associated with main and top-up shopping trips.

The exercise demonstrates that whilst there are differences between the applicant and consultant on the pattern of trade diversion to the proposed store, there is general agreement over the level of direct financial impact upon the convenience and comparison goods sector in Chippenham Town Centre and this is broadly consistent with the views reached in relation to the recent Aldi proposal at Langley Park.

The consultant's analysis shows that the proposed foodstore is likely to have a -2.4% direct impact on the convenience goods sector in Chippenham Town Centre and an overall direct impact of 0.5%. There is also likely to be a small knock on impact in terms of the level of linked trips associated with food shopping, but this is unlikely to represent a significant adverse impact on the health of the town centre.

Overall the consultant concludes that these are minor negative factors to be weighed against the other positives and negatives of the scheme. A positive impact might be the reduction in trips outside the area of Chippenham as the household survey shows that Chippenham residents are travelling outside the town to visit discount stores. Whilst the committed Aldi store will claw some of this back, this pattern is likely to be reinforced by the current proposal.

Overall the consultant is satisfied that the additional information and analysis provided by the applicant is able to show that the proposed store is unlikely to have a significant adverse impact upon the health of Chippenham Town Centre.

The National Planning Practice Guidance notes that in this situation

*If the impacts of the proposed development are not likely to be significantly adverse, the positive and negative effects should be considered alongside other material considerations to determine the outcome of the application.*

The Conclusion is that if the Council is minded to approve the application conditions are applied.

## **8 Publicity**

The application was advertised by way of site notice, press advert and neighbour notification.

### Public Consultation – 29 individual representations

27 raised objection in relation to highways safety, specifically in relation to access along Middlefield Road and the junction with Bristol Road, increased congestion affecting Middlefield Road, Cornfields, Middleaze, Hardenhuish Lane, Hungerdown Lane and Bristol Road. Concerns are summarised below-

- Conflict with existing traffic of Fenway Park and vehicles using the medical centre.
- Increase in congestion and vehicle conflicts along Bristol Road, Hungerdown Lane and Hardenhuish Lane
- Insufficient crossings to serve schools, particularly along Hardenhuish Lane
- Two letters on behalf of Sheldon School and Hardenhuish secondary schools raising pupil safety concerns., suggested speed restrictions and zebra crossings
- Several suggested a traffic calming measures were needed including reducing the speed limits along Bristol Road and Hardenhuish Lane
- One letter queried information contained within the Lidl Transport Assessment – speed limit on Bristol Road (40mph not 30mph?) and suggestion of a bus stop on Middlefield Road?
- Too many supermarkets in Chippenham
- Several mentioned the future plans for Care Home – additional traffic, parking and emergency access

2 letters queried time taken for decision to be made

### Petition of 42 Signatures

#### **Impact on adjoining land use**

- Commercial activity close to residential areas
- Less attractive and less safe environment

#### **Highways Safety**

- Congestion around Middlefield Road, Middleaze and Hathaway Surgery

### **Pedestrian Safety**

- Access from Cornfields and Middlefield Road to St John's and Green Square sites should be for pedestrians only.
- St John's should directly access Hungerdown Lane – the layout of Lidl site can affect this and land should be given over to allow for a new lane to serve the St John's site.
- Residential development should directly access Bristol Road and not use Middlefield junction with Bristol Road

Representatives of Aldi and Waitrose have objected ( available on full on line) on the following grounds:

Inadequate sequential assessment.

Failure to consider appropriateness of alternative sites by reference to type and location of development.

Inadequate consideration of retail impact and failure to assess accurately the cumulative effects of the proposal together with other local permissions.

There is a need for an up to date household survey.

In the case of Waitrose they note that their store already operates at a loss and M&S and Aldi proposals have already affected the viability of that store ( the M&S store was only open for a few days when they made their comments and Aldi is not open).

## **9. Planning Considerations**

Section 70 (2) of the Town and Country Planning Act 1990 and the Compulsory Purchase Act 2004 require that determination of planning applications must be made in accordance with the Development Plan, unless material considerations indicate otherwise.

