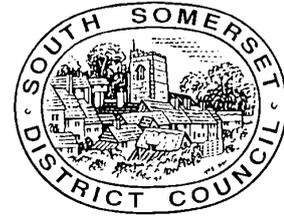


**South Somerset District Council**

*Notice of Meeting*



# Area South Committee

*Making a difference where it counts*

**Wednesday 3rd October 2018**

**2.00 pm**

**Council Chamber, Council Offices,  
Brympton Way, Yeovil BA20 2HT**

(Disabled access and a hearing loop are available at this meeting venue)



The following members are requested to attend this meeting:

Cathy Bakewell  
John Clark  
Gye Dibben  
John Field  
Nigel Gage  
Peter Gubbins  
Kaysar Hussain

Andy Kendall  
Sarah Lindsay  
Mike Lock  
Tony Lock  
Sam McAllister  
Graham Oakes  
Wes Read

David Recardo  
Gina Seaton  
Peter Seib  
Alan Smith  
Rob Stickland

Consideration of planning applications will commence no earlier than **2.30pm**.

For further information on the items to be discussed, please contact the Case Services Officer (Support Services) on 01935 462011 or [democracy@southsomerset.gov.uk](mailto:democracy@southsomerset.gov.uk)

This Agenda was issued on Monday 24 September 2018.

*Alex Parmley, Chief Executive Officer*

This information is also available on our website  
[www.southsomerset.gov.uk](http://www.southsomerset.gov.uk) and via the mod.gov app



## **Information for the Public**

The council has a well-established area committee system and through four area committees seeks to strengthen links between the Council and its local communities, allowing planning and other local issues to be decided at a local level (planning recommendations outside council policy are referred to the district wide Regulation Committee).

Decisions made by area committees, which include financial or policy implications are generally classed as executive decisions. Where these financial or policy decisions have a significant impact on council budgets or the local community, agendas will record these decisions as “key decisions”. The council’s Executive Forward Plan can be viewed online for details of executive/key decisions which are scheduled to be taken in the coming months. Non-executive decisions taken by area committees include planning, and other quasi-judicial decisions.

At area committee meetings members of the public are able to:

- attend and make verbal or written representations, except where, for example, personal or confidential matters are being discussed;
- at the area committee chairman’s discretion, members of the public are permitted to speak for up to up to three minutes on agenda items; and
- see agenda reports

Meetings of the Area South Committee are held monthly, usually at 2.00pm, on the first Wednesday of the month at the Council Offices, Brympton Way, Yeovil (unless specified otherwise).

Agendas and minutes of meetings are published on the council’s website  
[www.southsomerset.gov.uk/councillors-and-democracy/meetings-and-decisions](http://www.southsomerset.gov.uk/councillors-and-democracy/meetings-and-decisions)

Agendas and minutes can also be viewed via the mod.gov app (free) available for iPads and Android devices. Search for ‘mod.gov’ in the app store for your device, install, and select ‘South Somerset’ from the list of publishers, then select the committees of interest. A wi-fi signal will be required for a very short time to download an agenda but once downloaded, documents will be viewable offline.

## **Public participation at committees**

### **Public question time**

The period allowed for participation in this session shall not exceed 15 minutes except with the consent of the Chairman of the Committee. Each individual speaker shall be restricted to a total of three minutes.

### **Planning applications**

Consideration of planning applications at this meeting will commence no earlier than the time stated at the front of the agenda and on the planning applications schedule. The public and representatives of parish/town councils will be invited to speak on the individual planning applications at the time they are considered.

Comments should be confined to additional information or issues, which have not been fully covered in the officer’s report. Members of the public are asked to submit any additional documents to the planning officer at least 72 hours in advance and not to present them to the Committee on the day of the meeting. This will give the planning officer the opportunity to respond appropriately. Information from the public should not be tabled at the meeting. It should

also be noted that, in the interests of fairness, the use of presentational aids (e.g. PowerPoint) by the applicant/agent or those making representations will not be permitted. However, the applicant/agent or those making representations are able to ask the planning officer to include photographs/images within the officer's presentation subject to them being received by the officer at least 72 hours prior to the meeting. No more than 5 photographs/images either supporting or against the application to be submitted. The planning officer will also need to be satisfied that the photographs are appropriate in terms of planning grounds.

At the committee chairman's discretion, members of the public are permitted to speak for up to three minutes each and where there are a number of persons wishing to speak they should be encouraged to choose one spokesperson to speak either for the applicant or on behalf of any supporters or objectors to the application. The total period allowed for such participation on each application shall not normally exceed 15 minutes.

The order of speaking on planning items will be:

- Town or Parish Council Spokesperson
- Objectors
- Supporters
- Applicant and/or Agent
- District Council Ward Member

If a member of the public wishes to speak they must inform the committee administrator before the meeting begins of their name and whether they have supporting comments or objections and who they are representing. This must be done by completing one of the public participation slips available at the meeting.

In exceptional circumstances, the Chairman of the Committee shall have discretion to vary the procedure set out to ensure fairness to all sides.

## **Recording and photography at council meetings**

Recording of council meetings is permitted, however anyone wishing to do so should let the Chairperson of the meeting know prior to the start of the meeting. The recording should be overt and clearly visible to anyone at the meeting, but non-disruptive. If someone is recording the meeting, the Chairman will make an announcement at the beginning of the meeting.

Any member of the public has the right not to be recorded. If anyone making public representation does not wish to be recorded they must let the Chairperson know.

The full 'Policy on Audio/Visual Recording and Photography at Council Meetings' can be viewed online at:

<http://modgov.southsomerset.gov.uk/documents/s3327/Policy%20on%20the%20recording%20of%20council%20meetings.pdf>

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# Area South Committee

## Wednesday 3 October 2018

### Agenda

#### *Preliminary Items*

**1. Minutes of previous meeting**

To approve the minutes of the meeting held on 5<sup>th</sup> September 2018.

**2. Apologies for absence**

**3. Declarations of Interest**

In accordance with the Council's current Code of Conduct (as amended 26 February 2015), which includes all the provisions relating to Disclosable Pecuniary Interests (DPI), personal and prejudicial interests, Members are asked to declare any DPI and also any personal interests (and whether or not such personal interests are also "prejudicial") in relation to any matter on the Agenda for this meeting.

Members are reminded that they need to declare the fact that they are also a member of a County, Town or Parish Council as a Personal Interest. Where you are also a member of Somerset County Council and/or a Town or Parish Council within South Somerset you must declare a prejudicial interest in any business on the agenda where there is a financial benefit or gain or advantage to Somerset County Council and/or a Town or Parish Council which would be at the cost or to the financial disadvantage of South Somerset District Council.

#### **Planning Applications Referred to the District Council's Regulation Committee**

The following members of this Committee are also members of the Council's Regulation Committee:

Councillors Peter Gubbins, Mike Lock, Tony Lock and David Recardo.

Where planning applications are referred by this Committee to the Regulation Committee for determination, Members of the Regulation Committee can participate and vote on these items at the Area Committee and at Regulation Committee. In these cases the Council's decision-making process is not complete until the application is determined by the Regulation Committee. Members of the Regulation Committee retain an open mind and will not finalise their position until the Regulation Committee. They will also consider the matter at Regulation Committee as Members of that Committee and not as representatives of the Area Committee.

**4. Public question time**

**5. Chairman's announcements**

**6. Reports from representatives on outside organisations**

This is an opportunity for Members who represent the Council on outside organisations to report items of interest to the Committee.

#### *Items for discussion*

**7. Yeovil Refresh Update Report (Pages 6 - 10)**

- 8. Area South Forward Plan** (Pages 11 - 12)
- 9. Schedule of Planning Applications to be Determined by Committee** (Pages 13 - 14)
- 10. Planning Application 18/02019/FUL Yeovil Crematorium Bunford Lane Yeovil**  
(Pages 15 - 23)
- 11. Planning Application 17/02896/FUL Former Olds Motor Group Sherborne Road Yeovil** (Pages 24 - 70)

**Please note that the decisions taken by Area Committees may be called in for scrutiny by the Council's Scrutiny Committee prior to implementation.**

**This does not apply to decisions taken on planning applications.**

# Agenda Item 7

## **Yeovil Refresh Update Report**

*Strategic Director:*        *Martin Woods, Service Delivery*  
*Service Manager:*        *Natalie Fortt, Regeneration Programme Manager*  
*Contact Details:*         *Natalie.fortt@southsomerset.gov.uk or 01935 462956*

### **Purpose of the Report**

To give a brief update on progress with the Yeovil Refresh.

### **Public Interest**

Yeovil is South Somerset's principal town and the Yeovil Refresh is an important commitment by South Somerset District Council (SSDC) to invest in Yeovil town centre, working in close collaboration with local businesses, Somerset County Council and other stakeholders. Public consultation took place in March 2018 and both residents and local businesses provided feedback on the various priority projects identified in the document.

### **Recommendation**

To note and comment on the progress to date

### **Background**

The Yeovil Refresh was commissioned by SSDC and a draft report was produced by the consultant JLL in late 2017. The document provides a summary of the strengths and weaknesses of Yeovil and a commercial overview of the town. It sets the town within the context of changes within town centres nationally and regionally and in particular, the significant changes occurring in the retail sector.

The Refresh aims to make Yeovil Town Centre a vibrant place to live, work, learn and visit. The revitalised public spaces will celebrate the town's civic life and heritage and help regenerate the town's retail heart.

The Yeovil Refresh details the necessary investigation and further strategy work required in the town centre through a programme of priority projects.

At the Area South Committee (ASC) meeting in January 2018 members approved the reallocation of various capital funds to assist with the delivery of the programme. The Refresh was then finalised in March 2018 and released for public consultation. The consultation event took place in the town centre on 9<sup>th</sup> and 10<sup>th</sup> March and was well attended. This consultation has also enabled the final document to carry weight as a material consideration in determining planning applications.

A report was taken to the District Executive and Full Council meetings in May to agree the delivery arrangements for Strategic Development and Regeneration in South Somerset. The arrangements for Yeovil Refresh included establishing a new Yeovil Refresh Programme Board to oversee the delivery of the Refresh. At the same time, significant funding was ring-fenced for this and other Strategic Regeneration programmes contained in the Corporate Plan.

The Yeovil Vision Board also held its last meeting in its current form in May and in future, partners and other commercial stakeholders will participate in the Yeovil Refresh via the Stakeholder Group. The group will work with the Yeovil Refresh Programme Board to comment on detailed delivery plans and help to achieve effective coordination with other complementary town centre work.

## **Programme Update**

Following positive public reaction delivery of the Yeovil Refresh has commenced, phased over a 4-5 year programme

### **Board Meetings**

The newly-formed Yeovil Refresh Board held its first meeting in mid-July in order to drive the project forward and met again in September to review progress against the priority tasks that were identified through the public consultation. The key messages from the public consultation were that residents and businesses would like:

- The main high streets kept clean and better kept with nicer planters and other greenery, while keeping the streets from being too cluttered.
- Improvements in vehicular and pedestrian access into the heart of Yeovil for locals and visitors.
- Concerns addressed about some vehicle access to parts of the town centre (in particular on Middle Street).
- To make the town's open areas more appealing, using the space that is available to encourage visitors.

The Stakeholder Group detailed in the Programme Governance document (Appendix 1) are due to meet on 26<sup>th</sup> September to establish their Terms of Reference and set meeting dates for the coming year.

### **Car Park Review**

The tender documents for this work have gone out and the project is currently on schedule. The work includes assessing current and future car parking provision, identifying development opportunities, possible cycle parking and electric charging points. Officers are due to review the submissions at the end of September and therefore further details will be available in October once the tender process is complete.

### **Yeovil Access Strategy**

An initial scoping meeting has taken place between Somerset County Council and SSDC officers and the first piece of work undertaken will be the Local Cycling and Walking Infrastructure Plan. The aims are to improve access to the town centre by all forms of transport.

### **Improvements to Middle Street**

The Yeovil Refresh seeks to improve public spaces in the town centre. The spine from the Borough through to the Bandstand or Entertainment Area and then to the bottom of town is the busiest thoroughfare for pedestrians and the plan is for a sequential improvement of spaces along this spine to create a more pleasant experience.

Exploratory work has therefore begun in to the proposed improvement to the top part of Middle Street. The top end of Middle Street experiences the highest levels of footfall in the town, yet it currently has the poorest provision for pedestrians with narrow pavements and space dominated by vehicle routes and parking.

Officers have begun investigating the possibility of redressing the balance between pedestrians and cars in the town centre and creating a vehicle free area at the top of Middle Street through the use of a Traffic Regulation Order (TRO), which controls vehicle access. Before putting forward any designs, officers will be consulting extensively with businesses and users of the area and the feedback will be used to shape the plans which will then be submitted as part of the TRO application to Somerset County Council. The aim is to submit an application by the end of November. The County Council will then carry out their own additional public consultation exercise as part of the official application process.

The first part of the initial consultation with local business owners is underway, with the majority agreeing that creating a pedestrianised area will be of benefit to their business. The road was shut on a temporary basis in December 2017 to enable a Christmas Market to take place. This was well received by businesses in the vicinity and they maintain that they would like to see the area used for more specialist markets throughout the year. Specialist Markets and town centre events such as September's Super Saturday and the Christmas Lantern Parade bring people in to the town and are an important element in increasing the vitality of the town centre.

A number of disabled bays would need to be relocated in the town centre to accommodate the possible changes, however, redefining the width of the pavements would see improvements for wheelchair users and parents with buggies and prams. Removing vehicles and other obstructions also benefits people with visual impairments who find it difficult to navigate the many obstacles and barriers, including parked cars. Officers will be working with Access for All solutions and other disability charities in order to identify the most appropriate place to relocate the accessible parking bays and to ensure that any proposed changes to surfacing contain safety measures that help assist blind and partially sighted visitors to the town.

This current phase of the project is concerned with the traffic management in the area, the wider physical improvements i.e. enhancement and expansion of the paving will form part of the Public Realm Design Guide. The design guide will detail the improvements required to the public spaces within the town such as the Bandstand area, the Borough and Middle Street as a whole.

### **Inward Investment**

The Refresh officer group seek to support and work with a range of existing and potential investors in Yeovil. There have been some very positive developments in this respect indicating a renewed confidence, and although there is an agreed programme we remain flexible to respond proactively to emerging opportunities.

### **Project Resource**

To support the Programme Manager a Project Manager will be joining the team for three days a week starting in October.

### **Financial Implications**

None directly from this report.

### **Council Plan Implications**

To complete the Yeovil Refresh for Yeovil town centre and progress implementation is one of the priority projects within the Council Plan for 2018/19.

The development of Yeovil town centre also assists the council in meeting several of its corporate objectives including:

- Lobbying for and support infrastructure improvements to enable growth.
- Capitalise on our high quality culture, leisure and tourism opportunities to bring people to South Somerset.
- Progress key infrastructure projects that unlock development

### **Carbon Emissions and Climate Change Implications**

None directly from this report. The quality of regeneration schemes within Yeovil will be designed

have a positive impact on future carbon emissions.

### **Equality and Diversity Implications**

None directly from this report. However, Equality and Diversity, including Equality Assessments, will be fully explored in the implementation of the various projects within the Yeovil Refresh.

### **Background Papers**

Yeovil Refresh Document.

**Key:**



**Direct  
Instruction**

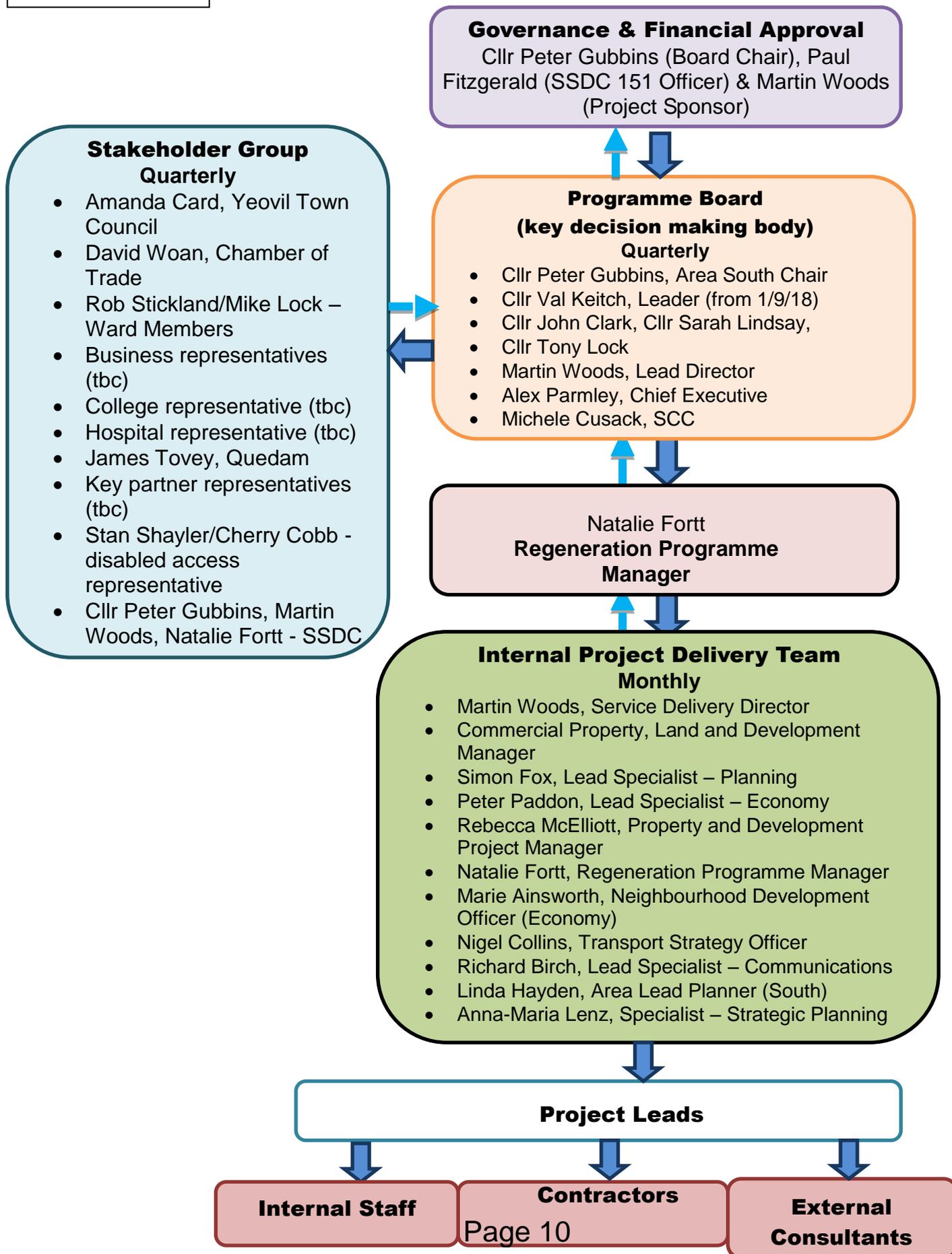


**Information  
/Advice**

# Yeovil Refresh Programme

## Governance Structure

(7/8/2018)



# Agenda Item 8

## **Area South Committee Forward Plan**

*Communities Lead: Helen Rutter, Communities Lead*  
*Service Manager: Natalie Fortt, Area Development Lead - South*  
*Agenda Co-ordinator: Jo Boucher, Case Services Officer – Support Services*  
*Contact Details: jo.boucher@southsomerset.gov.uk or (01935) 462011*

### **Purpose of the Report**

This report informs Members of the agreed Area South Forward Plan.

### **Recommendations**

Members are asked to:-

1. Comment upon and note the proposed Area South Forward Plan as attached at Appendix A.
2. Identify priorities for further reports to be added to the Area South Forward Plan, developed by the SSDC lead officers

### **Area South Committee Forward Plan**

The forward plan sets out items and issues to be discussed by the Area Committee over the coming months.

The forward plan will be reviewed and updated each month, by the joint lead officers from SSDC, in consultation with the Area Committee Chairman. It is included each month with the Area Committee agenda, where members of the Area Committee may endorse or request amendments.

Members of the public, councillors, service managers, and partners may request an item is placed within the forward plan for a future meeting, by contacting the Democratic Services Officer.

### **Background Papers**

None

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## Appendix A

### Notes

- (1) Items marked in *italics* are not yet confirmed, due to the attendance of additional representatives.  
 (2) For further details on these items, or to suggest / request an agenda item for the Area South Committee, please contact the Democratic Services Officer; Jo Boucher.

