

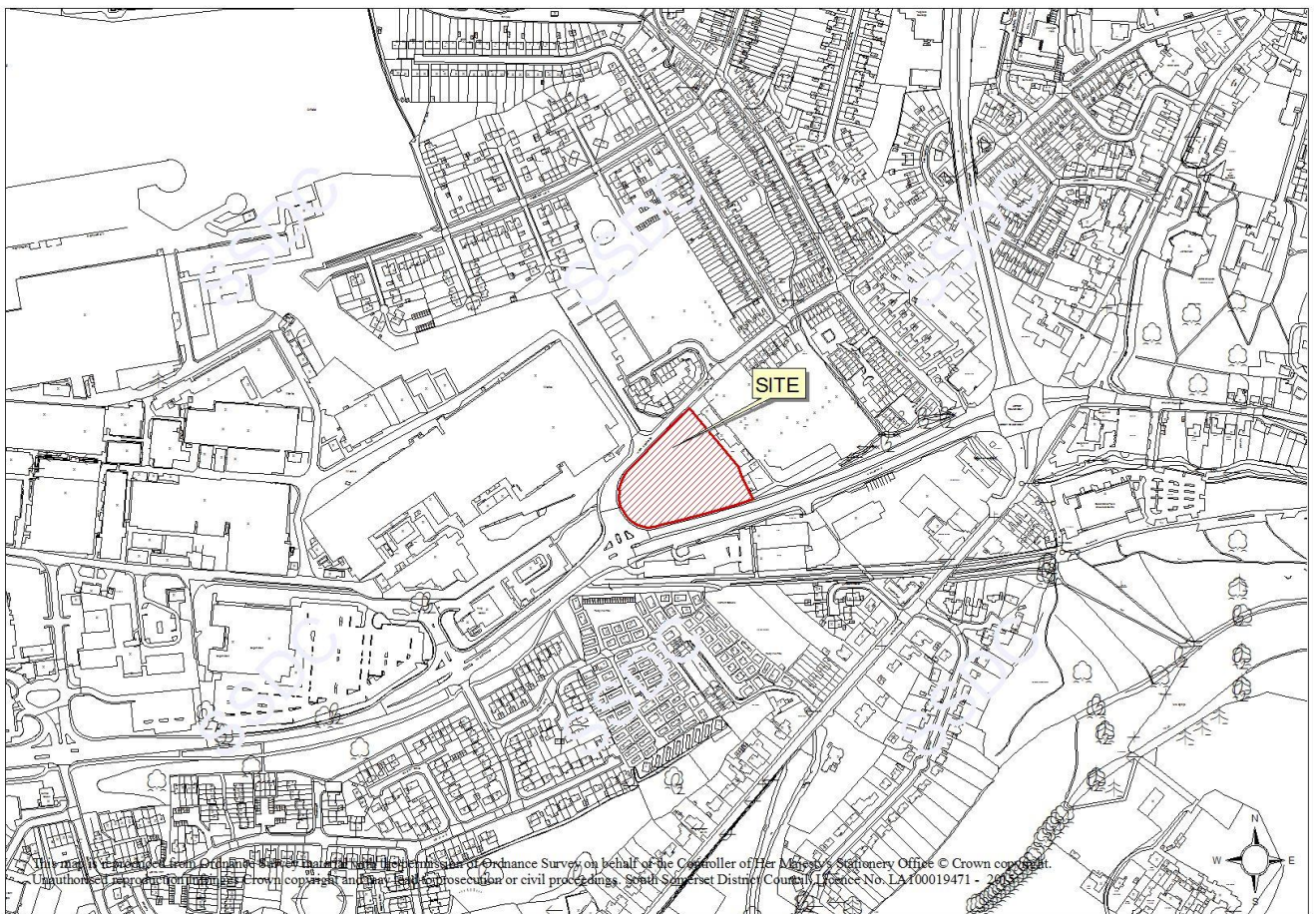
## Officer Report On Planning Application: 15/04945/FUL