In this case, the Wiltshire Core Strategy (WCS), including those policies of the North Wiltshire Local Plan saved in the WCS, forms the relevant development plan for the Chippenham Area.

The National Planning Policy Framework (NPPF) and Planning Practice Guidance (PPG) are material considerations, which can accord substantial weight.

CP1 of the WCS sets out the settlement strategy for the area, identifying Chippenham as a Principal Settlement, a focus for new development. CP2 confirms a presumption in favour of sustainable development within the defined limits of development.

The NPPF encourages use of brownfield land. One of the 12 core planning principles is “ *encourage the effective use of land by reusing land that has been previously developed (brownfield land) provided that it is not of high environmental value.*”

Paragraph 11 says:

*Planning Policies and decisions should encourage the effective use of land by re-using land that*

*has been previously developed (brownfield land), provide that it is not of high environmental value. Local Planning Authorities may continue to consider the case for setting a locally appropriate target for brownfield land.*

The strategy for Chippenham is based on delivering significant job growth, which will help to improve the self-containment of the town by providing more jobs for local people (WCS para 5.47)

The proposal under consideration is in 2 parts: The food store and delivery of 35 affordable homes and associated works.

## **The Food Store**

### Design

The proposal is for a new A1 store of 2206sqm gross external area with 1325 sq as sales area, the remaining being ancillary areas and warehouse. There are to be a total of 167 car parking spaces of which 10 are for disabled users and 10 spaces for parent and child. The application is supported by a Statement of Community involvement which includes a petition of 970 signatories in favour of the retail store.

The design of the building is contemporary with a large area of glazing to the frontage to increase natural light. The building has elements of flat roof with a shallow mono-pitch for part of it. The lower walls will be white render above which will be the silver 9006 Alucobond panel cladding system. The design has been slightly modified following the urban designer's comments.

Pedestrian routes are provided through the site and cycle storage area are identified on the layout. The development has a gradient of 2% so caters for those with mobility issues.

There is a grade II listed building some 100m away on the opposite side of Bristol Road, The setting of this listed building is severely compromised already by surrounding roads and modern development and no further harm is caused by the proposed development. Overall the design of the store is considered to be acceptable in its setting and to be compliant with policies CP57 and CP58 of the Wiltshire Core Strategy and advice in the NPPF.

### Retail Impact

The proposal is for a net sales area store of 1325 sqm of which 80% (1060 sqm) will be devoted to the display and sale of convenience goods. The balance of 265 sqm will be accounted for by a limited range of comparison goods. The sales areas of each type of goods can be controlled by way of planning condition. Whilst there is no suggestion that Lidl would not occupy the proposed store, should planning permission be granted, it should be remembered that a personal permission is not being sought and the most appropriate way for the application to be determined is to consider the scale and form of the proposed development, rather than the trading characteristics of a particular single occupier.

The proposed development involves a 'main town centre use' as defined by the NPPF. As the site is out of centre, the application has been accompanied by a Retail Impact Assessment (RIA), which undertakes the Sequential Test and Impact Assessment as required by paragraphs 24 and 26 of the Framework and CP38 of the WCS.

Unlike the Aldi application at Langley Park ( ref 16/04269/FUL), the applicants have commissioned and undertaken an updated household survey to support their application. The Council appointed a Retail Consultant to look through all the evidence submitted to support the proposal and the findings are available in full on line. Before the submission of a household survey, the Council's consultant was not in a position to accept the findings of the applicant on impact. However, although not necessarily in agreement on the pattern of trade diversion to the proposed store, the conclusions are accepted by the Council's retail expert. The commitments of both Aldi at Langley Park and the permission at Whitehall Garden Centre have been taken into account in the applicants' cumulative impact assessment.

In conclusion the consultant has stated that the impact on the town centre will be -2.4% on the convenience sector and -0.5% on the comparison sector. % figures are not an absolute science so an impact of 10% may be acceptable on some town centres and conversely an impact of 1% can be devastating. The consultant concludes that the impacts of the proposed development are not considered to be significant in relation to the health of Chippenham Town Centre.