Meeting Date	Agenda Item	Background/ Purpose	Lead Officer
<b>7<sup>th</sup> November 2018</b>	Heart of Wessex Rail Partnership	Annual report of the work undertaken by the Heart of Wessex Rail Partnership during 2017/18	Helen Rutter, Communities Lead
<b>5<sup>th</sup> December 2018</b>	Citizens Advice South Somerset (CASS) Presentation	Presentation from Citizens Advice South Somerset	Angela Kerr, CEO or Kim Watts Client Services Manager, CASS
	Yeovil Western Corridor Update Presentation	Quarterly update presentation from SCC on the Yeovil Western Corridor Improvements	Andy Coupe, SCC Strategic Manager Infrastructure Programmes
	Yeovil Crematorium	Presentation on the refurbishment/design of the Crematorium.	Chris Cooper, Environment Services Manager
<b>2nd January 2019</b>		<i>Please note this meeting will only be held if there are planning applications to be determined</i>	
<b>6<sup>th</sup> February 2019</b>	Somerset Highways – maintenance programme	A six monthly update report on the current and expected highways maintenance programme in Area South	Mike Fear, Assistant Highway Service Manager, South Somerset Highways
	Area Plan Report	The development of the Area Plan	Tim Cook, Locality Manager
<b>TBC</b>	<i>Future demand and requirements for Education in Yeovil</i>	<i>To discuss future demand and requirements for education, in particular the requirement for future secondary school places.</i>	<i>Somerset County Council, Education</i>

# Agenda Item 9

## Schedule of Planning Applications to be determined by Committee

Director: Martin Woods, Director - Service Delivery  
Service Manager: Simon Fox, Lead Specialist - Planning  
Contact Details: simon.fox@southsomerset.gov.uk or 01935 462509

### Purpose of the Report

The schedule of planning applications sets out the applications to be determined by Area South Committee at this meeting.

### Recommendation

Members are asked to note the schedule of planning applications.

**Please note: Consideration of planning applications will commence no earlier than 2.30pm.**

Members of the public who wish to speak about a particular planning item are recommended to arrive for 2.15pm.

SCHEDULE					
Agenda Number	Ward	Application	Brief Summary of Proposal	Site Address	Applicant
10	BRYMPTON	18/02019/FUL	Refurbishment of the existing crematorium building to include improvements to the external envelope and façade as well as new port-cochère. Development of a new second chapel and subsidiary spaces. Relocation of chapel of remembrance to existing floral tributes area. Enhancements to surrounding amenity spaces.	Yeovil Crematorium Bunford Lane Yeovil	South Somerset District Council
11	YEOVIL EAST	17/02896/FUL	Demolition of existing buildings and the erection of a Class A1 (retail) store with associated access, parking, ancillary works and landscaping.	Former Olds Motor Group Sherborne Road Yeovil	Marlin Land (Yeovil) Ltd

*Further information about planning applications is shown below and at the beginning of the main agenda document.*

The Committee will consider the applications set out in the schedule. The Planning Officer will give further information at the meeting and, where appropriate, advise members of letters received as a result of consultations since the agenda had been prepared.

### **Referral to the Regulation Committee**

The inclusion of two stars (\*\*) as part of the Development Manager's recommendation indicates that the application will need to be referred to the District Council's Regulation Committee if the Area Committee is unwilling to accept that recommendation.

The Lead Planning Officer, at the Committee, in consultation with the Chairman and Solicitor, will also be able to recommend that an application should be referred to District Council's Regulation Committee even if it has not been two starred on the Agenda.

### **Human Rights Act Statement**

The Human Rights Act 1998 makes it unlawful, subject to certain expectations, for a public authority to act in a way which is incompatible with a Convention Right. However when a planning decision is to be made there is further provision that a public authority must take into account the public interest. Existing planning law has for many years demanded a balancing exercise between private rights and public interest and this authority's decision making takes into account this balance. If there are exceptional circumstances which demand more careful and sensitive consideration of Human Rights issues then these will be referred to in the relevant report.

# Agenda Item 10

## **Officer Report On Planning Application: 18/02019/FUL**

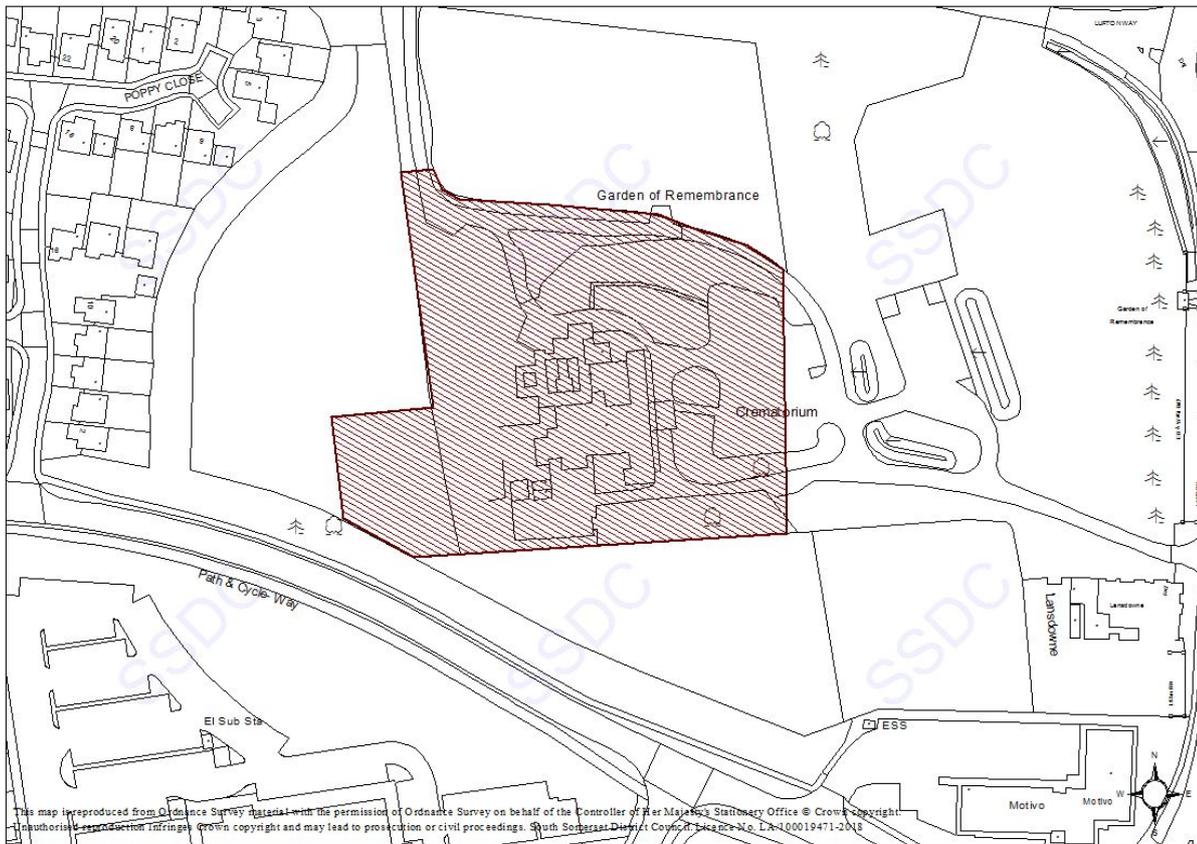
<b>Proposal :</b>	Refurbishment of the existing crematorium building to include improvements to the external envelope and facade as well as new porte-cochère. Development of a new second chapel and subsidiary spaces. Relocation of chapel of remembrance to existing floral tributes area. Enhancements to surrounding amenity spaces.
<b>Site Address:</b>	Yeovil Crematorium Bunford Lane Yeovil
<b>Parish:</b>	Brympton
<b>BRYMPTON Ward (SSDC Member)</b>	Cllr Sarah Lindsay Cllr Peter Seib
<b>Recommending Case Officer:</b>	Linda Hayden Tel: 01935 462534 Email: linda.hayden@southsomerset.gov.uk
<b>Target date :</b>	25th September 2018
<b>Applicant :</b>	South Somerset District Council
<b>Agent: (no agent if blank)</b>	Harry Avis Kendall Kingscott Ltd Glentworth Court Lime Kiln Close Bristol BS34 8SR
<b>Application Type :</b>	Minor Other less than 1,000 sq.m or 1ha

### **REASON FOR REFERRAL TO COMMITTEE**

This application is referred to Area South Committee due to the nature of the proposals and at the discretion of the Lead Specialist (Planning) due to SSDC being the applicant.

### **SITE DESCRIPTION AND PROPOSAL**





The site is located on the Western side of Bunford Lane, opposite the Asda Superstore. There is a current access into the site from Bunford Lane with a one way system and exit onto Preston Road, opposite the Hawks Rise development. The existing crematorium was constructed in the 1970s and consists of a traditional brick and block construction with aluminium roof deck and fibre cement panel down-stands. A number of alterations and extensions have been made to the existing building and surrounding site since first built. A new service road off Bluebell Road, which is located to the south of the crematorium, has recently been constructed under permission 17/02772/R3D and an overflow car park is currently under construction in accordance with permission 18/00866/FUL.

The application seeks consent for the erection of a second chapel to allow for more and larger services, the relocation of the chapel of remembrance and the upgrading of the existing building and a new entrance feature (porte cochère.). The development will also include redesign of external spaces and landscaping around the buildings. The second chapel and chapel of remembrance are to be situated to the east of the existing chapel (facing Bunford Lane). The internal rearrangements include the provision of improved facilities for mourners (toilets and waiting areas) and staff with the existing chapel decreased in size to allow for smaller services.

The application is supported by a: Design and Access Statement; Drainage Report; and Ecological Appraisal.

## HISTORY

Lengthy history over time, but in relation to recent, relevant applications, the following are relevant;

18/00866/FUL - Change of use of land to form overflow car parking area and formation of hardstanding. Approved 11/06/2018

17/02772/R3D - The construction of a new service road. Approved 7/9/2017.

15/02065/R3D - The erection of a new external metal access staircase - permitted with conditions - 23/06/15

00/00597/R3D - The formation of a new exit road - Permitted with conditions - 23/5/00

95/07280/R3D - The installation of replacement cremators, alterations and extensions with associated works - Permitted with conditions - 01/02/96

## **POLICY**

Section 38(6) of the Planning and Compulsory Purchase Act (2004), and Paragraphs 2, 11, and 12 of the NPPF indicate it is a matter of law that applications are determined in accordance with the development plan unless material considerations indicate otherwise  
South Somerset Local Plan (2006 - 2028)

On the 5th March 2015 this new local plan was adopted and constitutes the development plan. The most relevant policies are:-

SD1 - Sustainable Development  
SS1 - Settlement Strategy  
TA5 - Transport Impact of New Development  
TA6 - Parking Standards  
EQ2 - General Development  
EQ4 - Biodiversity  
EQ5 - Green Infrastructure

National Planning Policy Framework  
4. Decision-making  
12. Achieving well-designed places  
15. Conserving and enhancing the natural environment

National Planning Practice Guidance  
Design  
Natural Environment  
Somerset County Council Parking Strategy (March 2012)

Somerset County Council Highways Development Control - Standing Advice (June 2013)

## **CONSULTATIONS**

Brympton Parish Council

Recommends approval of the application.

County Highway Authority:

Standing Advice is applicable in this instance

SSDC Highways Consultant:

*'No highways issues - no objection.'*

Tree Officer:

Has no objection to the removal of the two trees located within the footprint of the development as neither tree has arboricultural values of sufficient quality to constrain the proposal, subject to the planting of some new trees. He recommends the imposition of a condition requiring details of the tree and shrub planting to be submitted.

Ecologist:

No objection subject to the imposition of a condition requiring full details of a bat mitigation plan given that bats have been recorded roosting behind the building cladding. Also advises that as the development will result in the destruction of a bat roost the relevant report will need to include an assessment against the three Habitats Regulations tests.

Senior Historic Environment Officer:

*'As far as we are aware there are limited or no archaeological implications to this proposal and we therefore have no objections on archaeological grounds.'*

Environmental Protection Officer:

Recommends the imposition of a condition requiring site assessment if the land is found to be contaminated.

Wessex Water:

No objections.

Local Lead Flood Authority:

Originally queried why surface drainage features had not been used on site. The agent has advised that there are space constraints that mean underground cellar storage is the most effective solution on the site. The LLFA has therefore indicated that they are content with the proposals subject to the imposition of a surface water condition.

MoD:

Has no safeguarding objections to this proposal.

**REPRESENTATIONS**

None received (25 local residents were notified, a site notice display and an advert placed in the local newspaper).

**CONSIDERATIONS**

Principle

The site is within the defined development area of Yeovil and the proposals are to support and improve the existing facility, as such it is considered that the development can be supported in principle.

## Visual Impact / Trees

The proposals have come about as a result of the District's Council's plans to refurbish and redevelop the site as the current facilities are considered to be outdated and not able to meet current or future demand. The proposals allow for the updating of the existing chapel and public areas with the provision of significantly improved toilets and waiting area along with improvements of staff facilities. The provision of a new chapel is to provide space for larger congregations with the relocation of the chapel of remembrance to the front of the site (to improve the flow of visitors and funeral congregations). The proposals include the external upgrading of the existing building with a new covered entrance (porte cochère).

The new chapel is to be constructed in materials that will complement the existing buildings but has been designed in order to ensure that it is a focal point for the site with a roof design that adds significant interest whilst remaining at a height that is lower than the existing crematory chimneys.

The agent's advise that *'The chapel's 'folded plate' roof is intended to be read as an over sailing detail expressing the roof form. As the other new roof form, the porte-cochère shares a language from the main chapel whilst functionally the proposal lifts the portico allowing more light into the unloading area. The newly expressed mass is key in re-presenting the public face of the crematorium. The relating key forms combine to create a new identity to the overall crematorium, transforming all aspects of the public interface.'*

It is considered that the proposals respond appropriately to the site and its context and will make a positive contribution to the area.

In terms of the impact upon the trees within the site, the Arboricultural Officer is content that the trees to be removed are not of sufficient quality as to constrain the development. It is recommended that a condition be imposed to require details of the proposed landscaping at the site as this is a fundamental part of the proposals.

As such the proposals comply with Policies EQ2 of the South Somerset Local Plan 2006-2028.

## Residential Amenity

The nearest residential properties are in Jasmine Close and Poppy Close which are separated from the site by a mature hedgerow and approximately 100m from the existing crematorium. The new build works are to the east of the existing building and therefore even further from the dwellings which are to the west of the site. Whilst it is accepted that there is likely to be some disruption and noise as a result of the works this will be for a temporary period and noise levels and disturbance will have to be controlled as the crematorium will remain open during the course of the works. As such, it is not considered that the proposals will result in demonstrable harm to neighbouring residential amenity and the proposal therefore complies with Policy EQ2.

## Highways

The County Highway Authority have advised that standing advice is applicable in this instance. Therefore, SSDC's highways consultant has examined the proposal and advised that he has no objection on highways grounds. As members will recall, permission was recently granted for a new overspill car park and as such there is sufficient car parking on site to serve the development.

In terms of traffic movements, neither the County Highway Authority nor the highways consultant has raised any concerns about the levels of traffic that will be generated by the development. It is noted that as part of the Western Corridor highways improvement works, motorists will be discouraged from turning right in to the crematorium and will instead access the site from the left hand lane only via the Bunford

Lane roundabout.

Therefore in principle the proposal is considered to comply with Policies TA5 and TA6 of the South Somerset Local Plan 2006-2028.

### Ecology

SSDC's ecologist is satisfied with the survey effort and the conclusions of the ecological appraisal that was submitted as part of the application. The ecologist notes that reptile and great crested newts are unlikely to be present at the site and that badgers are unlikely to be significantly affected by the development proposals. Whilst he also notes that bats were recorded behind the cladding of the building these were low in number with relatively common species being recorded. As such, appropriate mitigation will be required and a condition is recommended to deal with this issue.

The ecologist also notes that as the development will result in the destruction of a bat roost it is necessary to assess the application against the three Habitats Regulations tests, which are (in essence):

Test 1. Is the development needed for:

- public health and safety or
- other imperative reasons of overriding public interest incl. those of a social or economic nature or
- preventing serious damage to property?

Test 2. Are there any satisfactory alternatives (resulting in no or at least less risk of harm)?

Test 3. Is there adequate compensation provided to maintain the favourable conservation status of the population of the species?

With regard to the derogation tests (Conservation of Habitats and Species Regulations 2010):

Test 1 - It is considered that the proposal is required for to provide an extended crematorium facility that will meet both existing and future demands and accords with both local and national planning advice/policies. It is considered that the need for a larger crematorium is in the public interest and this outweighs the harm that would be caused.

Test 2 - There are currently no feasible alternative sites as the proposal is for the expansion of the existing facility and a new facility would be likely to have significantly greater impacts.

Test 3 - SSDC's ecologist concludes that favourable conservation status is likely to be maintained due to the presence of only low numbers of bats, of species (common and soprano pipistrelles) that are relatively common and have a widespread distribution in Somerset, and the securing of appropriate mitigation and compensation by condition.

In summary, the ecologist has thoroughly considered the potential ecological impacts of the development and has no objection to the proposal subject to the imposition of a condition to secure appropriate mitigation.

Therefore in principle the proposal is considered to comply with Policy EQ4.

### Other matters

#### CIL

This development is not CIL liable.

## Environmental Impact Assessment

The proposal is not subject to the Environmental Impact Assessment Regulations 2017

### Conclusion

The proposal will provide much needed additional accommodation for the existing crematorium to ensure that the facility can meet existing and future demand. The design has been very carefully considered and responds well to the site context. It is not considered to result in demonstrable harm to residential or visual amenity, highway safety or biodiversity. Accordingly, the proposal is considered to comply with policies SD1, SS1, TA5, TA6, EQ2, EQ4 and EQ5 of the Local Plan and is as such recommended for approval.

### **RECOMMENDATION**

Approve

01. The proposal will provide much needed additional accommodation for the existing crematorium to ensure that the facility can meet existing and future demand. The design has been very carefully considered and responds well to the site context. It is not considered to result in demonstrable harm to residential or visual amenity, highway safety or biodiversity. Accordingly, the proposal is considered to comply with policies SD1, SS1, TA5, TA6, EQ2, EQ4 and EQ5 of the South Somerset Local Plan 2006-2028.

### **SUBJECT TO THE FOLLOWING:**

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

Reason: To accord with the provisions of section 91(1) of the Town and Country Planning Act 1990.

02. The development hereby permitted shall be carried out in accordance with the following approved plans: as set out in Schedule of Drawings received from the agent via email on 10/8/2018.

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

03. No building operations above damp proof course level of the development shall take place until details of the materials to be used in the construction of the external surfaces (doors/windows/stonework/render/brick/roof finish) of the development hereby permitted have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.

Reason: In the interest of visual amenity and to accord with policy EQ2 of the South Somerset Local Plan.

04. In the event that any signs of pollution such as poor plant growth, odour, staining of the soil, unusual colouration or soil conditions, or remains from the past industrial use, are found in the soil at any time when carrying out the approved development it must be reported in writing within 14 days to the Local Planning Authority (LPA). The LPA will then consider if the findings have any impact upon the development and development must be halted on that part of the site. If the LPA considers it necessary then an assessment of the site must be undertaken in accordance with BS10175. Where remediation is deemed necessary by the LPA a remediation scheme must be

submitted to and approved in writing by the LPA and then implemented in accordance with the submitted details.

Reason: To protect the health of future occupiers of the site from any possible effects of contaminated land, in accordance with Policy EQ7 of the South Somerset Local Plan (2006 - 2028).

05. No development shall take place until details of the proposed surface water drainage scheme for the site incorporating sustainable urban drainage methods has been submitted to and approved in writing by the Local Planning Authority. The approved development shall be implemented in accordance with the approved statement prior to the use of the building commencing. The sustainable urban drainage scheme shall be managed and maintained thereafter in accordance with the agreed management and maintenance plan.

Reason: To ensure that the principles of sustainable urban drainage are incorporated into this proposal and such approved details must be implemented throughout the lifetime of the development.

06. No building operations above damp proof course level of the development shall take place until a scheme of tree and shrub planting has been submitted to and approved in writing by the Local Planning Authority. Such a scheme shall confirm the use of planting stock of UK-provenance only, the planting locations, numbers of individual species, sizes at the time of planting, details of root-types or grafting and the approximate date of planting. The installation details regarding ground preparation, staking, tying, strimmer-guarding and mulching shall also be included in the scheme. All planting comprised in the approved details shall be carried out within the next planting season following the first use of the development hereby approved; and if any trees or shrubs which within a period of ten years from the completion of the development die, are removed or in the opinion of the Council, become seriously damaged or diseased, they shall be replaced by the landowner in the next planting season with trees/shrubs of the same approved specification, in the same location; unless the Local Planning Authority gives written consent to any variation.