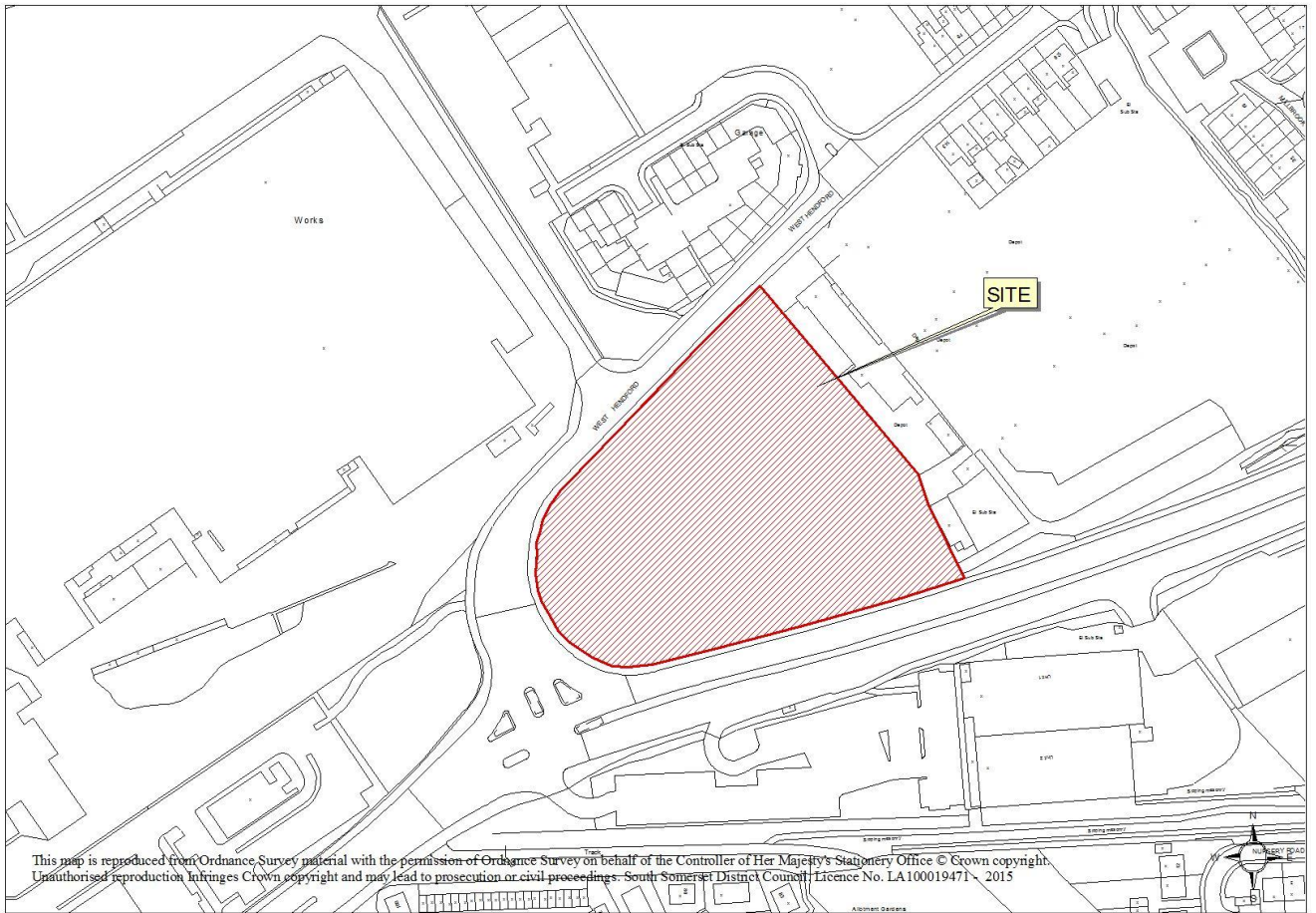
<b>Site Address:</b>	Former Ashleys Of Yeovil West Hendford Yeovil
<b>Ward :</b>	Yeovil (South) Parishward: South
<b>Proposal :</b>	The erection of a new food store with ancillary car parking (GR 354914/115458)
<b>Recommending Case Officer:</b>	Simon Fox, Area Lead Officer (South)
<b>Target date :</b>	29th January 2016
<b>Applicant :</b>	Lidl UK
<b>Type : 04</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 Development Manager 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 0.92 hectare application site is made up of two areas of industrial land; the larger part formally occupied by Ashley's Engineering, both sites are cleared and currently unused.