It is thus considered that the trade impact on Chippenham Town Centre is acceptable and would not have any significant impact on viability. The concerns of Waitrose are noted ( in particular) as they represent an anchor store in Chippenham's Borough Parade, but they already operate at a loss and have done so for a while ( See objection to M&S application at Bath Road, Methuen Park) . With the overall growth in convenience goods spend, it is not considered that the impact will make the situation significantly worse.

The other impact test in paragraph 26 of the NPPF is a consideration as to whether a proposal is likely to have a significant adverse effect on town centre investment. The focus has largely centred around the Bath Road Car Park site, which has been promoted by Wiltshire Council for a number of years with an allocation in the development plan. The Council parted company with the potential developer and no further progress has been made on delivery. Recent appeal decisions, particularly the Rushden Lakes decision, have sought to outline how the 'impact on the town centre investment' policy test should be applied. In essence there must be an investment project to impact upon and in the case of Bath Road car park, there is currently none. This part of the impact assessment is thus passed.

The proposal is thus considered to accord with the NPPF, paragraph 27 in particular and CP38 of the Wiltshire Core Strategy.

#### The Sequential Test

Within the retail impact assessment, the applicant has sought to address this requirement, assessing a range of alternative sites in and around Chippenham. The sites were as follows:

- Borough Parade Car park
- Railway station carpark
- Westmead Fields
- Hatahway Retail Park
- Bath Rd/ Bride Centre

- Langley Park

A number of these sites were looked at and dismissed whilst considering recent applications including Langley Park (For Aldi). Bath Rd/ Bridge Centre Car Park has, as set out above been accepted as suitable but not available. Langley Park has a permission for a Class A1 discount foodstore of 1741sqm gross internal area) (16/04269/FUL). The Council's retail consultant advises that the Council cannot dismiss the site as being unavailable until the status of the implementation of that permission is known. He gives an example of an appeal at Epsom where a site had planning permission for a retail store for Lidl and was vacant at the time of the public inquiry for an out of town site for Aldi. The inspector concluded that at that moment in time, the Lidl site was still technically available. That appeal decision is somewhat different in several respects: the proposal also caused less than substantial harm to the conservation area, which was not outweighed by the public benefit: There was general harm to the character and appearance of the area. In addition to this it appears that, unlike in this application, there was insufficient capacity in Epsom to absorb both retailers without harming the town centre viability. With this application, it is accepted that the impact on Chippenham Town Centre is not sufficiently detrimental to justify a refusal.

With the site at Langley Park the applicant has applied to discharge the pre-commencement planning conditions and the applicant has served an "Initial Notice" to the Council Building Control Office ( May 2017) which shows significant intent to deliver the planning permission. They have applied to pay all CIL charges in one lump sum which also demonstrates an intent to implement. A recent site visit shows that the buildings on site have been demolished and works commenced to level the site. Advertisement consent has been applied for and granted for signage in the name of Aldi (17/04992/ADV). Should the current application be refused, at the time of any Public Inquiry ( currently approximately 12 months from lodge of appeal), it is considered that the Aldi store may well be open or certainly well under construction, given the current investment and progress. It is therefore your officers' opinion that significant intent to implement the permission for Aldi has been demonstrated and the site is no longer available as a sequentially preferable site to that under consideration.

The consultant's analysis of the sequential test also considered a number of aspects namely the applicant's approach to flexibility, whether the conclusions reached recently in relation to the assessment of alternatives for Langley Park foodstore proposal remain valid and also whether Langley Park can provide a suitable alternative site. The conclusion is that whilst the submitted report does not sufficiently examine the smaller sites around Chippenham, these were assessed for the Aldi store (of similar footprint) and were discounted in 2016. The sites of Bath Rd car park and Langley Park can be discounted as set out above and thus the application is considered to have passed the Sequential Test.

### **The Housing Element**

The site lies within the framework boundary of Chippenham which is identified as a principal settlement suitable for housing as set out in policies CP1, CP2 and CP10.