Reason: To ensure the planting of new trees and shrubs in accordance with the Council's statutory duties relating to The Town & Country Planning Act, 1990 (as amended)[1] and the following policies of The South Somerset Local Plan (2006 - 2028); EQ2: General Development, EQ4: Bio-Diversity & EQ5: Green Infrastructure.

07. No building operations above damp proof course level of the development shall take place until a scheme showing the proposed hard landscaping for the site (including proposed materials) has been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.

Reason: In the interest of visual amenity and to accord with policy EQ2 of the South Somerset Local Plan.

08. The development shall not commence (including any demolition) until there has been submitted to and approved in writing by the Local Planning Authority, full details of a Bat Mitigation Plan detailing timing restrictions and protective measures to avoid, mitigate and compensate for harm to bats and their roosts. The works shall be implemented in accordance with the approved details and timing of the mitigation plan and method statement, as modified to meet the requirements of any 'European Protected Species Mitigation Licence' issued by Natural England, unless otherwise approved in writing by the local planning authority.

Reason: For the conservation and protection of species of biodiversity importance in accordance with NPPF and Policy EQ4 of the South Somerset Local Plan, and to ensure compliance with the Wildlife and Countryside Act 1981 and The Habitats Regulations 2017.

**Informatives:**

01. Before this development can commence, a European Protected Species Mitigation Licence (under The Conservation (Natural Habitats, &c.) Regulations 2010) will be required from Natural England. You will need to liaise with your ecological consultant for advice and assistance on the application for this licence. Natural England will normally only accept applications for such a licence after full planning permission has been granted and all relevant (protected species) conditions have been discharged. However, the information required for the Natural England licence application will often also be suitable for submission to the Council when applying for discharge of the relevant condition.

# Agenda Item 11

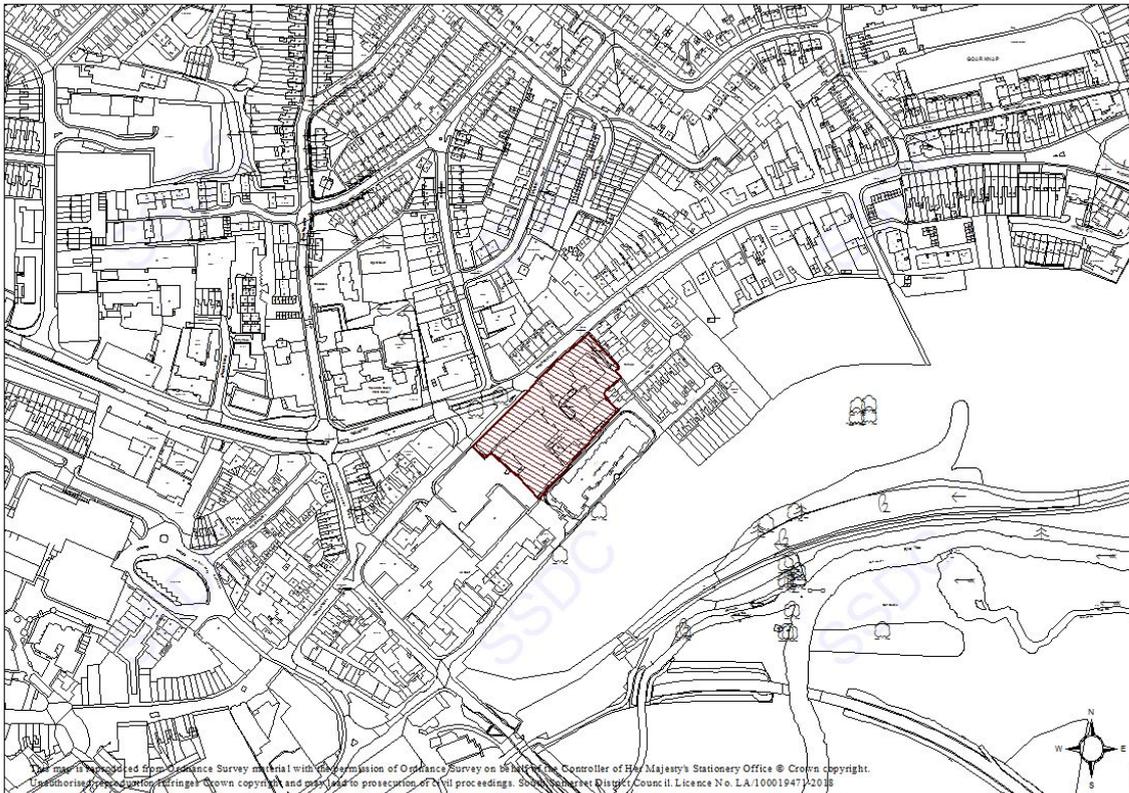
## **Officer Report On Planning Application: 17/02896/FUL**

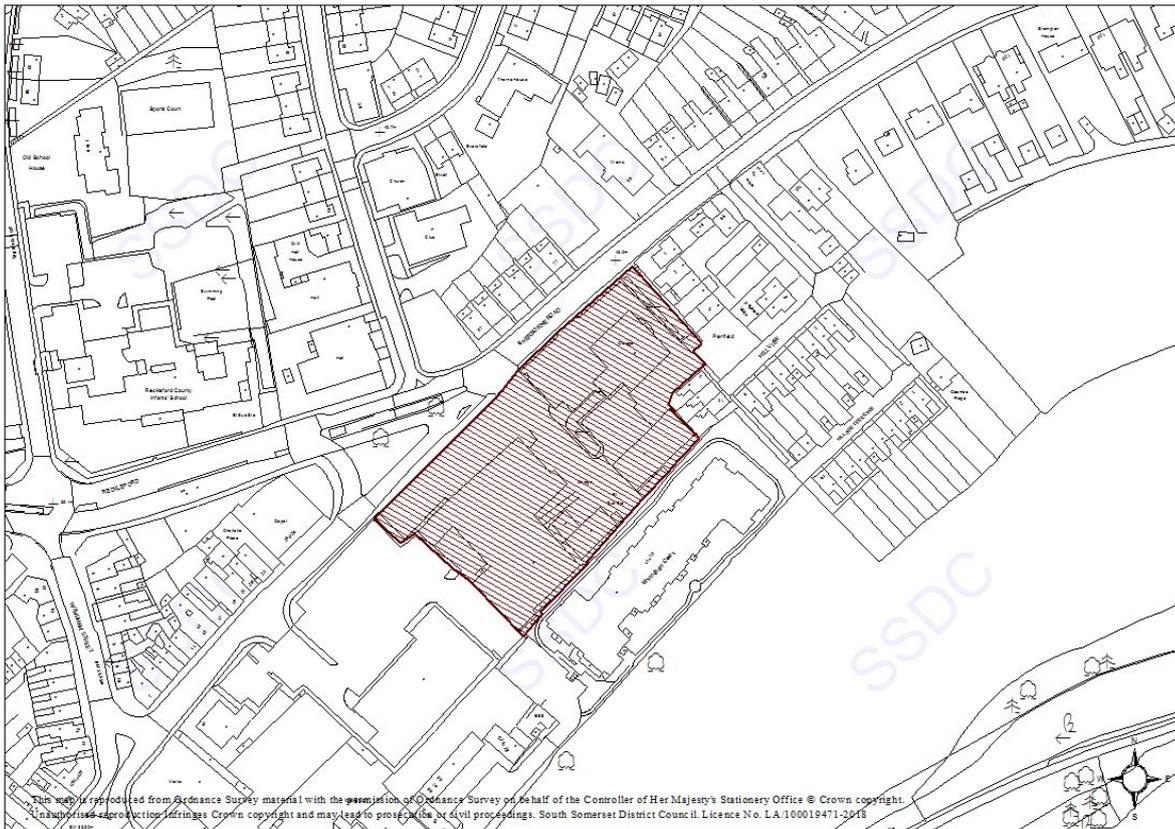
<b>Proposal :</b>	Demolition of existing buildings and the erection of a Class A1 (retail) store with associated access, parking, ancillary works and landscaping.
<b>Site Address:</b>	Former Olds Motor Group Sherborne Road Yeovil
<b>Parish:</b>	Yeovil
<b>Yeovil (East) Ward (SSDC Member)</b>	Cllr David Recardo Cllr Rob Stickland Cllr Tony Lock
<b>Recommending Case Officer:</b>	Simon Fox Tel: (01935) 462509 Email: simon.fox@southsomerset.gov.uk
<b>Target date :</b>	16th October 2017
<b>Applicant :</b>	Marlin Land (Yeovil) Ltd
<b>Agent: (no agent if blank)</b>	Mango Planning And Development Ltd Number One Waterton Park Waterton Bridgend CF31 3PH
<b>Application Type :</b>	Major Retail f/space 1,000 sq.m or 1ha+

### **Reason for Referral to Committee**

This application is referred for Committee consideration at the request of the Lead Specialist (Planning) in accordance with the scheme of delegation and with the agreement of the Chairman, to allow the application to be debated in public given the nature of the proposal and the significance of the development.

### **Site Description, Proposal and Site History**





The 0.70 hectare application site is made up of an area of land formally used for several car dealerships (car sales, repair etc). The site has been partially cleared due to a recent fire and remains wholly unused.

The application site is located to the south of Sherborne Road at its intersection with Reckleford east of the town centre. To the east is a cluster of residential properties (Hill View, Penfield and Hillside Terrace), of redbrick terraced form, to the south is Wyndham Court, a three storey buff brick and render flatted development managed by a national retirement flat operator, and to the west is a redbrick single storey building split into two retail units with frontage parking. To the north is largely residential development, and also the Salvation Army hall.

The site is largely devoid of landscaping save for a cluster of trees at its centre, notionally dividing the two dealerships where vehicular access is also achieved off Sherborne Road. Another access serves the easternmost dealership directly off Sherborne Road also. A few more trees are visible on the eastern boundary to Penfield.

The site has multiple levels but the general fall on the site is from south to north and east to west with localised retaining structures. The site itself sits lower compared to Wyndham Court and the residential properties to the east.

This application has been submitted by Marlin Land (Yeovil) Ltd and seeks planning permission for the erection of a Class A1 retail store. The plans indicate the end-user will be Aldi.

The proposed store would extend to 1,743sqm gross internal area (1,254sqm net sales area).

The site is still to be served by a modified vehicular access off Sherborne Road and will be provided

parking (104 spaces inclusive of 5 disabled spaces), along with landscaping and associated works. All the current buildings would be demolished and the store located in the southwest corner, with frontage parking akin to the neighbouring site.

The application is supported by the following documents:

- Design and Access Statement
- Transport Statement
- Travel Plan
- Planning and Retail Statement
- Geo-Environmental Assessment Report
- Ecological Appraisal Report
- Arboricultural Impact Assessment
- Environmental Noise Survey and Noise Impact Assessment Report
- Air Quality Assessment
- Foul and Surface Water Drainage Assessment

During the course of the application the applicant has put forward a proposed financial contribution of £157,000 towards a wider project of public realm improvement in Sherborne Rd inclusive of a bus stop and a cycle path.

## **PLANNING HISTORY**

There are numerous historic permissions and advertisement consents related to the former use of the site as a car dealership but none are particularly relevant to the current application.

## **POLICY**

Section 38(6) of the Planning and Compulsory Purchase Act (2004), and Paragraphs 2, 11, and 12 of the NPPF indicate it is a matter of law that applications are determined in accordance with the development plan unless material considerations indicate otherwise.

On 5th March 2015 South Somerset District Council, as Local Planning Authority, adopted its Local Plan to cover the period 2006 to 2028.

On this basis the following policies are considered relevant:-

### Policies of the South Somerset Local Plan (2006-2028):

- SD1 - Sustainable Development
- SS1 - Settlement Hierarchy
- SS3 - Delivering New Employment Land
- SS6 - Infrastructure Delivery
- EP3 - Safeguarding Employment Land
- EP9 - Retail Hierarchy
- EP10 - Convenience and Comparison Shopping in Yeovil
- EP11 - Location of Main Town Centre Uses (The Sequential Approach)
- EP12 - Floorspace Threshold for Impact Assessments
- TA1 - Low Carbon Travel
- TA3 - Sustainable Travel at Chard and Yeovil
- TA4 - Travel Plans
- TA5 - Transport Impact of New Development
- TA6 - Parking Standards
- EQ1 - Addressing Climate Change in South Somerset
- EQ2 - Design & General Development

EQ3 - Historic Environment  
EQ4 - Biodiversity  
EQ5 - Green Infrastructure  
EQ7 - Pollution Control

National Planning Policy Framework (July 2018)

The framework is taken as a whole but the most relevant chapters in this case are:

Chapter 2 - Achieving sustainable development  
Chapter 7 - Ensuring the vitality of town centres  
Chapter 9 - Promoting sustainable transport  
Chapter 12 - Achieving well-designed places

Other

Somerset County Council Parking Strategy (March 2012)

**CONSULTATIONS**

Yeovil Town Council:

*"Approve subject to satisfactory outcome of negotiations in respect of highways (including the entrance and exit arrangements), environmental issues (including flooding), construction hours and dust mitigation, and landscaping".*

Highways Authority (Somerset CC):

The final response from the Highway Authority was received in April 2018. It raised no objections but did indicate a few tweaks would be necessary that could be dealt with via planning condition. A travel plan is requested via s106. Due to the importance of the highways matter in this case the full response is attached as Appendix 1.

SSDC Strategy and Commissioning:

Assessment of this application has been undertaken with the support and expertise of a colleague from Spatial Policy, now Strategy and Commissioning. Given the complexity of the assessment her full response is attached as Appendix 2.

Since that response an updated version of the NPPF was issued in July 2018. As such these additional comments should be read in conjunction.

Para 85 of NPPF2 is clear that decisions should support the role that town centres play at the heart of local communities.

As in the previous para 24, para 86 NPPF2 requires a sequential test to planning applications for main town centre uses which not in an existing centre or in accordance with an up-to-date plan. Only if suitable sites are not available, or expected to become available within a reasonable period (reference to reasonable period is new) should out of centre sites be considered. Referring to the policy advice of 30th April 2018, NPPF2 strengthens the argument that the applicant has failed to fully consider all town centre sites.

Previously the Planning Practice Guide referred to flexibility in terms of format and scale. This is now contained within para 87 of NPPF2 - "demonstrate flexibility on issues such as format and scale, so that opportunities to utilise suitable town centre or edge of centre sites are fully explored". One would argue that this again strengthens the points in relation to the former BHS unit.

The application falls below the retail impact threshold (now para 89 of NPPF) and therefore the comments on impact and Policy EP12 of the Local Plan stand.

Para 90 of NPP2 is clear "where an application fails to satisfy the sequential test or is likely to have

significant adverse impact on one or more of the considerations in paragraph 89, it should be refused". Clearly NPPF2 strengthens town centre vs out of centre development and therefore my position taken on Aldi remains.

SSDC Area Development:

Concerns raised regarding traffic, residential amenity, noise and car park management.

SSDC Environmental Protection:

*"Due to the proximity of the site to sensitive residential properties I am concerned about the potential impact of the demolition and construction phases of this development will have on the amenity of these dwellings".* Construction Environmental Management Plan condition is suggested.

*"This site has a history of previous industrial use and is therefore a potentially contaminated site. I note that some work has already been done to characterise the levels of contamination and that some low levels have been found of PAHs and asbestos have been found".* Contaminated land remedial measures condition is suggested.

With regard to noise a condition relating to store delivery times has been suggested. In terms of the air handling plant, *"The applicant has submitted a noise assessment, reference 24217/NIA1. This report recommends an upper limit on the noise generated by any air handling plant 1 meter away from sensitive residential properties. I concur with this recommendation".* A noise mitigation scheme condition is suggested.

After an air quality assessment was requested, its findings were accepted with the dust control measures suggested. The air quality impact assessment during the operational phase was also seen to be satisfactory based on an agreed methodology. As such no mitigation measures are seen to be required.

SSDC Tree Officer:

In assessing the landscaping plan - generally content with tree coverage, although concerns regarding certain species choice.

SSDC Ecologist:

Satisfied that the ecological appraisal does not raise any issues other than the need for a further bat survey. Notes the proposed landscaping includes a good proportion of native species that will be of benefit to wildlife.

*"In my response of 2nd August 2017, I advised further bat surveys were necessary. These have now been submitted (Bat Survey Report, 11 August 2017, Soltys Brewster Ecology).*

*Due to the presence of a bat roost, the applicant will require a licence from Natural England (to be applied for after the grant of planning permission) before demolition of buildings used by bats can proceed.*

*Bat surveys have confirmed the presence of a night roost for low numbers of lesser horseshoe bat. In order to satisfy legislation and planning policies, mitigation (including a compensation bat roost) will be required. Outline mitigation proposals are given in section 4.3 of the report and includes a proposed replacement roost structure (1 x 2 x 2.5 metres) to be located to the rear of the store (see layout plan in appendix IV.) I'm satisfied with the outline mitigation proposals.*

*I have no objection subject to a condition requiring full mitigation details to be submitted for approval. Please note that as the development will result in the destruction of a bat roost, the officer or committee report will need to include an assessment against the three Habitats Regulations tests.*

*Habitats Regulations reporting - An assessment against the three derogation tests of the Habitats Regulations 2010 is a legal requirement in the determination of this application. Permission can only be granted if all three derogation tests are satisfied. Such assessment should be included in the*

relevant committee or officer report. The tests are:

1. the development must meet a purpose of 'preserving public health or public safety or other imperative reasons of overriding public interest including those of a social or economic nature and beneficial consequences of primary importance for the environment'
2. 'there is no satisfactory alternative'
3. the development 'will not be detrimental to the maintenance of the population of the species concerned at a favourable conservation status in their natural range'.

See appendix 1 for Natural England guidance on tests 1 and 2.

In respect of test 3, I conclude that favourable conservation status is likely to be maintained due to the presence of only low numbers of bats, and the securing of appropriate mitigation and compensation by condition".

Condition requiring a bat mitigation plan and informatives regarding Habitats Regulations suggested.

Crime Prevention Officer:

No objection subject to comments. Concern raised regarding boundary treatment choice along the west boundary, potential damage to the curtain walling from vehicles due to no bollard protection and requests that a barrier be included to prevent unauthorised use of the car park outside business hours.

Wessex Water:

Information provided regarding current known infrastructure in the vicinity, no objections or issues raised.

Lead Local Flood Authority (LLFA):

Initial objection but on submission of additional information;

*"The applicant has now submitted additional information that supports their intention to discharge surface water runoff as per the existing arrangements.*

*The additional information indicates an intention to attenuate on site and discharge at controlled rates, calculations to be based on events up to and including 1 : 100yr event + 40% climate change.*

*The applicant should note that it is their responsibility to seek approval from Wessex Water that they are satisfied with the proposed new discharge rates to their system.*

*In view of the additional information submitted the LLFA would withdraw their previous objection".*  
Drainage condition suggested.

South West Heritage Trust (Archaeology):

No objections.

Climate Change Officer:

Comments made about walkability to the store, LED lighting and the potential use of PV.

## **REPRESENTATIONS**

Neighbouring properties to the site were notified in writing. A site notice was displayed and a press advert placed (major development).

During the course of the application 14 individuals have made representations. The full representations can be read on the Council's website, here is a summary of comments:

- "...this will be a positive addition to Yeovil Town on a site that looks appalling. After discussion concerning entrance and exit from the car park for cars and lorries, I am happy that this has been thought through to minimise impact of the A30 traffic".
- "...we welcome the new Aldi with open arms. Not only will it create more jobs with the Yeovil

area, but for us who live at Wyndham Court and our outlook is directly on the proposed site it is such good news".

- "While I support the proposal, I feel it would be of further benefit to the immediate local community if the area of wasteland to the SW of the development immediately opposite nos 91-1 Hill View were to be made accessible for residential vehicle/on street parking", another representation expresses concern regarding the impact on maintaining an adjacent property and privacy to a window if this land is offered for parking.
- Trees adjacent to Penfield are to be retained, but they shed large leaves in the autumn which cause blockages of gutter, could they be replaced with trees with smaller leaves or shrubs.
- "...no objection to the proposed development of the Olds site and think it will be a major improvement to the appearance of the road".
- "Aldi's proposal would completely transform this site and with the benefit of landscaping make an attractive addition to the hillside terrace entrance to Yeovil Country Park".
- Concern about demolition phase, dust, noise and traffic plus presence of asbestos.
- The site is an eyesore.
- "I am sure most residents who live in the area would welcome Aldi which would be within walking distance from their homes".
- Concern about potential vents and flues impacting on living conditions at Wyndham Court.
- Any vermin should be professionally cleared.
- Car park lighting should be minimised to reduce light pollution.
- The path adjacent to Hill View needs to be repaired.
- The right hand turn out of the site causes safety concerns.
- The application should be determined without delay.