The housing element provides 35 dwellings (6 of which are 2 bed flats in a 3 storey building, with the remaining as two storey houses) with 66 car parking spaces and 7 visitor spaces. The application is for the housing to be 100% affordable housing, but any planning permission would only require that 40% is Affordable so as to be policy compliant (CP43). However any additional

affordable housing in Chippenham is welcomed should that come forward through the delivery of the scheme. Housing are in support of the application with 8 units provided as affordable rent and 6 units as shared ownership.

The layout has been amended since its original submission so that better links are formed to Bristol Rd for pedestrians and side elevations better articulated, plots 09-12, 18-19 and 20-23 have been re-orientated and parking re-arranged to give better layout and outlook. The entrance into the development now is less dominated by car parking. There is pedestrian link out onto Bristol Road.

The materials used will be a mixture of buff brick, recon stone and recon stone lower sections with render above. In this context this is considered to be acceptable and to blend in with the surrounding palette. The scale of built form is similar to those properties in Middlefield, which is a mixture of 2 and 3 storey buildings.

It is unusual to have an application for retail and housing in one application where the 2 elements are completely separate. However, both parties have worked together to produce a layout that is acceptable and protects the amenities of the residential occupants.

Neighbours and the local councillor are concerned about additional traffic exiting the residential element via Middlefield, which currently suffers from on street parking congestion at times, particularly when the doctors' surgery is open. Highways do not object to the vehicular traffic from the new dwellings using Middlefield, but have recommended that traffic order be put in place on the existing highway to stop the level of on street parking.

Construction traffic for the housing element will not access the site from Middlefield, but from a temporary access from Bristol Road. This arrangement is to be secured by way of planning condition.

## **10 Conclusions**

The development will provide much needed affordable housing in Chippenham at a guaranteed level of 40% (to be controlled by way of legal agreement) and possibly up to 100%.

Access to the housing element is to be via Middlefields. This is accepted by the Highways Officer, subject to a waiting restriction being implemented to control the excessive on street parking in Middlefields. Construction traffic will use a temporary access from Bristol Road, to remove large vehicles accessing the site through the housing estate.

With regard to the retail store, the Council has sought expert advice. With regards to impact, the conclusion is that whether on its own or cumulatively with other permissions (eg Aldi at Langley Park), the impact on Chippenham Town Centre falls within acceptable limits.

In line with National Policy (paragraph 24) and policy CP38 of the Wiltshire Core Strategy, the Sequential Test must also be satisfied. It is now accepted that at this time the Bath Rd/Bridge Centre Car Park site is not available, but an argument has been put forward that the Langley Park site is. The Council's retail consultant has given advice on this and states that the Council must make a decision on its availability at the time of the actual decision on the current application. The applicant for the Langley Park site maintains that it could still be considered as available.

Whilst the Council's retail consultant has advised that the Aldi site at Langley Park may still be technically 'available', it is clear that Aldi do intend to imminently implement their permission.

Conditions have been discharged and negotiations well under way on paying the CIL requirements.

This combined with the advanced stage of delivery of the Langley Park site means that should this current application be refused, by the time any Public Inquiry were to be heard, it is likely that the store at Langley Park would already be open. It therefore cannot logically be argued that there is another site that is sequentially preferable to the current application site.

It is considered that the proposal complies with Wiltshire Core Strategy policies CP1, CP2, CP10, CP38, CP57 and CP61 in particular and is not contrary to any of the policies listed above. It is considered that it complies with the advice contained in the NPPF and permission should be granted subject to the signing of a S106 agreement to provide 40% affordable housing as set out in the report above; contributions to off site POS and sports facilities, waste and refuse, education and public art.

## 11 Recommendation

The recommendation is for **permission** subject to the following conditions

- 1 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.

- 2 No development shall commence on each phase of the development 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

- 3 The development shall be carried out as specified in the approved Arboricultural Method Statement (AMS) prepared by Swan Paul Partnership dated 2017 and Tree Protection Plan Drawing No. SPP.2086.003 Rev A. All works shall be carried out in accordance with BS3998:2010 and shall be supervised by an arboricultural consultant, if required.

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

- 4 The development hereby permitted shall be carried out in accordance with the following approved plans: P102D; P101D; P100E received 30th April 2018; P/AL/205B Adwell elevations; P/CE/200A Coate elevations; P/CE/201A Coate elevations; P/CE/202A Coate Elevations; P/CK/200B Cricklade elevations; P/CK/201B Cricklade elevations; P/CK/202B Cricklade Elevations; P/CW/200B Chedworth elevations; P/EH/200B Everleigh elevations; P/EH/201B Everleigh elevations; P/EH/202B Everleigh elevations; P/EH/206A Everleigh elevations; P/EH/207A Everleigh elevations; P/EH/208A Everleigh elevations; P/EN/203A Enford elevations; P/EN/204A Enford Elevations; P/EN/205A Enford Elevations; P/EN/206A Enford elevations; P/en/207 Enford elevations received 10th April 2018 AD 100RevC; AD101RevC; AD110Rev J; AD111RevC; AD112RevA; AD114RevG; AD114RevG; AD115RevH; AD116RevF received 18th January 2018

AD113RevD received 30th April 2018

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

- 5 All soft landscaping comprised in the approved details of landscaping shall be carried out for each phase 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.

- 6 No development shall commence on each phase 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. No dwelling shall be first occupied until the approved sewerage details have been fully implemented in accordance with the approved plans.

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.

- 7 No development shall commence on each phase 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, has been submitted to and approved in writing by the Local Planning Authority. The development shall not be first brought into use until surface water drainage has been constructed in accordance with the approved scheme.

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 development can be adequately drained.

- 8 No development shall commence on site to implement the retail element of the proposal until full details of a ghost right hand turn lane has been submitted to and approved in writing by the Local Planning Authority (in general accordance with drawing Alternative Access Location 7.3m Wide access Road A103274-SK03-C'. As part of the package of full details to be submitted shall include full construction details, safety audit, visibility splays, swept path analysis, provision for pedestrian crossing facilities. No part of the development shall be commenced until the ghost right hand turn lane has been surfaced and laid out in accordance with the approved details.

REASON: In the interests of highway safety and that the access is suitably laid out

- 9 No development shall commence on site to implement the retail part of the development until visibility splays have been provided between the edge of the carriageway and a line extending from a point 2.4metres back from the edge of the carriageway, measured along the centre line of the access, to the points on the edge of the carriageway 43metres in both directions from the centre of the access in accordance with the approved plans (Alternative Access Location 7.3m Wide access Road A103274-SK03-C'). Such splays shall thereafter be permanently maintained free from obstruction to vision above a height of 0.6m above the level of the adjacent carriageway.

REASON: In the interests of highway safety.

- 10 The retail building hereby approved shall not be first brought into use until the parking area and turning areas for HGV deliveries shown on the approved plans has been consolidated, surfaced and laid out in accordance with the approved details. This area shall be maintained and remain available for this use at all times thereafter.

REASON: To ensure that adequate provision is made for parking within the site in the interests of highway safety.

- 11 No development shall commence on site to implement the retail part of the development until details of secure covered cycle parking have been submitted to and approved in writing by the Local Planning Authority (in accordance with council cycle parking standards). These facilities shall be provided in accordance with the approved details and made available for use prior to the first opening of the development hereby permitted and shall be retained for use at all times thereafter.

REASON: To ensure that satisfactory facilities for the parking of cycles are provided and to encourage travel by means other than the private car.

- 12 No part of the retail element of the proposal shall be first used until details of an electric car charging point (including management) in accordance with 'Smarter Choices Strategy' be submitted and approved in writing by the Local Planning Authority. The development shall not open until the electric charging point is made available for use in accordance with agreed details and shall remain in use for this purpose at all times.

- 13 No development shall commence on the residential development site until details of the estate roads, footways, footpaths, verges, junctions, street lighting, sewers, drains, retaining walls, service routes, surface water outfall, vehicle overhang margins, embankments, visibility splays, accesses, carriageway gradients, drive gradients, car parking and street furniture, including the timetable for provision of such works, have been submitted to and approved by the Local Planning Authority. The development shall not be first occupied until the estate roads, footways, footpaths, verges, junctions, street lighting, sewers, drains, retaining walls, service routes, surface water outfall, vehicle overhang margins, embankments, visibility splays, accesses, carriageway gradients, drive gradients, car parking and street furniture have all been constructed and laid out in accordance with the approved details, unless an alternative timetable is agreed in the approved details.