Representations from Carter Jonas on behalf of Benson Elliot (Yeovil), the leasehold of the Quedam Shopping Centre have been received last wrote 12th September 2018 and previously in June 2018 and August 2017 to object on the following grounds:

- BE has secured a 5-year option on the Cattle Market site with an intention to redevelop the site for a mix of uses, including a foodstore, as such concern is raised about any other such proposal and the vitality and viability of that planned investment and on the town centre as a whole.
- Failure against the sequential test, availability of Cattle Market and the now vacant BHS store in Quedam Shopping Centre.
- Lack of flexibility demonstrated by the applicant
- Retail impact on town centre.

Given the Quedam Shopping Centre is the town centre's largest singly owned retail area and the two most suitable alternative sites are with the control of BE then the last two full representations received from BE are appended to this report (See Appendix 3).

A representation from Jigsaw Planning on behalf of Asda Stores Ltd opines that the application fails the sequential test on the basis of not sufficiently discounting a Town Centre site (former BHS store).

## **CONSIDERATIONS**

The proposal raises many issues which will be assessed in turn.

### **Principle of Development**

Policy SS1 of the Local Plan states Yeovil is a Strategically Significant Town and the prime focus for development in South Somerset. Policy SD1 reinforces the message of the National Planning Policy Framework that a proactive approach should be taken to reflect the presumption in favour of sustainable development and to seek development that improves the economic, social and environmental conditions within the District.

Policies SS3 and EP3 seek to deliver new and safeguard existing employment land to assist job

growth/retention. The site was previously in a sui generis use class as a car showroom and is proposed as retail. The application form states 40 full time equivalent jobs will be created which is not insignificant. The creation of jobs means there is no policy conflict here and accords with a prevailing message within the NPPF to support economic development.

The policy issues concerning this development surround the retail impact, sequential test and impact on existing or planned investment. The arguments are complex and intertwined. The published regeneration document 'Yeovil Refresh' is also a material consideration.

It should firstly be pointed out that Yeovil is open to new investment and welcomes new development where it accords with the local plan and guidance documents such as the Yeovil Refresh. The Council will work with developers and investors to bring forward good schemes in a timely manner. In this case on-site issues with Highways and the implications of the numerous policy tests has unduly delayed getting to this recommendation stage. The later caused wholly by the fact the site lies outside the defined town centre and the emergence of the Cattle Market as a potential sequentially preferable site. The defined town centre is afforded significant preference for all retail development, namely the 'town centre first policy'.

There are and have been several retail schemes in out-of-town areas that the LPA has been resistant to. These include the original Yeovil Town Football Club application for a 6,505sqm food store and the erection of an 1,895sqm non-food store at the Peel Centre, Babylon Hill. The latter is within the jurisdiction of West Dorset DC. The basis for these objections was the 'town centre first policy' and the presence of sequentially preferable sites, such as the Quedam Extension (Vincents Yard), Glovers Walk, Cattle Market, BHS and Stars Lane/Box Factory for example. The retail picture locally mirrors that nationally with large retailers going out of business, signalling warnings or contracting their number of stores. Vacancies are high and internet sales continues to grow. The investment in bringing forward an officer led Yeovil Refresh document was to try and manoeuvre the town centre to become more resilient, to provide a specific offer recreationally, residentially and commercially so it remains the focus for the town and its hinterland. Importantly it also tried to refocus attention on the town's most prominent and up-to-now most difficult sites to bring forward, most notably the Cattle Market. As such the Council and the LPA places great weight at holding the town centre line and focusing all attention to these sites in the hope that by carrot and/or by stick they come forward and realise the benefits they could offer. This by implication leads to difficult decisions having to be made.

What follows is an examination of the impact test and the sequential test.

#### Impact Assessment

Policy EP12 sets the Council's impact threshold for retail impact assessments for proposed retail development in excess of 2500sqm. This proposal is 1743sqm and so some 750sqm below the threshold. Policy EP12 states that for retail developments up to and including the floorspace threshold will generally be regarded as being of a scale that would not result in significant adverse impacts.

It should be noted however that the Council did commission GVA to undertake an independent review of the potential retail impact of another retail led application and that required by implication an assessment of this proposal. Whilst a minor impact may occur the report did not conclude that this scheme alone would have any significant adverse impact.

Given our own local plan threshold alone it is not considered appropriate, despite the representation of Carter Jonas, to progress a reason for refusal on retail impact.

#### Sequential Test

The delay in reaching this recommendation stage has largely been due to the promotion of potential sequentially preferable sites. The Yeovil Refresh document had the effect of ruling out Stars Lane and Box Factory for retail development; over the last 5 years there has been little activity regarding Glovers

Walk despite its condition and vacancy rate, however the Council understands that the site is currently under offer, which may lead to new ideas for investment. As such, right now, the two sites that emerged as being potentially available for this development were Cattle Market and the vacant former BHS unit. Both sites are in the control of Benson Elliot, leaseholders of the Quedam Shopping Centre. This forms the basis of their objection to this scheme. As such an examination is required as to whether the sites are truly sequential preferable, noting the criteria of suitable and available

The vacant BHS store is still under lease until December 2020 and rent will continue to be paid until then despite the shop not trading. As such Benson Elliot has a perverse financial incentive to leave the shop unoccupied until and unless the lease expires and the shop and its liabilities is handed back or another tenant agrees to a longer lease on similar or better terms or Benson Elliot is sufficiently incentivised by the current leaseholder Morrisons to cancel the lease early. So what we do know is that the store will be available in Dec 2020. Anything earlier will because it suits Morrisons and Benson Elliot financially. The availability of the former BHS store within 2 years is reasonable to resist the development, given 1 year will be taken to build any permission at Olds Garage. As such one can conclude it is available.

When first built the store was a supermarket, then Safeway, before moving to Lysander Rd, hence the lease is still in the control of Morrisons. As such it cannot be argued it is unsuitable for food retail and requires flexibility on the part of the retailer. It may not suit the very specific requirements of the intended end user but this has to be a land use based decision and as such the unit is suitable and available for the proposal.

In conclusion it can be demonstrated that the former BHS store is sequentially preferable; the proposal fails against Policy EP11.

The Cattle Market has been derelict for longer than many would wish to recall and is a symbol of an intransigent remote landowner who has not had sufficient incentive or motivation to bring the site forward for development despite several attempts by third party's that the Council is aware of. Challenging sites (levels, contamination, access etc) cost more to develop into a viable scheme and that should suppress the land value. If a landowner does not have to sell and has a value from the site they wish to achieve then any interest in the site by third party's is frustrated.

The Yeovil Refresh aimed to breakdown the technical issues surrounding the Cattle Market and set a vision for how the Council would like to see the site developed. Directly or indirectly in July 2018 Benson Elliot secured an option on the site and in the last few months have been marshalling discussions with a view of bringing forward a supermarket led scheme, see Appendix 3.

The timing of this announcement severely undermines the case for this proposal at Olds Garage. The case for the Cattle Market is long-standing and of town-wide interest, it is within the town centre and would comprise a retail policy compliant scheme. The onwards benefits of a scheme at the Cattle Market and the adjacent Vincents Yard linking to the Quedam would be transformational and worth the negative message refusing this application would send out.

The problem.....despite the July press release and the signalled intentions it would be remiss not to balance the potential with the reality that in response to several out-of-town retail scheme in the past agents on behalf of Benson Elliot have objected on the basis of "something is about to happen", "if you approve this we cannot go ahead with planned investment", and the reality is since 2009 when they took over the shopping centre nothing really has happened of the scale promised. To refuse this pending application on the basis of a press release from July and to give the benefit of the doubt to Benson Elliot is a risk, a significant risk. However every week is crucial and the situation on committee day will be different to the situation weeks prior as this report is written. Collectively officers and members need the confidence that Benson Elliot will follow through with their intentions and trust that they deliver within the timescales that case law and NPPF indicate are reasonable when considering retail schemes. Without that Members can legitimately conclude the Cattle Market is not sequentially preferable.

Clearly the applicant takes issue with the claims from Benson Elliot and their final representation setting out that argument is attached as Appendix 4.

Taken in isolation on policy grounds and with an absolute expectation that the clarity regarding the intentions for the Cattle Market are set out by Benson Elliot in the coming weeks it is concluded the proposal fails against Policy EP11.

### Discussion

The committee has grounds therefore to consider refusing the application.

Importantly however national and local policy is capable of being displaced if the planning committee consider that it is outweighed by other material considerations. What amounts to a material consideration is a matter of law, the weight to be given to such considerations is a question of planning judgement; the part any particular material consideration should play in the decision-making process, if any, is a matter entirely for the planning committee.

It is opined that there are material considerations that should be taken into account, these include:

- creation of jobs
- significant contribution to public realm/sustainable transport linkage
- some certainty regarding inward investment to the town and the positive message this brings
- the site is immediately adjacent to the town centre boundary (edge-of-centre) and visually and experientially feels part of the 'town centre'
- the site is within walking distance of a large residential hinterland and on a direct route from the majority of that area to the town centre

Matters concerning the use of a derelict 'brownfield site' should be factored in, although again the site could look tidier if the landowner was minded, and the fact it does look untidy should not be an overriding factor in displacing retail policy or the aspirations of the Yeovil Refresh..

The brand of the supermarket features in many of the positive representations from the public and Members should be careful in attributing too much weight to the named operator. This is consent for an A1 retail unit with food. The named operator cannot be secured or maintained in perpetuity, the neighbouring site shows us that fact. Would members of the public feel so excited if the shop was to be occupied by another retailer, perhaps selling household appliances, clothes or carpets for example?

The evidence suggests Yeovil is well provided for in terms of supermarkets both in terms of floorspace, variety and capacity; additional retail is encouraged in the town centre but there is no need for additional capacity outside the town centre.

What would a refusal mean for Yeovil? Yes in the short term it looks like the Council does not want investment and is happy to see a prominent site remain derelict. We know that is far from the truth and if the proposal was in the town centre it would have been under construction by now. The site is prominent and is a supermarket with prominent frontage parking the right gateway to the town? The site would be equally preferable for housing that would add to the streetscene and add less of a concentrated traffic impact at this particular spot.

If ultimately the site is refused permission, then the LPA, backed by the intent of the Yeovil Refresh document and local plan policy would fully support the principle of housing, community, health or commercial development on the site and would endeavour to facilitate this as much as possible.

A refusal would be met by a rebuttal from the applicant that Aldi will not come to the town unless it is to

this specific site and that they will not go to the Cattle Market or BHS. Previous comments regarding supermarket capacity and brand inflexibility apply. The challenge for Benson Elliot would be to ensure Aldi has all they require on any scheme at BHS or Cattle Market.

What would an approval mean for Yeovil? That the easier decision has been made and the potential for a scheme at the Cattle Market hampered. That the Council has given weight to the benefits of this specific scheme over and above local plan policy and the aspirations of the Yeovil Refresh to revitalise the Cattle Market.

In addition to the above factors Members will need to consider whether to restrict the range of product and services which can be sold/offered from the store via legal agreement akin to other deep discount approvals in the town. The applicant has offered potential conditions relating to the net tradable area, the percentage of that floor area to be used for convenience good sales and to limit use to deep discount retailing with no more than 2000 product lines. At the Lidl store on Lysander Rd other services were restricted so as not to compete with the town centre, but this site may require a more relaxed approach.

It is a complex weighing process that will have implications known and unknown; on balance it intuitively feels now is the time to hold the line, back the Yeovil Refresh, back the town centre and back the Cattle Market aspirations. As such the proposal fails to accord with policy EP11 of the Local Plan and the updated NPPF.

### **Design and Layout, Residential Amenity and Heritage**

The context to the site is varied as described in the site description section to this report.

The proposal seeks a departure from the historic built form of this site and obviously now only a single low rise building is proposed. The predominant materials of anthracite grey and metallic silver cladding with grey brickwork plinths, grey powder coated metal shopfronts under a grey composite panel mono-pitched roofing system invokes a more contemporary approach. Whilst this perhaps does not invoke the local vernacular it is within a context where it would not be overtly out of place.

It is worth acknowledging that from a design perspective, given the location the site the proposed building design does not make the landmark statement that perhaps a residential/office based scheme could have otherwise offered. Attempts were made to seek alternative site layouts and positions for the building on the site, i.e.: nearer the road to provide a frontage but the design of the store and its car park is key to the retailer and the offer it wants to make its customers. It is not considered appropriate to pursue a design reason for refusal given its setting.

The remaining aspect that can help unify the site with its context and perhaps enhance its overall appearance compared to the neighbouring retail site is the scheme of soft landscaping. The proposal includes significant tree planting. This will ensure the prominent roadside perimeter of the site receives trees which will provide in time a visual softening of the built form and structure to the streetscape. A streetscape which itself, through the public realm contribution, will be enhanced and greened-up through a separate Council project. The small retaining wall to the frontage of the site will be rebuilt and will be topped by railings. The levels on the site will be manipulated a little to create a flatter car parking area.

It is considered with suitable and reasonable conditions in place to agree the specific facing/landscaping materials and some tweaking to species choice within the soft landscaping scheme the proposal would accord with the relevant criteria of policies EQ2 and EQ5 of the Local Plan and the NPPF.

Aspects relating to pollution control are covered in the next section but in terms of residential amenity it is generally felt that the removal of the derelict buildings and the former garage use and the construction of a low rise retail building will improve the amenity of residents at Wyndham Court. As such a good standard of amenity would be safeguarded or indeed enhanced by the proposal in accordance with policy EQ2 of the Local Plan and the NPPF.

There are no immediately adjacent heritage assets to the site; the nearest listed building is the Dental Practice (Osborne House) further along Sherborne Rd and it is considered its setting will not be harmed by this development. The public realm works will in fact improve and enhance the immediate public highway to that site in accordance with policy EQ3 of the Local Plan.

### **Pollution Control/ASB**

The particular issue of contaminated land is considered in a later section. The proposed retail unit could bring rise to noise disturbance through its initial construction and on-going operation and it is noted there are residential properties close by to the north-east. In terms of the construction phase a Construction Management Plan could be requested by condition and a separate condition could control construction hours in accordance with policy EQ7 of the Local Plan.

The application is supported by a Noise Report which sets out the potential sources of noise from the on-going operation and how they can be mitigated. A noise mitigation scheme condition could be imposed.

After an air quality assessment was requested, its findings were accepted with the dust control measures suggested. The air quality impact assessment during the operational phase was also seen to be satisfactory based on an agreed methodology. As such no mitigation measures are seen to be required.

It is considered with suitable and reasonable conditions in place the proposal would accord with policy EQ7 of the Local Plan and the NPPF.

The Police Architectural Liaison Officer has also reviewed the plans and his recommendations included in revised plans where possible to accord with policy EQ2 of the Local Plan. Whilst it is acknowledged the management of the site is one for the site owner in other similar schemes an access barrier to prevent unneighbourly use outside of business hours has been requested. In this case it is noted that neither the adjacent retail site nor the application site when operating as car sales have had barriers.

It would be considered reasonable to agree details of all external lighting via condition to accord with policies EQ2 and EQ7 of the Local Plan and in the context of existing street lighting. Lighting of advertisements/signage will require separate consent on which the merits can be assessed.

### **Highways**

Vehicular access to the site is proposed off Sherborne Road via an arrangement that has caused some concern to officers, members of the public and indeed the Highway Authority. Through the receipt of amended plans the Highway Authority has however withdrawn its objections and advised of suitable conditions.

The proposal would provide 104 car parking spaces and dedicated cycle and motorbike parking. This is considered to be an appropriate level of car parking based on maximum standards in the Local Plan (policy TA6) and the Parking Strategy

The site is already easily accessible by foot given its location on the edge of a large residential area however given the edge of town centre location it was agreed with the applicant that an enhanced connection to the town centre allied to other schemes being developed by the Yeovil Refresh Project would be a positive aspect of any approval, hence the development of a scheme of public realm enhancement in Sherborne Road from the site towards the Wyndham St/Newton Road junction, inclusive of an on-road cycle linkage and a bus stop. The cycle linkage would extend that indicative scheme secured as part of the development of the Old Creamery on Newton Road. Whilst there is a notional bus stop in the vicinity of the former Western Gazette offices and the Dental practice, this is not even flagged let alone benefitting from a shelter and level access kerbing.

It is acknowledged this is not being asked for by the Highway Authority who instead seek a full travel plan with £2,000 (plus VAT) monitoring fee and £44,875 safeguard sum plus the on costs of green travel vouchers. A Travel Plan of course seeks to promote a greater choice to use more sustainable transport modes and reduce the need and desire to use the car but fundamentally fails to secure the hard infrastructure to facilitate those sustainable modes. It was recognised by the case officer that here was an opportunity to secure a cycle linkage and a bus stop plus the public realm improvements that would not only benefit the development being considered but also the wider area, rather than ringfencing circa £47,000 for green travel vouchers via a Travel Plan that lasts only for five years and seeks to achieve a small amount of modal shift within a relatively small workforce. It was considered appropriate in this instance to set aside the Highway Authority request for Travel Plan to be secured by s106 and instead secure an enhanced financial payment for the hard infrastructure and public realm that would enable sustainable transports trips to be made more easily. The applicant has agreed to this approach. The agreed sum of £157,000 would sit alongside the sum already secured via the Old Creamery scheme contribution and monies held by the Council for Lower Middle Street.

Conditions suggested by the Highway Authority have been considered and some are not felt to be necessary or could be covered by other conditions. A CEMP and marked out parking could be secured by condition.

Whilst it is acknowledged the application fails to satisfy policy TA4 because a Travel Plan will not be secured by s106, there are other benefits that it is considered outweigh that matter. In every other regard the proposal would satisfy the requirements of policies SS6, TA1, TA3, TA5, TA5 and TA6 of the Local Plan, the Parking Strategy and the NPPF.

#### **Flooding and Drainage**

The site lies within Flood Zone 1 and so at low risk from fluvial flooding. The development of the site offers an opportunity to improve surface water drainage arrangements with on-site attenuation and controlled release. The LLFA, after considering additional information withdrew their objection and propose a condition to seek full details of the scheme based on the intended approach. Wessex Water raised no objections.

#### **Contaminated Land**

The application is supported by a Geo-Environmental Report which assesses the geo-environmental aspects of the site, including the site's historical land use, potential resulting contamination and associated risks.

The comments of the Environmental Protection Unit are noted. In this regard a condition is suggested to determine what, if any, remediation is required. It is considered that with a suitable and reasonable condition in place the proposal would accord with policy EQ7 of the Local Plan and the NPPF.

#### **Wildlife**

The application is supported by an Ecological Appraisal and after comments made by the Council's Ecologist a further Bat Survey was undertaken.

Due to the presence of a bat roost, the applicant will require a licence from Natural England (to be applied for after the grant of planning permission) before demolition of buildings used by bats can proceed. Outline mitigation measures have been suggested and a condition could secure full details to be agreed.

The Conservation of Habitats and Species Regulations 2010 requires this report to consider the following tests. The tests are:

1. the development must meet a purpose of 'preserving public health or public safety or other imperative reasons of overriding public interest including those of a social or economic nature

- and beneficial consequences of primary importance for the environment'
2. 'there is no satisfactory alternative'
  3. the development 'will not be detrimental to the maintenance of the population of the species concerned at a favourable conservation status in their natural range'.

Consideration of test 1 - The primary objective is to redevelop a brownfield, vacant and derelict site for the benefit of the area, for job creation and to facilitate inward investment in the town in the public interest. Surveys have been undertaken to ensure the impact on bats is adequately mitigated and compensated for in the proposal.

Consideration of test 2 - The location of the bat roost would require the retention of a building that would severely compromise the amount of developable land and that would bring the viability of a scheme into question and would not be the best solution for the bats themselves. A new purpose built roost located on the site would remain undisturbed and provide a more sheltered roosting environment than what currently exists.

Consideration of test 3 - It is considered that favourable conservation status is likely to be maintained due to only low numbers of bats being present on this site and the securing of appropriate mitigation by condition.

Assessment of this matter ensures the proposal is compliant with The Conservation of Habitats and Species Regulations 2010, the NPPF and policy EQ4 of the Local Plan.