REASON: To ensure that the roads are laid out and constructed in a satisfactory manner.

- 14 The roads, including footpaths and turning spaces, shall be constructed so as to ensure that, before it is occupied, each dwelling has been provided with a properly consolidated and surfaced footpath and carriageway to at least base course level between the dwelling and existing highway.

REASON: To ensure that the development is served by an adequate means of access.

- 15 No part of the residential development hereby approved shall be first brought into use until the parking area shown on the approved plans ('Proposed Site Layout 16-007/P100 C') has been consolidated, surfaced and laid out in accordance with the approved details. This area shall be maintained and remain available for this use at all times thereafter.

REASON: To ensure that adequate provision is made for parking within the site in the interests of highway safety.

- 16 No development shall commence on site until full details (including visibility splays, provision for pedestrians, signage) of the provision for the construction access on the A420 have been submitted to and approved in writing by the Local Planning Authority. The details shall include details of a routing agreement, that will facilitate the ban of both vehicle movements right turning in and right turn out of the construction access. No part of the development hereby approved shall commence until details have been approved and the construction access built in accordance with the submitted and approved details.

REASON: To ensure that adequate construction access is made for loading/unloading within the site in the interests of highway safety.

- 17 Prior to first occupation of a dwelling a Traffic Order to amend the waiting restrictions in Middlefields and adjacent roads shall have been prepared, consulted upon, and advertised, with a final report recommending whether to proceed with the Order prepared for consideration by the Cabinet Member for Highways. In the event that the Cabinet Member for Highways approves the Order the amendments shall be implemented.

Reason: In the interests of achieving improved egress from the development.

Informative: The applicant will bear the costs of condition Traffic Order condition irrespective of whether the Order is proceeded with.

- 18 The retail unit hereby permitted shall be used by a discount food supermarket operator and for no other purpose (including any other purpose in Class A1 of the Schedule of the Town and Country Planning (Use Classes) Order 1987 (as amended by the Town and Country Planning (Use Classes) (Amendment) (England) Order 2005, (or in any provisions equivalent to that class in any statutory instrument revoking or re-enacting that Order with or without modification). The following services shall not be operated from the land:
- (i) Bank facilities
  - (ii) Dispensing pharmacy.
  - (iii) Dry cleaning or post officer services
  - (iv) Cafe restaurant
  - (v) sales of cigarettes or tobacco

The unit shall not have a net sales area of greater than 1325 sq metres, with no more than 20% of that floor area being for the sale of comparison goods.

REASON: To protect the vitality of the town centre.

- 19 The retail unit hereby permitted shall remain as one unit and shall not be subdivided.

REASON: To protect the vitality of the Town Centre.

- 20 No development shall commence on site (other than that required to be carried out as part of a scheme of remediation approved by the Local Planning Authority under this condition),

until steps (i) to (iii) below have been fully complied with. If unexpected contamination is found after development has begun, development must be halted on that part of the site affected by the unexpected contamination to the extent specified by the Local Planning Authority in writing until step (iv) has been complied with in full in relation to that contamination.

**Step (i) Site Characterisation:**

An investigation and risk assessment must be completed to assess the nature and extent of any contamination on the site, whether or not it originates on the site. The investigation and risk assessment must be undertaken by competent persons and a written report of the findings submitted to and approved in writing by the Local Planning Authority. The report of the findings must include:

- A survey of the extent, nature and scale of contamination on site;
- The collection and interpretation of relevant information to form a conceptual model of the site, and a preliminary risk assessment of all the likely pollutant linkages;
- If the preliminary risk assessment identifies any potentially significant pollutant linkages a ground investigation shall be carried out, to
  - provide further information on the location, type and concentration of contaminants in the soil and groundwater and other characteristics that can influence the behaviour of the contaminants;
- An assessment of the potential risks to:
  - human health,
  - property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes,
  - adjoining land,
  - groundwater and surface waters,
  - ecological systems,
  - archaeological sites and ancient monuments;

**This must be conducted in accordance with DEFRA and the Environment Agency's "Model Procedures for the Management of Land Contamination, CLR 11" and other authoritative guidance.**

**Step (ii) Submission of Remediation Scheme:**

If any unacceptable risks are identified as a result of the investigation and assessment referred to in step (i) above, a detailed remediation scheme

to bring the site to a condition suitable for the intended use must be prepared. This should detail the works required to remove any unacceptable risks to human health, buildings and other property and the natural and historical environment, should be submitted to and approved in writing by the Local Planning Authority. The scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria, a timetable of works and site management procedures.