Recommendations from the ecological appraisal are still offered to increase biodiversity; these could be covered by a condition. It is considered with suitable and reasonable conditions in place the proposal would accord with policy EQ4 of the Local Plan and the NPPF.

### **Archaeology**

There is no known archaeological interest in the site.

### **Sustainable Construction**

Policy EQ1 states the Council will support proposals for new development where they have demonstrated how climate change mitigation and adaption will be delivered. Policy EQ1 aims for a BREEAM rating of 'excellent' for non-domestic buildings.

Whilst the proposal appears not to meet these standards the Design and Access Statement sets out the applicants' corporate aspirations in waste reduction and energy efficiency so it is clear it will go some way to meeting the policy requirements and will meet Buildings Regulations which may involve the use of PV panels. The building will also be built in such a way that it can be adapted and extended easily meaning it will have flexibility for future use.

The scheme technically falls short of the requirements of Policy EQ1 of the Local Plan.

### **Public Consultation**

Prior to the submission of the planning application there was pre-application discussion undertaken with the LPA. The applicants also held a public exhibition. The approach to the application on the part of the applicant and agent cannot be faulted.

## **ENVIRONMENTAL IMPACT ASSESSMENT**

The development falls on land more than 0.5ha in size, so under Schedule 2, Part 10(b) a screening opinion should be sought. The site is not sensitive and so with the benefit of the reports submitted with the application and the subsequent consultation responses raising no significant issues it is likely an opinion will be issued prior to the committee meeting stating that environmental effects are unlikely and

an EIA is therefore not required.

## **PLANNING OBLIGATION UNDER SECTION 106**

If approved the applicant would be required to enter into an agreement to secure the £157,000 towards the environmental/sustainable transport improvements in and around Sherborne Rd.

In addition Members will need to consider whether to restrict the range of product and services which can be sold/offered from the store via legal agreement akin to other deep discount approvals in the town.

## **SECRETARY OF STATE CONSULTATION**

On the basis of a floor area of 1,743sqm, and therefore less than the 5,000sqm threshold for development outside town centres, no referral is required.

## **CONCLUSION**

This case boils down to Cattle Market versus Olds Garage, one fast emerging scheme in the town centre and one more definitive application on the edge of the town centre.

In the context of the Cattle Market a long-term eyesore and albatross around the neck of the Council and the town could finally be moving towards a positive outcome in line with the Council's aspirations set out in Yeovil Refresh. The picture in the town is changing and keeping to clear policy objectives and the setting of direction is part of breeding confidence for inward investment. Approving anomalies or low hanging fruit creates confusion for those wanting to invest; the Council needs to let the new direction settle and become established. We can have it all.

There has been time for exchange of views, the evidence is there to question or accept. Only time will tell. The ball is now firmly in the court of Benson Elliot to justify this recommendation to Members and the general public.

## **RECOMMENDATION**

### **Refuse planning permission for the following reason:**

01. The proposal represents a main town centre use on an edge-of-centre site. Paragraph 86 of the National Planning Policy Framework (2018) and Policy EP11 of the South Somerset Local Plan indicate main town centre uses should be located in town centres if suitable sites are available or are expected to become available within a reasonable period. Evidence submitted indicates there are two town centre sites that are suitable and available in a reasonable period and therefore are deemed sequentially preferable if flexibility is applied.

Paragraph 90 of the National Planning Policy Framework (2018) states an application that fails the sequential test should be refused.

Whilst the proposal has tangible benefits, the benefits of developing one of the sequentially preferable sites, namely Yeovil Cattle Market, where investment is planned, would have significant other overriding, long-term and knock-on benefits that represent a significant material consideration to this case.



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Council Offices		HighwaysDevelopmentControl@somerset.gov.uk
Brympton Way		
Yeovil	my reference:	your reference:
Somerset	TD/PA/5/119	17/02896/FUL
BA20 2HT	[0059]	

**FAO: Simon Fox**

18 April 2018

Dear Mr Fox

### **TOWN AND COUNTRY PLANNING ACT 1990**

**Demolition of existing buildings and the erection of a Class A1 (retail) store with associated access, parking, ancillary works and landscaping.**

**APPLICATION REFERENCE: 17/02896/FUL**

I refer to the amended plans for the above planning application. The Highway Authority has the following observations on the highway and transportation aspects of this revised proposal.

#### **Traffic Impact**

The Highway Authority maintains no objection in principle to the revised plans in consideration of the previous use of this site.

#### **Travel Plan**

A revised Travel Plan (TP) has been submitted in support of the application, which has addressed the majority of the issues previously raised by the Highway Authority. The exception is the level of private car parking, which is addressed in a separate section of this response, but this would not prevent the approval of the revised TP.

The Highway Authority recommends that the delivery of this TP, including the £2,000 (+VAT) fee and £44,875 safeguarding sum, be secured by agreement under the Town and Country Planning Act 1990. For clarity any use of the safeguarding sum, if required, will be made in consultation with the site Travel Plan Co-Ordinator to ensure the most relevant measures are promoted. The Safeguarding sum (or any remainder if it has been called upon) will be returned to the developer at the end of the TP period, along with any interest accrued.

## **Parking**

The overall car parking level remains above the optimum set within the adopted Somerset County Council Parking Strategy (SPS), and no justification appears to have been submitted to support this. While the level of additional space is not such that it would warrant an objection from the Highway Authority, it does indicate that there is scope for alterations to address some minor issues with the proposed layout. For example, while the supporting response states that 6 disabled parking spaces will be provided, only five appear to be shown marked on the submitted plan.

With this in mind, it is recommended that a condition be imposed on any planning consent to require the submission of plans for the parking area layout for subsequent approval by the Local Planning Authority (LPA).

The commitment to include adequate cycle and motorcycle parking and to provide 6 electric vehicle charging spaces is welcomed, and these should be provided within any final layout.

## **Highway Works**

### **General**

A number of further details will be required as part of the approval process for works on or affecting the public highway, including cross sections, long sections, surfacing, lighting, kerb details, service diversions, and aids to movement. However, a submission of plans to this level of detail is not required at the planning stage, and they can be provided subsequent to the grant of any planning consent.

### **Access**

The revised plans have addressed a number of issues previously identified regarding the proposed right turn lane. However, the dimensions for the turning length and deceleration length appear incorrect, and will need adjustment within the final design. In addition, no dimensions appear to be shown for the altered footway on the south-eastern side of A30 Sherborne Road, and the applicant should note that a minimum width of 1.8 metres must be maintained.

The vehicular visibility splays provided do not meet the manual for Street standard for the measured 85<sup>th</sup> percentile speeds when factoring the presence of larger vehicles (including public service vehicles) expected on the A class road. Nevertheless, bearing in mind the 30mph speed limit and existing access at this site, the Highway Authority does not object to this proposal. However, the applicant is encouraged to amend the design if possible to extended the 'y' distance to 54m to the right at exit (rather than 46m) and 60m to the left (rather than 50m).

The proposed 'x' distance of 400mm for pedestrians is not acceptable, as this is unsafe for wheelchair users and people with pushchairs. An 'x' distance of at least 1.5m should be shown on all pedestrian splays, together with a 'y' distance appropriate for the vehicle traffic speed. Revised plans will be required to demonstrate this, and the submission of such plans is therefore recommended as a condition on any grant of planning consent.

The applicant is reminded that the proposed alterations to the public highway will need to be controlled under a suitable legal agreement.

## **Internal Layout**

The proposals have been amended such that the internal access kerb radii now allow for the smooth passage of traffic. However, the layout still retains a number of conflicts in close proximity to the access onto A30 Sherborne Road, and the Highway Authority still has some concern that this could impact on the operation of the public highway. While the improved kerblines help reduce this risk, the applicant is still encouraged to consider amending the layout if practical (for instance, by making the aisle circulation one way within the parking block to the north east of the site, which would also remove the risk of conflict between opposing flows adjacent to parking space number 98).

The revised swept path of the delivery vehicle now demonstrates that deliveries are possible within the site confines, addressing the Highway Authority's previous concerns.

## **Drainage**

Full details will be required of the highway drainage for the works on or affecting the public highway. This can be provided subsequent to the grant of any planning consent, but a suitable condition is recommended on any approval.

## **Conclusions**

The amended plans have addressed the majority of concerns previously raised by the Highway Authority, which therefore does not object to this application. The imposition of a number of conditions is recommended on any planning consent, for example to ensure that the final parking layout is appropriate and that the access to the site is safe for all users, including pedestrians.

The proposed right turn lane is acceptable in principle, but the final design will need to be controlled by a suitable legal agreement, and the applicant should be aware that this will include a technical approval process that may result in some modification to any design approved at the planning stage.

Full drainage details will be required for works affecting the public highway, but these can be provided subsequent to any planning consent.

It is recommended that the delivery of the Travel Plan be secured by agreement under section 106 of the Town and Country Planning Act 1990.

With the above in mind, the Highway Authority recommends the imposition of the following conditions on any planning consent granted by the Local Planning Authority:

- No part of the development hereby permitted shall be occupied or brought into use until the construction of suitable vehicular and pedestrian access to the development has been carried out in accordance with a design and specification to be approved in writing by the Local Planning Authority and to be fully implemented in accordance with the approved details, unless otherwise agreed in writing with the Local Planning Authority;

- Before the new development is brought into use, the new pedestrian and cycle arrangements to include cycling and walking accesses through the boundary of the site where deemed necessary shall be laid out, constructed and drained in accordance with a detailed scheme to be submitted to and approved in writing by the Local Planning Authority;
- A Condition Survey of the existing public highway will need to be carried out and agreed with the Highway Authority prior to any works commencing on site, and any damage to the highway occurring as a result of this development is to be remedied by the developer to the satisfaction of the Highway Authority once all works have been completed on site;
- The gradient of the access way shall not at any point be steeper than 1 in 10 for a distance of 10 metres from its junction with the public highway. This part of the access shall be maintained at that gradient thereafter at all times;
- Provision shall be made within the site for the disposal of surface water so as to prevent its discharge onto the highway, details of which shall have been submitted to and approved in writing by the Local Planning Authority. Such provision shall be installed before (trigger point) and thereafter maintained at all times;
- To ensure orderly parking on the site and thereby decrease the likelihood of parking on the highway, the car parking area shown on the submitted plan shall be marked out in accordance with a scheme to be agreed by the Local Planning Authority prior to the car park being brought into use. The parking area and access thereto shall thereafter be kept clear of obstruction at all times and not used other than for the parking of vehicles in connection with the development hereby permitted or for the purpose of access;
- All the recommendations of the Approved Travel Plan shall be implemented in accordance with the timetable therein. Thereafter the development shall operate the Approved Travel Plan or any variation of the Travel Plan agreed in writing by the Local Planning Authority;
- No development shall commence unless a Construction Environmental Management Plan has been submitted to and approved in writing by the Local Planning Authority. The works shall be carried out strictly in accordance with the approved plan. The plan shall include:
  - Construction vehicle movements;
  - Construction operation hours;
  - Construction vehicular routes to and from site;
  - Construction delivery hours;
  - Expected number of construction vehicles per day;
  - Car parking for contractors;
  - Specific measures to be adopted to mitigate construction impacts in pursuance of the Environmental Code of Construction Practice;
  - A scheme to encourage the use of Public Transport amongst contractors; and
  - Measures to avoid traffic congestion impacting upon the Strategic Road Network

As some work relating to this development will need to be undertaken within or adjacent to the existing public highway, the following note should be added to any planning certificate:

*The applicant will be required to secure an appropriate legal agreement for the works within or adjacent to the public highway required as part of this development, and they are advised to contact Somerset County Council to make the necessary arrangements well in advance of such works starting.*

Yours sincerely

Andy Nellist  
Planning Liaison Officer  
Traffic and Transport Development Group  
Economic and Community Infrastructure  
Somerset County Council

ETE-# 843982

## **Appendix 2**

### **Spatial Policy Comments - Application Reference 17/02896/FUL**

Dear Simon,

Further to your correspondence, please find below the Spatial Policy response to the application for the erection of a Class A1 store with associated development including car parking and access arrangements on the site of the former Olds Garage site on Sherborne Road, Yeovil.

As established in law by Section 38(6) of the Planning and Compulsory Purchase Act (2004) and Section 70(2) of the Town and Country Planning Act (1990) (as amended), the starting point for considering this application must be that it is determined in accordance with the development plan unless material considerations indicate otherwise. The following sections therefore consider the application against the development plan in South Somerset and the National Planning Policy Framework (NPPF) as a material consideration.

#### **1. Overview of Main Issues**

The application is to develop a 1,743 sq m gross (1,254 sq m net) class A1 foodstore. For the purposes of your decision-making it is important to make clear two elements. Firstly, the proposed use is classified as a “town centre use” under the terms of the development plan and the NPPF<sup>1</sup>. Secondly, the proposed location should be considered an “edge of centre location”, due to it being approximately less than 300 metres from the edge of Yeovil’s Primary Shopping Area boundary<sup>2</sup>.

Against this context, your decision will need to understand the proposed development’s compliance with the sequential test as defined in Policy EP11 of the South Somerset Local Plan and the National Planning Policy Framework (NPPF).

#### **2. National Guidance**

National guidance is clear that planning should support the vitality and viability of Town centres.

Paragraph 24 of the NPPF requires Local Planning Authorities (LPAs) to apply a sequential test to planning applications for main town centre uses that are not in an existing centre. LPAs are required under this guidance, to seek to locate town centre uses firstly in Town Centres, then edge of centre locations before out of centre locations. When considering edge of centre and out of centre sites, preference should be given to accessible sites that are well connected to the Town Centre. There is a requirement for applicants and LPAs to demonstrate flexibility on issues such as format and scale when considering sites.

Paragraph 27 is clear that an application should be refused where it fails to satisfy the sequential test.

The National Planning Practice Guidance (PPG) states that it is for the applicant to demonstrate compliance with the sequential test. Paragraph 010: Reference ID 2b-010-

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<sup>1</sup> As defined in the NPPF, main town centre uses constitute retail development (including warehouse clubs and factory outlet centres); leisure, entertainment facilities the more intensive sport and recreation uses (including cinemas, restaurants, drive-through restaurants, bars and pubs, night-clubs, casinos, health and fitness centres, indoor bowling centres, and bingo halls); offices; and arts, culture and tourism development (including theatres, museums, galleries and concert halls, hotels and conference facilities).

<sup>2</sup> As defined in the NPPF, an edge of centre location for retail purposes is a location that is well connected and up to 300 metres from the primary shopping area.

20140306 outlines a checklist of considerations that should be taken into account when assessing the proposal against the sequential test. This checklist includes the requirement for an applicant to demonstrate flexibility in terms of the format and scale of the proposed development “...it is not necessary to demonstrate that a potential town centre or edge of centre site can accommodate precisely the scale and form of development being proposed, but rather to consider what contribution more central sites are able to make individually to accommodate the proposal.” The PPG is also clear that out of centre sites should only be considered if suitable sites are not available. When considering edge of centre and out of centre proposals, preference should be given to accessible sites that are well connected to the town centre.

### **3. South Somerset Local Plan (2006-2028)**

#### **3.1. The Sequential Test**

Policy EP11: Location of Main Town Centre Uses requires applicants to seek to locate developments on sequentially preferable sites. Sequentially preferable sites in Yeovil being:

- within the Yeovil Town Centre Shopping Area, followed by
- Edge of Centre locations, then
- Out-of-Centre sites that are, or will be served by a choice of sustainable modes of transport and are close to the centre.

The policy explains that applications for “town centre uses”, which are not in an existing Town Centre and are not in accordance with the Development Plan should be refused planning permission where the applicant has not demonstrated compliance with the sequential approach to site selection, or there is clear evidence that the proposal, either alone, or combined with other recent outstanding permissions would seriously affect the vitality and viability of a nearby town centre.

#### **3.2 Impact Assessment**

Policy EP12 of the South Somerset Local Plan (2006 – 2028) requires applications in excess of 2,500 sq m gross, in Yeovil, to be accompanied by a Retail Impact Assessment. This application falls below the threshold and therefore the assessment of impact is not a material consideration.

As you are aware there is another supermarket proposal in Yeovil, this being for 8,443 sq m of gross retail floorspace on Bunford Park, Yeovil (17/02805/HYBRID). Retail impact is a material consideration for this Bunford park scheme. The Council has therefore commissioned a retail consultant to assess the impacts of the proposed scheme on the vitality and viability of Yeovil town centre. As part of this exercise the assessment has considered the trading effects of the proposal on the former Olds Garage site in order to assess the cumulative impact of both this schemes.

In summary the assessment concludes that if the Council are minded to approve the proposal on the former Olds Garage site, this would increase the severity of the likely impact of the Bunford Park proposal. This should be noted. The full detailed assessment by the retail consultant on behalf of the Council is appended.

### **4. Consideration of the Applicant’s Sequential Test**

The applicant has undertaken a sequential test in support of the application. There are some key minimum criteria which have influenced the process:

- i. Floorspace – a site that can accommodate a minimum sales area of 1,140 sq m and a gross area of 1,800 sq m
- ii. Car parking – a site with a surface level car park of a gradient of no more than 1:60 with a minimum of 100 spaces adjacent to the store.

- iii. A site visible from a principal route and direct vehicular access to and from that route.
- iv. Minimum site area of 0.6 hectares.

The applicant has demonstrated some flexibility, whether this is sufficient is dealt with under the consideration of sites and the sequential test below.

The applicant considers the following sites:

1. Cattle Market
2. Stars Lane South/Box Factory
3. Glovers Walk and Bus Station
4. Vincent's Garage and Quedam Centre Extension, and
5. Vacant Town Centre Sites

Their test concludes that there are no suitable and available sequentially preferable vacant units or sites within or on the edge of Yeovil town centre. Having reviewed the submitted site assessment, it is accepted that the following sites are either currently not suitable and/or available and thus cannot be regarded as sequentially preferable to the proposed site.

- **The Cattle Market**

The Cattle Market site is a vacant, brownfield Town Centre site. Whilst not currently allocated in the Local Plan, the South Somerset Retail and Town Centre Uses Study (July 2017) identifies the site as having good development potential with the ability to accommodate a mix of uses including potentially a medium sized/discount foodstore. The Council views the site as a significant redevelopment opportunity, appropriate for a range of uses including retail and these aspirations are articulated in the recently launched Yeovil Town Centre Refresh documents. To summarise, the applicant has dismissed this site as it is not suitable or viable for a standalone discount foodstore of the size proposed.

To support the argument that the site is not suitable, the applicant refers to a Development Brief for the site which supports a mixed use scheme with small and medium sized retails units at ground floor with residential above. They consider that large format retailing would not be in accordance with the aspirations of the Development Brief and would therefore be unsuitable for the site. For clarity, this Development Brief was approved in 2007 it is now over ten years old and was conceived in a different economic climate, outside of the new approaches to considering retail development as defined in the NPPF, PPG and case law. The Council intends that the new Yeovil Refresh work will replace this Development Brief. The refresh work states that Council is prepared to be flexible on the precise mix of uses on the Cattle Market to maximise a market solution for the site. Additionally, the Council has indicated that alternative forms of development would be considered on the site and a large-format retail unit could be acceptable as part of a re-development scheme. Therefore contrary to the applicant's view, large format retailing would be considered on this site and in the context of paragraph 24 of the NPPF, the site is suitable for the proposed development.

Whilst there is no reference to viability as part of the sequential test in either the Local Plan or paragraph 24 of the NPPF, viability is a material consideration when applying the sequential test and considering the deliverability of alternative, sequentially preferable sites, and referred to in the PPG (para 012). The PPG states that local planning authorities need to be realistic and flexible in terms of their expectations. With this in mind, the applicant states that the Cattle Market is unsuitable for the proposed development as the costs associated with bringing it forward make it an unviable proposition. The site is large and complex and the Yeovil Refresh acknowledges that the potential redevelopment costs when coupled with landowner expectations have led to previous schemes stalling. The applicant has included some financial information to support their case that a scheme would not be viable on the basis that costs would exceed the value of the scheme. Whilst this

information is in relation to a different scheme from that currently proposed, on the evidence presented, it would appear that the proposed development would be unviable without other forms of development on site. Therefore, whilst the site is suitable, it appears to be undeliverable for the proposed development. I would suggest the valuation evidence be reviewed to ensure this is the case.

Neither the landowner nor the applicant has confirmed whether the site is available.

- **Stars Lane/Box Factory/South Street Car Park**

This site comprises three Town Centre sites which occupy a prominent location fronting the main route between the centre of town and the Yeo Leisure Complex. Stars Lane Car Park is a strategically important car park in the town centre and the Yeovil Refresh work is clear that the redevelopment of the whole car park is not considered appropriate at this time. The Council is currently working up a development brief for the Box Factory/South Street Car Park which indicates a mixed use scheme, residential led with a leisure or food element to improve the public realm in this part of the town centre and unlock further town centre development proposals.