**Step (iii) Implementation of Approved Remediation Scheme:**

The approved remediation scheme under step (ii) must be carried out in accordance with its requirements. The Local Planning Authority must be given at least two weeks written notification of commencement of the remediation scheme works.

**Step (iv) Reporting of Unexpected Contamination:**

In the event that contamination is found at any time when carrying out the approved development that was not previously identified it should be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment should be undertaken in accordance with the requirements of step (i) above and where remediation is necessary, a remediation scheme should be prepared in accordance with the requirements of step (ii) and submitted to and approved in writing by the Local Planning Authority.

**Step (v) Verification of remedial works:**

Following completion of measures identified in the approved remediation scheme a verification report should be submitted to the Local Planning Authority. The report should demonstrate the effectiveness of the

remedial works.

A statement should also be provided by the developer which is signed by a person who is competent to confirm that the works detailed in the approved scheme have been carried out (The Local Planning Authority can provide a draft Remediation Certificate when the details of the remediation scheme have been approved at stage (ii) above).

The verification report and signed statement should be submitted to and approved in writing of the Local Planning Authority.

**Step (vi) Long Term Monitoring and Maintenance:**

If a monitoring and maintenance scheme is required as part of the approved remediation scheme, reports must be prepared and submitted to the Local Planning Authority for approval at the relevant stages in the development process as approved by the Local Planning Authority in the

scheme approved pursuant to step (ii) above, until all the remediation objectives in that scheme have been achieved.

All works must be conducted in accordance with DEFRA and the Environment Agency's "Model Procedures for the Management of Land Contamination, CLR 11" and other authoritative guidance.

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 risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.

- 21 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
  - h) measures for the protection of the natural environment.
  - 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.

- 22 (i) No deliveries shall be made to or collections made from the development hereby permitted between 06:00am and 22:00pm Monday to Saturday and 07:00am and 17:00 on Sundays and bank holidays.

(ii) There shall be no use of reversing beepers on delivery or collection vehicles between 06:00 and 07:00 Monday to Saturday and between 07:00 and 09:00 on Sundays and bank holidays. All deliveries between these approved hours shall be direct via the loading and unloading dock shown on the approved plans.

REASON: To limit the impact of the development on adjacent residential amenity.

- 23 The retail unit hereby permitted shall not be open to the public except between the hours of 08:00am to 22:00pm on Monday to Saturday and 09:00 to 18:00 on Sundays and Bank Holidays.

REASON: To limit the impact of the development on residential amenity

- 24 No external lighting shall be installed on the site of the retail unit until plans showing the type of light appliance, the height and position of fitting, illumination levels and light 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 (ILE2005), 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..

Any lighting approved shall be turned off at all times when the store is not open to the public, with the exception of 1 hour before store opening and closing times.

REASON: To limit the impact of the development on adjacent residential amenity.

- 25 No on-site cooking or baking shall take place until a scheme of works for the control and dispersal of atmospheric conditions (in particular emissions from cooking or baking of food) has been submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be implemented before any on-site cooking or baking takes place and shall be maintained in effective working condition at all times thereafter.

REASON: In the interests of neighbours' amenity.

- 26 No development shall take place on site until a legal agreement has been entered into to secure the provision of 40% affordable housing on site; the mechanism for the provision and maintenance of public open space on site; contributions to primary education; contribution of £15000 for public art; £21900 for upgrade of play facilities at Little Battens Park and £9740 for upgrading facilities at Chippenham Sports Club.

REASON: To ensure the correct infrastructure is provided.