The site is discounted by the applicant on the basis that it is not available or suitable based on the fact that it is identified in the Local Plan as the Summerhouse Village (Policy YV3) – a strategic location for a mixed use scheme to be delivered later on in the plan period. The Local Plan does suggest that the Summerhouse Village concept is unlikely to be achieved until late in the plan period which runs to 2028. One of the reasons for this is that the concept is recognised to have viability issues, particularly the funding of replacement of car parking spaces. Despite this designation the site has previously been identified by the Council as a sequentially preferable site (Lidl application, 2015). At that time the Council was taking a pragmatic approach to the development potential of the site and was prepared to accept a foodstore on site if that could kick start a range of investment opportunities and contribute to the overall vision for the area. Even then, the long term aim remained for a mixed-use scheme, which balanced housing, retail, leisure, and employment as part of the ‘urban village’ concept.

Since this application, the Yeovil Refresh work has progressed and it is now clear that the site has strong development potential for residential use, including potential affordable, key worker and retirement housing. This use will increase the amount of people living in the town and encourage more activity and overall vibrancy which is currently lacking in this location, particularly within the period between 5pm-9pm the “five pm flight period”. This is a key aim for the town, recognised in the Yeovil Refresh. Public realm and transport improvements in this location are associated with the residential development. On the basis of the above, it is therefore accepted that the site, whilst suitable, is not available for the proposed development.

- **Glovers Walk/Bus Station.**

The Bus Station and Glovers Walk is a substantial Town Centre site at the eastern end of Yeovil. The site is identified in the Yeovil Refresh as a significant development opportunity to substantially transform the lower part of the town centre which is currently dated, has high vacancies and poor public realm. The applicant has discounted the site on the basis that it is too large, is in active use and has tenants, including the bus station, which would need relocation, rendering the site unsuitable and unavailable.

In reality the site consists of two distinct plots, the Bus Station and Glovers Walk. The Bus Station is 0.75 hectares and Glovers Walk is 0.24 hectares. The refresh work identifies that Glovers Walk could come forward independently but this is too small for the proposed scheme even if further flexibility in format and scale were demonstrated. This site is therefore not considered suitable. The Bus Station is owned by a single landowner and is

leased to the Council for 99 years to provide a bus service. There is potential to redevelop the site but there are no plans currently. On the basis of the above, it is accepted that at the current time, Glovers Walk and the Bus Station are not sequentially preferable alternatives as they are not suitable and/or available for the proposed foodstore.

- **Vincent's Yard and Quedam Extension**

The site is a Town Centre site which includes Vincent's Garage which is in active use. Whilst the site is referred to as the "Quedam Extension", there is no planning permission for this extension. The Council resolved to grant permission for the redevelopment of the site to provide an extension to the established Quedam centre in 2008 but the Section 106 Agreement was not signed and the application was finally withdrawn in 2014. The applicant has discounted the site on the basis that it is not suitable or available to accommodate the proposed supermarket.

The site is identified in the South Somerset Retail and Town Centre Uses Study (July 2017) as having good development potential in the short to medium term, with the ability to accommodate a mix of uses including potentially comparison goods retailing, food and beverage and leisure uses. Convenience goods retailing is not mentioned.

Based upon the evidence received from Benson Elliot (the owners of the Quedam Centre), the site was previously identified as a sequentially preferable site (Lidl application, 2015). It could accommodate the proposed development and is therefore suitable. However since that time, nothing has progressed with regards to the proposed application for the Quedam Extension and the site remains in an active use, therefore it is accepted that at this current time, the site known as Vincent's Yard and Quedam Extension is not available and cannot be classed as sequentially preferable.

Whilst it is accepted that the above sites are not sequentially preferable, it is advocated that there are is one site which is sequentially preferable to the Old's Garage site. This has been discounted by the applicant but could accommodate the proposed development. This is the former Bhs site in the Town Centre.

- **Former Bhs Unit**

The former Bhs unit in the Quedam Centre is the only current vacant unit of sufficient size in Yeovil Town Centre which could accommodate the proposed supermarket. In summary the applicant has discounted the unit on the basis that it is not suitable, viable or available.

The applicant states that the vacant unit is not physically suited to a the proposed foodstore because it is too large, lacks free parking, lacks at grade trolley access and has difficult servicing arrangements. This unit was previously a supermarket and there are examples elsewhere of Aldi sharing larger units with other operators (Bournemouth) and therefore these reasons for discounting the unit are not accepted and lead me to question whether the applicant has demonstrated sufficient flexibility in format and scale in their consideration of the site for the purposes of the sequential test as required by paragraph 24 of the NPPF.

The applicant also claims that the unit is not available because of current contractual arrangements between the existing lessee and owners of the unit. The unit is however being actively marketed and therefore the points regarding availability made by the applicant needs to be evidenced further before the site is considered to be not available as required in paragraph 24 of the NPPF. Additionally the marketing information suggests that subdivision would be considered and therefore the size of the building, if explored further, is not necessarily an issue, subdividing the unit into two larger units would actually assist in future proofing the town centre from future out of centre schemes such as the recent TX Maxx at the Peel Centre.

### Conclusion on Sequential Test

Based on the above it is advocated that the application fails the sequential test because it has not considered all potentially suitable sites and premises and because there are sequentially preferable premises available in Yeovil Town Centre that could accommodate the proposed development if the applicant applied flexibility to the format of the proposed development. The application should therefore be refused on this basis that it is not in accordance with Local Plan Policy EP11 and the NPPF and PPG.

### 5. Health of Yeovil Town Centre

Whilst no Impact Assessment has been undertaken by the applicant to support the application because given the size of the proposal, there is no policy requirement to undertake such an assessment. I would however like to set a context for your decision making by outlining some key factors that illustrate the health of Yeovil Town Centre.

Yeovil accommodates the principal Town Centre in the District. Yeovil as a whole accounts for nearly 74% of retail floorspace provision in South Somerset however nearly 45% of that retail floorspace is outside the town centre<sup>3</sup> (this figure includes the Peel Centre at Babylon Hill and food shopping facilities) and there are permissions yet to be implemented at the Peel Centre including permission for 1,895 sq m of A1 retail floorspace adjoining the existing Argos.

Yeovil's position as a retail centre has declined over time. In 2007, Yeovil was ranked 118<sup>th</sup> in Javelin's VenueScore<sup>4</sup>, in the latest rankings (2016) it has slipped to 160<sup>th</sup>. This could be due to the loss of some key national multiple retailers to out of centre locations.

The Council's Annual Retail Monitoring demonstrates that whilst vacancy rates in Yeovil Town Centre are improving, they are still higher than the national average (11.2%):

Year	Total Premises within Town Centre	Vacancies	%
2006	487	46	9.44
2007	468	48	10.25
2008	468	49	10.47
2009	471	61	12.95
2010	472	56	11.86
2011	480	56	11.66
2012	480	71	14.79
2013	480	72	15.00
2014	483	75	15.52
2015	488	70	14.34
2016	No Monitoring was undertaken in 2016		
2017 (Nov)	471	67	14.2

(Town Centre Monitoring, SSDC Spatial Planning)

The fall in Yeovil's national ranking since 2007, the rise in vacancies and the loss of a number of key national multiple anchor retailers to out-of-centre shopping locations clearly demonstrates that its overall vitality and viability is vulnerable to further challenge from out-of-centre retailing, as well as the threat of online shopping. Clearly the loss of further retailers, turnover and shoppers to new out-of-centre retailing will further significantly erode

<sup>3</sup> South Somerset Retail and Main Town Centre Uses Study, Lichfields 2017

<sup>4</sup>The Javelin VenueScore is widely used as a key indicator to help inform the changing attraction and performance of different shopping locations from year-to-year.

investor and business confidence in the future growth and performance of the town centre, especially in the current volatile retail market.

The Council recognises the situation with regard Yeovil Town Centre and is investing in its regeneration. The Yeovil Refresh, one of the Council's key priorities is identifying projects and initiatives to deliver tangible benefits to the economy of the town.

## **6. Overall Conclusion**

The applicant is looking to develop a 1,743 sq m gross (1,254 sq m net) class A1 foodstore.

The proposed use is classified as a main "town centre use" and the proposed location is classified as an "edge of centre" location. As required by the Local Plan and NPPF, the applicant has undertaken a sequential test in support of this proposal, which concludes that there are no sequentially preferable sites in Yeovil Town Centre. This conclusion has not been fully evidenced as the vacant unit (formerly BHS) within the town centre has not been sufficiently discounted.

This proposal is contrary to Local Plan Policy EP11 and Paragraph 27 of the NPPF, as it fails the sequential test because there are sequentially preferable premises/sites suitable and available for the proposed development.

The fact that the application is not in accordance with the South Somerset Local Plan, must be weighed against the fact that the proposal will generate jobs and realise trade and investment in an edge of centre, brownfield site.

**30<sup>th</sup> April 2018**

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YOUR REF: 17/02896/FUL

OUR REF: J0010581

**By email to:** [simon.fox@southsomerset.gov.uk](mailto:simon.fox@southsomerset.gov.uk)

12 June 2018

Dear Mr Fox

## **PLANNING APPLICATION FOR CLASS A1 (RETAIL) STORE YEOVIL ON THE OLDS GARAGE SITE, SHERBORNE ROAD, YEOVIL (REFERENCE: 17/02896/FUL)**

### **FURTHER REPRESENTATIONS ON BEHALF OF BE YEOVIL BV**

1. BE Yeovil BV has instructed Carter Jonas ('CJ') to prepare further representations on their behalf against the full planning application by Marlin Land (Yeovil) Limited (the 'applicant') for a new Aldi store on the former Olds Garage Site off Sherborne Road. The applicant is seeking permission for, inter alia:
  - a new single-storey retail store with a gross (internal) area of 1,743 sqm.;
  - a net sales area of 1,254 sqm.;
  - a dedicated service yard;
  - parking for 104 cars (along with some parking for motorcycles and bicycles); and
  - space for access and landscaping.
2. As South Somerset Council (the 'Council') is aware, our client is a major investor and stakeholder in Yeovil town centre; with a long-leasehold interest in the Quedam Shopping Centre. They have also recently secured a 5-year option on the Cattle Market site, and have plans to redevelop the site for a mix of uses, including a foodstore. As a consequence they are naturally very concerned about the scale and likely impact of any development proposals for new retail (food and non-food) floorspace and other town centre uses outside the town centre on the overall vitality and viability of their existing and planned investments, and on the town centre as a whole.
3. This letter specifically refers to the key findings and advice of the Council's Spatial Policy Officer; as published on the Council's planning portal on 30<sup>th</sup> April 2018. It also sets out our response on behalf of our client to the most recent letter prepared by Mango on 13<sup>th</sup> March 2018, which was uploaded to the Council's planning application proposal in mid-May, and provides further evidence in support of the applicant's sequential assessment and.

4. To help inform our representations we have also, where necessary, made reference to the 'Assessment of Impact' ('AI') report prepared by GVA for the Council in March 2018. Although this report principally examines the 'solus' impact of the proposed Sainsbury's foodstore at Bunford Park on the town centre, it is material to the Council's decision-taking in this case as it also assesses the 'cumulative' impact of Sainsbury's and the Aldi application. GVA's report was also informed by an on-street survey of visitors to Yeovil commissioned in November 2017 to help understand shopping patterns/ preferences and the extent of linked trips across the centre, as well as other key trends.
5. We ask that the Council reads this letter objecting to the Aldi application alongside our previous representations submitted to the Council in August 2017. In summary, these August submissions advised the Council that the application for a new Class A1 foodstore should be refused on the basis that it fails both the sequential and impact tests.
6. As we explain in our August representations, the size of the proposed Aldi store falls below the impact threshold of 2,500 sqm gross as set out in Policy EP12, which states that this is "*generally*" regarded as being of a scale that would not result in significant adverse impacts. However, in our view, the use of the word "*generally*" indicates that there could be instances when the impact of proposals falling below the threshold should be assessed. Furthermore, it should be recognised that where there are other proposals and/or commitments, such as Sainsbury's in this case, retail impact should be examined in the context of the combined or cumulative effect of these developments. Against this background we conclude that the proposed store will have a significant adverse impact on the vitality and viability of Yeovil Town Centre, and specifically on our client's planned investment for a new foodstore on the Cattle Market site. In the context of local and national planning policy objectives to ensure the vitality and viability of town centres, the impact on the town centre has to be a material consideration in this case, and we stress that it cannot and should not be ignored by the Council.
7. It remains our strongly held view that the application proposal is not compliant with paragraph 27 of the *National Planning Policy Framework* (NPPF) and with Policies EP11 and EP12 of the Local Plan. It should therefore be refused by the Council on this basis. There are also no benefits of the application proposal in our judgement that significantly outweigh its impacts and non-compliance with national and local plan policy objectives, and the Government's over-riding 'town centre first' policy objective.
8. As a major stakeholder in the town centre our client therefore respectfully asks that CJ's further representations on their behalf are afforded significant weight in the Council's overall decision making process.
9. In terms of the structure of this letter, we first cover the applicant's sequential approach in more detail based on the most recent submission by Mango, and then set out our view as to why it is reasonable and appropriate for the Council in this case to refuse the application on impact grounds.

## SEQUENTIAL TEST

10. At the outset we should state that we welcome and support the findings of the Council's Spatial Policy team (dated 30<sup>th</sup> April 2018) that the application fails the sequential test. As the Spatial Policy team conclude in their advice, the applicant:

*"...has not considered all potentially suitable sites and premises and because there are sequentially preferable premises available in Yeovil Town Centre that could accommodate the proposed development if the applicant applied flexibility to the format of the proposed development" The application should therefore be refused on this basis that is not in accordance with Local Plan Policy EP11 and the NPPF and PPG".*

11. We have previously advised the Council in our representations of August 2017 that the applicant has not demonstrated sufficient flexibility in their overall assessment of the availability and suitability of potential sites and/or buildings in and on the edge of the town centre; and specifically the Cattle Market site. We have also provided examples of other developments where greater flexibility has been applied in terms of store format, scale, layout and parking provision.
12. On this matter the NPPF (paragraph 24) is clear that applicants and local planning authorities “*should demonstrate flexibility on issues such as format and scale*”. The Government’s online Planning Practice Guidance (‘PPG’) provides further advice on the issue of flexibility stating that: “*It is not necessary to demonstrate that a potential town centre or edge-of-centre site can accommodate precisely the scale and form of development being proposed, but rather to consider what contribution more central sites are able to make individually to accommodate the proposal*” (ID 2b-010020140306).
13. As the Council are also aware, the application and interpretation of the sequential test – and specifically the issue of “*flexibility*” - has been informed by a series of appeal/call-in decisions and Case Law<sup>1</sup> since the publication of the NPPF in 2012 and the PPG in 2014. Further to these decisions, we would also like to take the opportunity to draw the Council’s attention to a recent appeal decision issued on 20<sup>th</sup> December 2017. This S78 decision pertains to the refusal of a Class A1 retail park on land at Kingswood, Hull<sup>2</sup> and provides further evidence and guidance with regard to the appropriate application and interpretation of the sequential test, and specifically the key issues of “*availability*”, “*flexibility*” and “*disaggregation*”. It is therefore material to the Council’s overall assessment and determination of the current application proposal on sequential grounds.
14. Although we do not propose to cover the decision in full here for the sake of brevity, some of the Inspector’s more relevant comments and conclusions are as follows:
  - **Availability** – the Inspector considered it would be “*unreasonable to exclude sites as non-available where there is a reasonable prospect that they will be both vacant and in single ownership within a matter of months*” (paragraph 58).
  - **Flexibility** - in terms of “*form*” or “*format*” the Inspector (paragraph 33) indicated that this could include: whether the proposal can be provided in one or more buildings: whether space is on one or

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<sup>1</sup> Including:

- ‘Dundee Decision’: Tesco Stores Limited v Dundee City Council [2012] UKSC 13 (March 2012)
- ‘Zurich Decision’: Zurich Assurance Limited v North Lincolnshire Council [20th December 2012] – High Court of Justice [EWHC 3708 (Admin)];
- Scottish Widows v Cherwell District Council [17th December 2013] – High Court of Justice [EWHC 3968 (Admin)];
- ‘Rushden Decision’: [S77 Inquiry] LXB (Rushden) Limited, Northampton Road, Rushden (11 June 2014) - (ref: APP/G2815/V/12/2190175);
- ‘Mansfield Decision’: Aldergate Properties Ltd v Mansfield District Council – High Court of Justice (8th June 2016) [Case No: CO/6256/2015];
- ‘Exeter Decision’: [S78 Inquiry] Appeal by CPG Development Projects Ltd for a mixed use development on land north of Honiton Road, Exeter (APP/Y1110/W/15/3005333);
- ‘Great Yarmouth Decision’: [S78 Inquiry] relating to application for retail park consisting of Class A1 retail (3 units) and Class A3/A5 café/restaurants (2 units) (APP/U2615/W/15/3136604) (September 2016);
- ‘Truro Decision’: [S78 Inquiry] relating to application for a mixed use scheme consisting of a Class A1 retail of 6,708 sqm at Threemilestone, Truro (APP/D0840/W/15/3137929) (October 2016);
- ‘Scotch Corner Decision’: [S77 Inquiry] relating to application for Designer Outlet Centre on land west of A618 Barracks Bank, Scotch Corner, North Yorkshire (APP/V2723/V/15/3132873 & APP/V/16/3143678) (1<sup>st</sup> December 2016)
- ‘Tollgate Decision’: [S78 Inquiry] relating to new retail, leisure and mixed use scheme on land at Tollgate Village, Tollgate West, Stanway, Colchester, Essex (APP/A1530/W/16/3147039) (4<sup>th</sup> August 2017)

<sup>2</sup> ‘Hull Decision’: [S78 Inquiry] relating to new Class A1 and Class A3/A5 floorspace totalling 11,148sqm (GIA) on land North of Ashcombe Road and Barnes Way, Kingswood, Hull HU7 3JX (APP/V2004/W/17/3171115) (December 2018)

more levels; how individual units are laid out; and how and where parking and servicing provision is made.

- **Disaggregation** - the Inspector found that although it is “*not explicitly referred to in current national policy ... neither is it explicitly excluded*” (paragraph 54). He also referred to the Inspector’s conclusions with regard to the Tollgate appeal, where disaggregation within the sequential test was justified. He also referred to the fact that ‘sub-division’ was also considered in the Dundee case. Against this background the Hull Inspector assessed the potential for disaggregation as part of the overall sequential approach and concluded that there were two town centre sites that could accommodate the out-of-centre retail floorspace proposed, after applying reasonable flexibility on issues such as format and scale.

15. Turning to the **Cattle Market** site we can confirm that it is available for development, as our client has recently secured a 5 year option after a period of protracted negotiation with the landowners. A project design team is in place and we have entered into pre-application discussions with the Council with regard to proposals for a mixed-use development scheme on the site, to include a new foodstore.
16. Our client’s plans for the Cattle Market are fully in accordance with the Council’s own aspirations for the site, as articulated by the *Yeovil Town Centre Refresh* (February 2018), and supported by the *2017 South Somerset Retail and Town Centre Uses Study* (SSRTCUS 2017).
17. The Cattle Market site is therefore available and suitable for a new foodstore development in the town centre.
18. Although there is no reference to viability as part of the sequential test in the NPPF (paragraph 24), our client has confirmed that a foodstore as part of a wider mix of uses on the Cattle Market site would be viable and deliverable over the short term. A foodstore-led scheme remains our client’s preferred development option for the site and this has been the key objective for them from the outset in seeking to secure an option on the site.
19. However, as the Council will be aware, the overall viability of a foodstore-led development option will depend on securing a strong branded operator. Clearly if permission is granted by the Council to the out-of-centre Aldi store and/or to the application for a Sainsbury’s on the Bunford Park site, then this would significantly undermine the viability of delivering a foodstore-led scheme on this important and strategic town centre site.
20. The fact that our client now has an option on the Cattle Market site and is planning to take forward a new foodstore-led mixed use scheme should therefore be all the evidence that the Council needs at this stage to demonstrate that the site is viable for the proposed Aldi application.
21. Notwithstanding this, we are surprised by the fact that the Spatial Policy team appear to have placed undue weight on the additional information presented by Mango in their letter dated 13<sup>th</sup> March 2018. This sets out the applicant’s assessment of the Cattle Market site and Mango’s assertion that the costs of development would exceed the value of the scheme. In their assessment of the site’s viability the Spatial Policy team conclude that whilst this viability appraisal is in relation to a different scheme from that currently proposed and at a different point in time:

*“...on the evidence presented, it would appear that the proposed development would be unviable without other forms of development on site. Therefore, whilst the site is suitable, it appears to be undeliverable for the proposed development. I would suggest the valuation evidence be reviewed to ensure this is the case”.*

22. The Council's conclusion that the site appears to be undeliverable for the proposed development is quite simply wrong and cannot be justified.
23. The limited market and viability evidence presented by Mango is dated, applies to a different scheme at a different time, and cannot be crudely used to infer that our client's plans for the Cattle Market site are unviable. As stated above, our client has secured a 5-year option on the site and is seeking to bring it forward for development. It therefore has to be assessed as being suitable and viable, as it can accommodate the application proposal.
24. Mango also support their position by reference to the potential constraints to development highlighted in the Council's February 2018 *Refresh* study. To be clear, our client is fully aware of the history of the site and the potential constraints and challenges it poses to development. Nonetheless, they have still proactively sought and secured an option on the site over a period of time, as it is their long-held view that a foodstore-led option is viable. On this point the Council will also be aware that the *Refresh* study also recognises that:

*"Due to the scale and complexity of the site it is anticipated that a private sector developer is most likely to bring the site forward". It also states that: "Overall the site is considered to have strong development potential for a range of uses considering its proximity to the town centre, Quedam, hospital and surrounding residential uses".*

25. Furthermore, based upon our client's own review of Mango's other points that the Cattle Market site is not suitable or viable for the proposed Aldi store, their response is as follows:
  - The developer whose scheme is discussed never signed an option or exchanged a conditional contract on the site and thus their efforts were speculative and at risk. In such circumstances developers will normally limit their exposure to abortive costs by not pursuing exhaustive site diligence and detailed design development. Our client has a long term, embedded commitment to and investment in Yeovil and, as such, has the time and resource to fully work-up a proposal which addresses design matters and fully delivers the widest value proposition.
  - Our Client is also the owner of Vincents Yard site, which sits between the Cattle Market and the Quedam Centre. From an economic perspective, there is substantial value synergy between the two. From a design perspective, a far more attractive and direct pedestrian connection can be made between the Cattle Market and the heart of the town centre. The larger footprint over which to design a scheme also results in many more deliverable solutions to the extant topography and the ability to step away from boundaries thus alleviating issues that may have constrained other schemes. For both reasons, development viability is significantly enhanced.
  - Cattle Market's development can now be seen within the context of a wider set of potentially enhancing proposals identified within the Council's *Refresh* document, which was not part of the strategic landscape at the time the previous schemes were conceived.
26. Furthermore, even if Aldi state that the Cattle Market site does not meet their requirements and is not suitable or viable for their needs – which Mango inevitably do state is Aldi's position in their submissions in support of the current application – the Council must be aware that allowing either or both of the Aldi and Sainsbury's out-of-centre foodstores, this will effectively 'blight' the viable commercial option for a foodstore on the Cattle Market site.
27. For the reasons we set out below, this will also have a significant adverse impact on our client's existing and planned investment in the town centre. Moreover, the Council will appreciate that even if another foodstore operator was potentially seeking space in Yeovil, they would not choose to locate on the Cattle Market site in the knowledge that Sainsbury's and/or Aldi have been granted permission to trade outside the town centre. Yeovil's crowded grocery sector would simply not be able to sustain another foodstore

operator; and the Council's own evidence-based study has clearly demonstrated that there is no expenditure capacity.

28. As the Council will also be aware from the *Refresh* study, locating the foodstore in this highly visible and sustainable location in the heart of the town centre would also maximise the benefits for the town's overall vitality and viability and the local economy (as measured by turnover, jobs and GVA), as it would help to generate and strengthen footfall, linked trips and expenditure to other shops and businesses in the town.
29. With regard to the vacant former **BHS Unit**, our client has confirmed that the unit is available and suitable to accommodate the application proposal, assuming reasonable flexibility is applied on issues such as format and scale. Our client therefore fully supports the conclusions reached by the Spatial Policy team in this case that the former BHS unit does represent a sequentially preferable location and the application should therefore be refused on the basis that it is not in accordance with Local Plan Policy EP11 and the NPPF. In terms of Mango's recent submission on the availability and suitability of the BHS unit, our client's comments are as follows:
  - Subject to occupier interest, the store can be available with vacant possession within a few months by way of a surrender of the existing lease. Whatever the passing rent is, our client is seeking a longer term use that would benefit the shopping centre and the town as a whole, and thus their substantial investment. The viability of the subdivision is driven by long term asset management considerations.
  - The store is suitable for sub-division in-line with the footprint proposed by the Aldi application.
  - The Centre has significant parking available, and dedicated spaces could be made available given the capacity. Our clients have recently initiated a specific customer discount/free hours scheme with a gym operator who has recently taken a unit within the Quedam Centre; thus demonstrating their flexibility with regard to competitive parking options for specific customer groups.
  - There are a range of servicing options, including a new bay leading from the Quedam's main service area, suitable for all vehicles, rather than the smaller one serving only the former BhS store.

#### IMPACT TEST

30. At the outset we should state that we do not agree with the applicant's or the Council's position that the impact of the proposed Aldi is not a key material consideration in this case. Although the application proposal falls below the 2,500 sqm impact threshold, we have clearly demonstrated as part of our sequential assessment that allowing the Aldi store would have a significant adverse impact on our client's planned investment and development of the Cattle Market site for a foodstore-led scheme.
31. At the outset our client wants the Council to be aware that any diversion of shoppers and expenditure from the town's shops and business to the Aldi proposal does represent a serious cause for concern given the fragility of the town centre specifically and the retail sector generally. On this basis it is our view that the level of trade diversion and impact on the town centre arising from the Aldi will be significantly adverse.
32. Further to this the GVA appraisal of both the Sainsbury's and Aldi applications clearly demonstrates that the level of cumulative impact would be high and, in our view, significantly adverse. The table below summarises the forecast impacts on the town's total retail (convenience and comparison) turnover and is reproduced from GVA's appraisal (also refer to Tables 21-24 at Appendix III of their Appraisal).

**Table 2: Total Cumulative Impact on Class A1 Retail in Yeovil Town Centre**

Store / Location	Lower Pre-Impact Comparison Goods Scenario (%)	Higher Pre-Impact Comparison Goods Scenario (%)
Convenience goods	-26.3%	-26.3%
Comparison goods	-6.0%	-4.2%
Total Class A1 retail impact	-11.2%	-8.4%

Source: GVA 'Assessment of Impact' (March 2018). Table 3.2, page 35.

33. As GVA conclude (paragraphs 3.9/3.10), "...the effect of permitting Bunford Park in addition to Olds Garage will increase the scale of negative impact on the town centre".
34. As set out in our objections to the Sainsbury's application proposal, the impact on planned investment of allowing Aldi has to be considered against the town's health and performance, and the fact that it is clearly fragile and vulnerable to further competition from online and out-of-centre retailing. As GVA concluded in their appraisal, the town centre is "under pressure from external factors" (paragraph 2.85) and they identified a number of key trends with regard to the changing performance and health of the town centre since 2006 based on the available evidence<sup>3</sup>:
- Although the town centre's comparison goods turnover grew from £228m in 2006 to £267m in 2009, it has since fallen back to £252m in 2018.
  - The increase in the town's turnover over this 12-year period of circa 11% is significantly below the growth in comparison goods spending of circa 48%.
  - The town has lost market share since 2006. GVA (paragraph 2.84) state that this is most likely explained by competition from online shopping and from other competing shopping facilities, including out-of-centre stores.
  - GVA also point to the on-going high vacancy rate in the town centre "as a sign that either there is too much space in the centre and/or demand is poor" (paragraph 2.85).
35. The Council's own *Refresh* study published in February 2018 also highlights weaknesses in the town centre's shopping environment and offer, including:
- a poor diversity of uses;
  - limited convenience provision, and a need to focus new foodstore provision in the town centre to act as an anchor and increase the vitality of the centre going forwards;
  - the poor quality of the shopping pitch towards the lower end of Middle Street/Glovers Walk, which is characterised by a number of vacancies; and
  - a lack of modern retail units
36. The fragility of Yeovil Town Centre as a shopping destination also cannot be dissociated from the wider trends in the UK's retail property and occupier market. Beginning with Woolworths in 2008, there have been a significant number of retail casualties and failures over the last decade that have had, and are having a significant impact on the status, composition, vitality and viability of many of our high streets and town centres.
37. Yeovil Town Centre has not been immune to these wider trends in the market. It has experienced the loss and closure of a number of major retailers over the last decade; including Mothercare to out-of-centre

<sup>3</sup> Including the evidence-based studies prepared for the Council - 2017 Retail Study, 2009 Retail Study Update and 2006 Retail Study.

shopping locations, and the closure of BHS – a large format store in the town centre that still remains vacant. The direct consequences of this are high vacancy rates across the town centre– as identified by the Council’s own studies – and a fall in the centre’s Javelin *VenueScore* Ranking from 118<sup>th</sup> in 2007 to 160<sup>th</sup> in 2016. The Council should also aware that the closure of BHS in 2016 will have lowered the town centre’s ranking even further.

38. Recent announcements by New Look, Marks & Spencer, Poundworld and House of Fraser amongst others that they are to close more stores underlines the ongoing fragility of the retail sector. This is clearly not a cyclical trend. Our towns, high streets and shopping centres are facing significant structural and economic challenges to their future vitality and viability due to the growth in online and out-of-centre shopping, the decline in retailer demand for (physical) shops/space and fundamental changes in shopper behaviour and preferences.
39. Even where shop units are occupied, this can often mask the fact that many benefit from rent-free terms and/or short term leases. This effectively means that retailers can vacate stores at relatively short notice. Added to this the recent use (and potential misuse) of Company Voluntary Arrangements (CVAs) - a form of insolvency that allows retailers to cut rents and shut stores when the only alternative is administration - is also creating increased pressure on the ability to commit to new investment across the UK; including for our client.
40. This ‘*perfect storm*’ of falling turnover and footfall, high and growing vacancy rates, limited rental growth, reduced market demand and the loss of key anchor stores from the town centre over the last decade has also inevitably impacted on occupier, business and investor confidence in the town. Allowing Aldi in this case, either on its own or in combination with the Sainsbury’s application, would clearly increase the competitive position of out-of-centre shopping locations in Yeovil, making them even more attractive to occupiers and shoppers than the town centre. The combination of larger stores, extensive free parking, lower occupancy costs, easier accessibility by car and other advantages make it difficult for town centres to compete ‘on a level playing field’. Cumulatively this would further harm existing and planned investment in the town centre.
41. It is against this background that the impact on our client’s existing investment – the Quedam Centre – and their planned investment to extend the town’s shopping and wider offer on to the Cattle Market site has to be considered, and ultimately in our view afforded significant weight by the local planning authority. In this case allowing the out-of-centre Aldi store would clearly have a significant adverse impact on our client’s plans to deliver a new foodstore on the Cattle Market site. As our sequential assessment has highlighted, a foodstore-led mixed use development would effectively be rendered unviable, leaving limited alternative viable development options available to extend and strengthen the town centre’s shopping and leisure offer; which remains the priority for the Council.
42. This impact on our client’s existing and planned investment would also occur at a critical time when the Town Centre as whole is facing up to the challenges of the rapidly changing retail sector, and the long term impact of online retailing and out-of-centre retailing. Our client is clear that although the retail and town centre economy is “*holding up*”, it is highly fragile and vulnerable to impact. Permission for another out-of-centre scheme at this stage in its recovery will seriously harm existing and planned investment in Yeovil Town Centre, including operator demand and, it follows, the town’s overall vitality and viability.
43. Further to this, the potentially significant adverse impact on existing, planned and committed public sector investment in the town centre should not be under-estimated. For example, the Council’s own *Refresh* study published in February 2018 has identified a 5-year strategy aimed at delivering ‘quick wins’ and transformational projects as part of the longer term transformation of the town centre. Key to this will be Council led and funded improvements to the public realm and spaces, that will help to engender business and investment confidence in the town centre. Clearly allowing this major out-of-centre foodstore application would be at odds with the Council’s own strategy for its town centre, as it would potentially harm

the delivery of a number of the key initiatives and projects set out in the *Refresh* strategy. For the Council's information the impact on public sector investment in town centres – ranging from improvements to the public realm to new development projects – was a key issue that was taken into account by the Inspector at the recent Hull inquiry<sup>4</sup>.

44. It is against this background that we also conclude that the application proposal will have a significant adverse impact on the town centre's overall vitality and viability, and specifically on planned investment. It is therefore contrary to the NPPF (paragraphs 26-27) and to Local Plan policy objectives, and in our view it should also be refused by the Council on this basis.

## CONCLUSIONS

45. In conclusion, we agree with and strongly support the advice issued by the Council's own Spatial Policy team that the application proposal fails the sequential test and is therefore contrary to Local Plan Policy EP11 and the NPPF (paragraph 27).
46. In our judgement the applicant proposal will also have a significant adverse impact on the vitality and viability of Yeovil Town Centre, and specifically on our client's planned investment for the Cattle Market site. Allowing Aldi would effectively remove a potential key tenant for the Cattle Market site – notwithstanding the fact that Aldi inevitably state that they do not have an interest in the site at present – and would undermine the overall viability and deliverability of the site for a foodstore-led mixed use scheme. A foodstore on the Cattle Market is our client's longstanding preferred development option, and the reason why they have spent a considerable period of time securing the option on the site.
47. Allowing the Aldi application would also be contrary to South Somerset's Local Plan strategy for the town centre and the Council's recent *Yeovil Refresh* (February 2018), which promote new investment and development in the town centre first as a priority.
48. In terms of any potential economic and employment gains from the application proposal, we do not consider that these outweigh the fact that there are sequentially preferable sites/premises available and suitable to accommodate the Aldi in the town centre; assuming reasonable flexibility on issues such as format and scale. Any benefits would be further outweighed by the significant adverse impact on our client's planned investment in the town centre. The likely loss of footfall and expenditure, reduced market share, increased store closures and vacancies, loss of jobs, etc., arising from the failure to secure a key tenant for the Cattle Market site will further damage the overall vitality and viability of the town centre at a time when it is facing up to significant challenges from online and out-of-centre shopping, and the wider dynamic changes in the retail property and occupier sector.

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<sup>4</sup> 'Hull Decision': [S78 Inquiry] relating to new Class A1 and Class A3/A5 floorspace totalling 11,148sqm (GIA) on land North of Ashcombe Road and Barnes Way, Kingswood, Hull HU7 3JX (APP/V2004/W/17/3171115) (December 2018); see paragraphs 118 to 131.

We trust that our further representations on this application proposal are helpful to the Council in their decision making. Should you require any further information please do not hesitate to contact Dr Steven Norris in the first instance. In the meantime, we respectfully request the opportunity to review and comment on any additional information submitted by the applicant and other parties pertaining to this application.

Yours faithfully

A handwritten signature in black ink, appearing to read 'Steven Norris', with a stylized flourish at the end.

**Dr Steven Norris, Head of Regeneration**  
**Prepared for and on behalf of CARTER JONAS LLP**

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YOUR REF: 17/02896/FUL

OUR REF: J0010581

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12 September 2018

Dear Mr Fox

## **PLANNING APPLICATION FOR CLASS A1 (RETAIL) STORE YEOVIL ON THE OLDS GARAGE SITE, SHERBORNE ROAD, YEOVIL (REFERENCE: 17/02896/FUL): FURTHER REPRESENTATIONS ON BEHALF OF BE YEOVIL BV**

1. This letter has been prepared by Carter Jonas ('CJ') on behalf of BE Yeovil BV, the owners of the Quedam Shopping Centre in Yeovil. It should be read alongside our previous letters (submitted to the Council in August 2017 and June 2018) objecting to the full planning application by Marlin Land (Yeovil) Limited (the 'applicant') for a new Aldi store on the former Olds Garage Site off Sherborne Road. The applicant is specifically seeking permission for, a new single-storey retail store in an out-of-centre location<sup>1</sup> with a gross (internal) area of 1,743 sqm (1,254 sqm net), to be served by 104 surface-level parking spaces and a dedicated service yard. This letter seeks to update and reinforce our previous objections, and to help inform the Council's decision-taking in this case.
2. As the Council will be aware, our most recent representations dated 12<sup>th</sup> June 2018 presented robust and comprehensive evidence<sup>2</sup> on behalf of our client, and in support of the advice of the Council's own Spatial Policy Officer (dated 30<sup>th</sup> April 2018), that there are suitable sites/premises currently available in the town centre that could accommodate the application proposal; assuming reasonable flexibility on issues such as format and scale. On this basis we advised the Council that the application clearly fails the sequential test and is contrary to Local Plan Policy EP11 and the NPPF. It should therefore be refused on this basis.
3. Further to this we also advised the Council in our June 2018 letter<sup>3</sup> that the proposed Aldi will have a significant adverse impact on the vitality and viability of Yeovil Town Centre, and specifically on our client's existing and planned investment for the Cattle Market site and the letting of the former BHS unit in the Quedam Centre. Allowing Aldi would effectively remove a potential key tenant for both sites, and would undermine the overall viability and deliverability of the Cattle Market site for a foodstore-led mixed use

<sup>1</sup> By way of clarification the 2018 NPPF (Annex 2) defines edge-of-centre for retail purposes as a location that is well connected to, and up to 300 metres from, the primary shopping area (PSA). Out-of-centre is defined as a location that is not in or on the edge of a centre, but not necessarily outside the urban area.

<sup>2</sup> Refer to paragraphs 10-29 of CJ's letter dated 12 June 2018.

<sup>3</sup> Refer to paragraphs 30-44 of CJ's letter dated 12 June 2018.

scheme. The application should therefore also be refused by the Council on the basis of its significant adverse impact on existing and planned investment in the town centre.

4. Since we submitted our representations in June 2018 the Government has issued an update of the *National Planning Policy Framework* ('NPPF') in July 2018. Although the revised NPPF replaces the 2012 NPPF, it maintains and strengthens the '*town centre first*' policy approach that has been in place since the mid-1990s. Furthermore the changes to the wording in Section 7 of the NPPF aimed at '*ensuring the vitality of town centres*' provide even stronger justification for the refusal of the application proposal on both sequential and impact grounds. The new NPPF is therefore highly material to the Council's overall review, assessment and determination of the Aldi application.
5. Against this background the following is intended to provide further information, where we consider it is needed, to help inform the Council's decision-taking in this case.

### Sequential Test

6. In terms of the sequential test, paragraphs 86 and 87 of the 2018 NPPF state:

*"Main town centre uses should be located in town centres, then in edge of centre locations; and only if suitable sites are not available (or expected to become available within a reasonable period) should out of centre sites be considered."*

*When considering edge of centre and out of centre proposals, preference should be given to accessible sites which are well connected to the town centre. Applicants and local planning authorities should demonstrate flexibility on issues such as format and scale, so that opportunities to utilise suitable town centre or edge of centre sites are fully explored."* (text underlined represents new wording and did not appear in the 2012 NPPF).

7. The 2018 NPPF therefore differs from the 2012 NPPF in a number of respects that are highly material to the Council's assessment and determination of the application proposal.
8. Firstly, paragraph 86 allows for greater flexibility in assessing the **availability** of sites than the 2012 NPPF (paragraph 24) as it clarifies that only if suitable town and edge-of-centre sites are not available "or expected to become available within a reasonable period" should out-of-centre sites be considered. The reference to a "*reasonable period*" means that sites/buildings do not need to be available "*immediately*" for occupation/development (i.e. at the time the application is made). This is also supported by the Tollgate decision where the Inspector concluded that: "*...depending on the circumstances of the case, having to be immediately available for occupation seems somewhat too restrictive*" (IR, para 17)<sup>4</sup>. This interpretation was further underlined by the Inspector at the recent Hull appeal inquiry<sup>5</sup>.
9. Secondly, and as highlighted above, although paragraph 87 maintains the need for applicants and local planning authorities to demonstrate **flexibility** on issues such as format and scale (as was stated in paragraph 24 of the 2012 NPPF), it now goes on to clarify that this is "*...so that opportunities to utilise suitable town centre or edge of centre sites are fully explored*". This revised wording, and the specific reference to the consideration of sites (plural) rather than site (singular) confirms the view that "*disaggregation*" remains an important part of the sequential test and should be applied on a case-by-case basis. This view is underlined by recent appeal and call-in decisions. For example, the Tollgate

<sup>4</sup> 'Tollgate Decision' - (S78) relating to new retail, leisure and mixed use scheme on land at Tollgate Village, Tollgate West, Stanway, Colchester, Essex (APP/A1530/W/16/3147039) (4th August 2017).

<sup>5</sup> 'Hull Decision' - (S78) relating to new Class A1 retail and A3/A5 totalling 11,148 sqm GIA on land at Kingswood, Hull (APP/V2004/W/17/3171115). See Inspector's Decision, paragraphs 58-59.

(Colchester) Inspector concluded that there “...is nothing in the PPG that suggests that sub division is not to be considered. Indeed, sub division was considered in the Dundee case itself” (paragraph 12.3.10). The Hull Inspector also concluded that although disaggregation is not explicitly referred to in current national policy (i.e. the 2012 NPPF at the time of his decision), neither is it explicitly excluded (paragraph 54). This more flexible approach is also supported by other decisions, including Exeter<sup>6</sup>, where the SoS agreed with the Inspector’s conclusion and refused the application for a mixed use development. In this case the appellant had argued that the alternative site could not accommodate the proposed access road, parking or the drive-through aspect of the proposed restaurants. In his conclusions the Inspector found that the configuration of floorspace needed “would be no more than showing reasonable flexibility” (para 11.32) and it would be “unreasonable” to insist on the same requirement for parking and access in a town centre, as the town has ample parking, service roads and excellent links to public transport (para 11.33). Furthermore, in the often quoted Rushden Lakes decision the Inspector in this case also concluded that it was reasonable when assessing “flexibility” to consider: “...flexibility in a business model, use of multi-level stores, flexible car parking requirements or arrangements, innovative servicing solutions and a willingness to depart from standard formats” (para 8.49)<sup>7</sup>.

10. Therefore, based on the 2018 NPPF and recent inquiry decisions, it is clear that the consideration of sites in town and edge of centre locations as part of the sequential test does not depend upon their ability to accommodate surface level parking, or the exact ground floor (‘single storey’) footprint proposed. Applying reasonable flexibility in this case would therefore allow for a reduction in the overall site area and footprint to be assessed. It would also negate the need for dedicated surface-level car parking to directly serve the proposed store, as it is assumed that this need can be met by existing parking capacity across the town centre.
11. The potential for greater flexibility to be applied in this case is further underlined by the fact that foodstore operators, including Aldi, are actively applying different store business models and formats to different locations to secure representation. For example, Aldi has recently taken on the former Waitrose store in Camden, London, which comprises 1,115 sqm (12,000 sq ft) at ground floor and 279 sqm (3,000 sqft) at first floor; and has also taken a c.840 sqm (9,000 sq ft) former Poundland store in Archway, London<sup>8</sup>. Aldi also operate similar stores from other high street locations across the UK, including in Kilburn and Kingston, as do Lidl.
12. The key point to be made with regard to the Council’s assessment and determination of the out-of-centre Aldi proposal on the former Olds Garage site is that there are currently two available, suitable and viable sites in the town centre in this case that could accommodate the proposed store assuming some flexibility is applied in compliance with the 2018 NPPF (paragraphs 86-87) and the PPG.
13. The first site is the **Cattle Market** site. As we explained in our June 2018 representations, our client secured a 5-year option on the Cattle Market site on 18<sup>th</sup> June 2018 after a period of protracted negotiations with the landowners. This means that our client, for the first time, is now in full control of the site and is therefore able to manage, plan and deliver its comprehensive regeneration and development alongside their longstanding plans for the Vincent Yard site. Together the regeneration of these sites will help to extend the range and quality of the Quedam Centre’s offer and environment to the benefit of the town centre’s overall vitality and viability, and in accordance with the Council’s local plan policies and the recent Town Centre *Refresh* strategy prepared by the Council in February 2018. The site is therefore clearly available.

<sup>6</sup> ‘Exeter Decision’ – (S78) Honiton Road, Exeter (30th June 2016) (ref: APP/Y1110/W/15/3005333)

<sup>7</sup> ‘Rushden Decision’ – (S77) LXB (Rushden) Limited, Northampton Road, Rushden (11 June 2014) (APP/G2815/V/12/2190175).

<sup>8</sup> <http://news.costar.co.uk/en/assets/news/2018/July/Aldi-swoops-again-in-London-as-expansion-continues/>

14. Over the Summer months, since securing the option on the Cattle Market site, the project design, transport, planning and commercial teams working with the client has been preparing detailed options and plans for the both the Cattle Market and Vincent Yard sites comprising a mix of retail, leisure, residential and employment uses. Following recent discussions with the Council these plans have been further refined and a formal pre-application submission is now scheduled for the end of September. Our client's stated objective is to work in partnership with the Council to submit a planning application by Spring 2019, with the aim of securing planning permission by Autumn 2019. Even if the site was not currently available – which it clearly is - this timescale represents more than a “*reasonable period of time*” in this case in the context of paragraph 86 of the NPPF and recent inquiry decisions.
15. Our previous representations have also clearly identified that the Cattle Market site represents a suitable and viable sequentially preferable location to accommodate the proposed Aldi store. As the Council is aware from our recent discussions, the emerging plans clearly show the potential for the Cattle Market site to accommodate a Class A1 retail unit of approximately 4,650 sqm (50,000 sqft) with associated access, servicing and parking. Subject to sub-division in this specific case, the proposed retail unit would therefore more than meet the needs of Aldi for a store of at least 1,743 sqm gross, and this is even before assuming some flexibility in terms of format and scale as required by the NPPF and PPG. Our client's emerging plans for the Cattle Market are also fully in accordance with the Council's own aspirations for the site, as articulated through local plan policy, the *Yeovil Town Centre Refresh* (February 2018) and the *2017 South Somerset Retail and Town Centre Uses Study* (SSRTCUS 2017).
16. Turning to the **former BHS store**, our letter of June 2018 (paragraph 29) provided an unequivocal response and rebuttal to the additional information presented by Mango in their letter to the Council dated 13<sup>th</sup> March 2018. Our response clearly explains that the former BHS retail unit is available and suitable to accommodate the proposed Aldi store, assuming reasonable flexibility is applied in terms of format and scale normally associated with town centre developments and business models (see above). We are also aware of a subsequent email to the Council from Mango dated 14<sup>th</sup> June 2018. This mainly repeats the points Mango raised in their earlier correspondence dated 13<sup>th</sup> March, which we addressed in full in our letter of 12<sup>th</sup> June 2018. For avoidance of doubt, and by way of clarification, our client has confirmed the following with regard to the availability and suitability of the former BHS unit:
- The store is suitable for sub-division in-line with the footprint proposed by the Aldi application.
  - The Centre has significant parking available, and dedicated free car parking spaces could be made available given the capacity. Our client has recently initiated a specific customer discount/free hours scheme with a gym operator who has recently taken a unit within the Quedam Centre; thus demonstrating their flexibility with regard to competitive parking options for specific customer groups.
  - At grade customer parking could be provided by creating a rear entrance to the adjacent open car park deck.
  - There are a range of servicing options, including a new bay leading from the Quedam's main service area, suitable for all vehicles, rather than the smaller one serving only the former BHS store.
  - The vacant store has prime high street frontage and benefits from strong passing footfall in a highly sustainable location. An Aldi store in this prime town centre location would draw a significantly higher proportion of shoppers who do not have access to a car, and would generate multi-purpose linked trips to the benefit of other shops, businesses and facilities in the town centre, thereby resulting in a significant positive impact on the town's overall vitality and viability in accordance with national and local planning policy objectives.
  - Subject to occupier interest, the store can be available with vacant possession within a few months by way of a surrender of the existing lease. Whatever the passing rent is, our client is seeking a longer term use that would benefit the shopping centre and the town as a whole, and thus their substantial investment. The viability of the subdivision is driven by long term asset management considerations.

17. Mango also state in their email of 14<sup>th</sup> June that the former BHS unit is not financially viable, as the reported rent and service charges on the unit amount to £500,000, whereas a typical Aldi store is under £300,000. In response our client is clear that it is irrelevant what BHS were previously paying, and a budget for rent and service charges of circa £300,000 in the current market could form the basis for a deal.
18. On this basis, and as far as our client is concerned, there are no insurmountable barriers preventing Aldi from taking space in the former BHS unit. As set out in our June 2018 letter, the only conclusion the Council can reach in this case is that the former BHS unit is also available and suitable for the proposed Aldi, assuming reasonable flexibility is applied in terms of format and scale.

### Impact Test

19. Our objections to the application proposal on impact grounds are set out paragraphs 30-44 of our 12<sup>th</sup> June letter to the Council. Impact is clearly a material consideration in this case; notwithstanding that Aldi falls below the default threshold of 2,500 sqm. As the Council will be aware, paragraph 89 of the revised NPPF also carries forward the impact 'tests' set out in paragraph 26 of the 2012 NPPF which requires assessment of:
  - a) the impact of the proposal on existing, committed and planned public and private investment in a centre or centres in the catchment area of the proposal; and
  - b) the impact of the proposal on town centre vitality and viability, including local consumer choice and trade in the town centre and the wider retail catchment (as applicable to the scale and nature of the scheme).
20. We do not intend to repeat our previous submissions here for the sake of brevity, but we do need to restate our client's fundamental concern that although Yeovil's retail and town centre economy is "*holding up*", it is highly fragile and vulnerable to impact from the growth of both out-of-centre shopping and leisure uses, and the internet. As we highlighted on our June letter, the town suffers from a high vacancy level compared against national averages, and its ranking has fallen from 118<sup>th</sup> in 2007 to 160<sup>th</sup> in 2016. This is before taking account of the closure of BHS which will have increased vacancy levels and reduced the town's ranking even further.
21. It is against this background that the impact on our client's existing investment – the Quedam Centre – and their planned investment to extend the town's shopping and wider offer on to the Vincent's Yard and Cattle Market sites has to be considered against paragraph 89 of the 2018 NPPF, and ultimately afforded significant weight by the local planning authority. In this case allowing the out-of-centre Aldi store would clearly have a significant adverse impact on our client's plans to either deliver a new foodstore anchor in the planned Class A retail unit that will form part of the regeneration of the Cattle Market site, or alternatively fill the still vacant BHS unit in the Quedam Centre.
22. Apart from the impact on our client's investment in the town centre, the potentially significant adverse impact on existing, planned and committed public sector investment in the town centre should not be under-estimated. The Council's own recent *Refresh* study (February 2018) has identified a 5-year strategy aimed at delivering '*quick wins*' and projects as part of the longer term transformation of the town centre. Key to this will be Council-led and funded improvements to the public realm and spaces, that will help to engender business and investment confidence in the town centre. Clearly allowing new out-of-centre retail floorspace would be at odds with the Council's own strategy for its town centre, as it would potentially harm the delivery of a number of the key initiatives and projects set out in the *Refresh* strategy. For the Council's information the impact on public sector investment in town centres – ranging from improvements to the

public realm to new development projects – was a key issue taken into account by the Inspector at the recent Hull inquiry<sup>9</sup>.

23. In summary, if the Council was to grant permission for additional retail (food and non-food) floorspace at this point in time there can be no doubt that it will result in a significant adverse impact on existing and planned retail investment in Yeovil Town Centre, including on already limited operator demand and, it follows, the town's overall vitality and viability.

### Conclusion

24. In conclusion paragraph 90 of the 2018 NPPF repeats the wording of paragraph 27 of the 2012 NPPF stating: "*Where an application fails to satisfy the sequential test or is likely to have significant adverse impact on one or more of the considerations in paragraph 89, it should be refused*".
25. We have clearly demonstrated in all our representations to the Council that the Aldi proposal fails to satisfy the sequential test and is likely to have a significant adverse impact on existing, committed and planned (private and public sector). The application is therefore contrary to the NPPF and Local Plan Policies EP11 and EP12. It is also contrary to the Council's *Yeovil Town Centre Refresh* (February 2018), which is seeking to deliver substantial positive change to the town centre through new development (including support for the regeneration of the Cattle Market site), improvements to the public realm and better transport and parking provision.
26. Finally, in terms of any potential economic and employment gains from the application proposal, these do not outweigh the fact that there are sequentially preferable sites/premises currently available and suitable in the town centre that could accommodate the Aldi application. Any benefits would be further outweighed by the significant adverse impact on our client's planned investment in the town centre. The likely loss of footfall and expenditure, reduced market share, increased store closures and vacancies, loss of jobs, etc., arising from the failure to secure a key tenant for the Cattle Market site will further damage the overall vitality and viability of the town centre at a time when it is facing up to significant challenges from online and out-of-centre shopping, and the wider dynamic changes in the retail property and occupier sector.
27. We trust that our further representations on this application proposal are helpful to the Council in their decision making. Should you require any further information please do not hesitate to contact Dr Steven Norris. In the meantime, we respectfully request the opportunity to review and comment on any additional information submitted by the applicant and other parties pertaining to this application.

Yours faithfully



**Dr Steven Norris, Head of Regeneration**  
**Prepared for and on behalf of CARTER JONAS LLP**

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<sup>9</sup> 'Hull Decision': [S78 Inquiry] relating to new Class A1 and Class A3/A5 floorspace totalling 11,148sqm (GIA) on land North of Ashcombe Road and Barnes Way, Kingswood, Hull HU7 3JX (APP/V2004/W/17/3171115) (December 2018); see paragraphs 118 to 131.



## **Application Reference: 17/02896 Olds Garage, Yeovil Sequential Test Summary Note**

Further to extensive discussion during consideration of the above application this note provides a summary of the applicants consideration of the Cattle Market and the former BHS unit in Yeovil town centre in respect of the sequential test policy tests. These comments should be read in conjunction with the Planning and Retail Statement, and subsequent written submissions made in respect of the sequential test.

### **Cattle Market**

We have provided extensive commentary in relation to the Cattle Market site and its viability, including confidential information provided by a development company who tried to secure and progress a mixed use development on the site in 2015.

The information submitted in March sought to explain the issues that were encountered by that developer in attempting to deliver a viable comprehensive scheme for the Cattle Market site, they also provided a development viability appraisal and details of the abnormal development costs which informed their decision.

The initial scheme sought a comprehensive development reflecting market interest at that time and included an Aldi, Costa and a hotel. However, market interest for new retail space was very limited. The hotel operator withdrew their interest as the scheme evolved. The viability appraisal of the site, based on the identified likely tenant range and taking account of a site abnormal cost of about £1,000,000, delivered a residual land value of only £680,000. The landowner at the time required a land value of over £2,000,000 and would not accept a price reduction. The figures illustrate a fundamental lack of viability of delivering the cattle market for commercial uses, even as a comprehensive scheme.

The abnormal costs identified were the result of a number of factors. In terms of site topography, there is a substantial levels fall across the site of up to 12m. The scheme involved the creation of 3 plateau areas upon which a coffees shop, discount foodstore and hotel would sit as shown on the attached drawing.

Substantial existing retaining structures exist to the south of the site which created structural stability and third party issues. Areas of the site have poor existing ground conditions which had significant associated decontamination costs.

With regard to access the cost of creating an acceptable junction proved an issue. A left in /left out solution meant that traffic could not exit right onto Reckleford Road, a tenant requirement that could not be achieved safely.

The proposal also required as a requisite to any development, effective pedestrian linkage to the town centre, which gave rise to exceptional costs and land take for steps and lift arrangements.

These factors are all acknowledged in the Council's "Yeovil Town Centre Refresh" document published in March 2018 which states in relation to the Cattle Market site that:

*"Nonetheless one of the key issues that will affect the deliverability and viability of the site is the brownfield nature of the site including possible contamination, the sloping nature of the site, ground conditions and the need for demolition. We understand that the costs associated with these factors have led to a previous scheme stalling – particularly when coupled with the landowner's value expectations. In addition, the extent of potential highways works which could be associated with a redevelopment of this site will be a key factor in scheme viability. Due to the scale and complexity of the site it is anticipated that a private sector developer is most likely to bring the site forward. Flexibility on the precise mix of uses is likely to be required to enable and maximise the chance of a market solution being delivered on the site. Where this is not forthcoming public sector intervention may be required to help unlock the site".*

The above demonstrates the costs associated with delivery of a comprehensive redevelopment scheme on this site. Had there been a viable scheme one would have expected an alternative to CPG's proposal to have progressed in the 18 months since they withdrew. No such scheme has emerged.

A single foodstore scheme would be even less viable in this location. The abnormal development costs associated with levels, remediation, infrastructure and access would have to be covered by a single commercial unit alone.

This underscores and supports our previous assessment that this site is unsuitable for the proposed development. I would add that this conclusion is not Aldi specific since the same viability constraints would apply to any similar type or size of foodstore.

I note that the owners of the Quedam centre state that they have agreed an option with the landowner, however, no further information as to site costs, values, or proposals for the sites redevelopment are available at this time for any further assessment to be made of its viability that would contradict the evidence provided above.

## **Former BHS Unit, Quedam Shopping Centre**

In addition to the comments made in our Planning and Retail Statement in relation to the suitability of this site, I would also make the following comments in terms of its availability and viability.

Following the collapse of BHS, the lease (which expires December 2020) fell back to the original tenant Safeway/Morrisons who continue to pay rent, rates and service charge. Morrisons pay a rent of £380,000 per annum, service charge of approximately £120,000 per annum and rates of approximately £188,000 pa. There is an ongoing negotiation between Morrisons and the owners of the Quedam Centre regarding a premium that might be payable to surrender the lease.

Meantime, whilst the unit has been offered to let as a whole, the letting agents report an absence of interest from food retailers. There was interest from B&M Bargains and The Range, however access to the servicing area via the scheme car park could not accommodate the double height articulated lorries used by B&M, and the unit proved too much of a divergence from the standard trading model for The Range. Whilst as a former shop unit it is clearly suitable for retail use, its suitability to accommodate the application proposal for a discount foodstore is a different matter.

Aldi have looked at this unit, and confirmed its position that it does not present a deliverable opportunity for them as the ground floor is too large for their requirements and the basement is not suitable for food retail use. There is no free dedicated parking available, which makes the unit uncompetitive in the Yeovil market, and the servicing arrangement is compromised with the servicing area unable to accommodate appropriately sized delivery vehicles. It is not therefore considered suitable to accommodate the application proposal.

Aldis agents have confirmed that there are several fundamental reasons why the unit would not be suitable even if it could be subdivided to provide smaller units, including the lack of free and at grade customer parking, the pedestrianised location and the servicing arrangements. They confirm that Aldi would not operate a store from this location under any circumstances as they could not trade it under the terms of their business model. Rents and service charges on the unit come to £500k and a typical Aldi store is under £300k, so not financially viable for them in any event.

The store referred to in comments from the Spatial Policy team in Bournemouth is entirely different, where Aldi is situated in a former BHS unit situated in a terrace of purpose built units located on an out of centre retail park, with at grade surface parking directly in front of the store. This is entirely different to the opportunity presented here in Yeovil and a completely different set of circumstances.

We have made extensive comments on the suitability, availability and viability of the BHS unit in previous representations and reiterate that it is our view that the site can be discounted as a sequentially preferable alternative to the application site for all of the reasons previously stated.

We understand that there is demand from retailers seeking smaller units, and have been advised that there is potential to subdivide the unit and that there are negotiations in place with three retailers (solicitors instructed on two lettings). However, to enable these to go ahead, the Quedam owners need to agree terms for surrendering the existing lease with Morrisons which does not expire until the end of 2020. It's availability is therefore questionable.

One of the issues for Quedam owners is that achievable rental levels are significantly lower than currently rents paid by Morrisons until December 2020. The viability of a subdivision proposal is therefore also compromised in any event.

## **Conclusion**

We have demonstrated that the application proposal is compliant with the requirements of the sequential test, and have provided comprehensive commentary in relation to the suitability, availability and viability of the above two sites. It is unsurprising that other commercial organisations are seeking to protect the value of their assets through making their own submissions, and it is of course the Council's role as decision maker to review and weigh up all these comments in assessing the planning balance and the potential benefits and impacts of the application proposal.

As an edge of centre site, immediately adjacent to the town centre in a sustainable location it is considered that the application proposal will serve to improve the vitality and viability of this part of Yeovil, creating new jobs, encouraging investment and regenerating a derelict and vacant site.

Our findings have demonstrated that the application proposal would bring additional retail range and choice to the area, with consequential benefits in sustainability and employment terms.

The proposed new store will clawback food trade lost to stores further afield. The Council's retail consultants have identified a capacity for the amount of convenience goods floorspace proposed by this application. The application proposal would therefore enable the regeneration of this highly accessible and visually prominent site, delivering a modern and attractive new retail facility and meet a need for improved retail choice in this part of Yeovil.

**N00004/NR/160098**