The application site is located to the west of the town centre on the junction between West Hendford to the west/north and Lysander Road (A3880) to the south. Further to the west is a fast food restaurant and to the north is Agusta Westlands and the residential estate known as Fosse Park Road (part of the former Seaton's Garage). On the opposite side of Lysander Road is a retail unit currently occupied by B&M and beyond is Yeovil Country Park. To the east is a vehicle garage/workshop and electricity substation with a small connection to the neighbouring vacant larger former Southern Electric site.

Existing landscaping means the site is well screened from Lysander Road but is more open to view from West Hendford where vehicular access is achieved. The site is relatively level compared to West Hendford but sits slightly lower compared to Lysander Road.

In August 2008 an application was submitted (08/03529/FUL) seeking planning permission for the demolition of the existing industrial unit and the erection of a new 'deep discount' foodstore with associated parking, servicing and infrastructure improvements. The proposed store extended to 1,385sqm gross internal area (1,063sqm net area). Due to the out of centre location the proposal was recommended for refusal by officers but approved, in principle, at the meeting of Area South committee in December 2008. This decision was ratified by Regulation Committee and then referred to the Government Office for the South West (GOSW). Confirmation was received in February 2009 that GOSW did not wish to call the application in. Discussions regarding the planning obligation stalled, primarily due to the acquisition of third party land to fulfil the access arrangements and so eventually the

application was withdrawn in July 2009.

Later in August 2009 an application (09/03469/FUL) for effectively the same deep discount foodstore but at 1,115sqm (870sqm net trading area) was submitted on the neighbouring Southern Electric site. Again the application was recommended for refusal by officers for the sole reason that the site fell outside the Town Centre and therefore outside the preferred location for retail development. Again Area South Members supported the application and following the satisfactory completion of a S106 agreement to restrict the range of product and services which could be sold/offered from the store and to secure an off-site highways contribution of £75,000 towards the improvements of the Lysander Road/West Hendford junction the planning permission was issued in December 2010. A material start to this development was made in November 2013.

In the meantime the third party land issues, which stymied the original 2008 application, along with adjustments to the means of access meant the Ashley's Engineering site was again the favoured location for the 'deep discount' foodstore. With the inclusion of a wedge of land formally used by Southern Electric application 13/03564/FUL sought a comprehensive development including:

- 1,575sqm gross internal area (1,123sqm net area) (16,000sqft) of A1 food retail floorspace,
- 697sqm (7,500 sqft) of A3 family restaurant/pub floorspace
- 166 sqm (1,800 sqft) of A3 coffee shop floorspace

The application was approved in November 2014 by Area South Committee subject to a planning obligation that included:

- Restriction of the range of products and services which can be sold/offered from the store, including:
  - o No more than 3,000 product lines,
  - o Restriction on net sales area of non-food comparison goods to 20% of total net sales area,
  - o No butchers, fresh fish, delicatessen counters,
  - o No café/restaurant, post office or pharmacy,
  - o No lottery sales, photographic booth or dry cleaning service
- Revocation of the foodstore permission (09/03469/FUL) on the neighbouring site.
- An off-site highways contribution towards the improvements of the Lysander Road/West Hendford junction to include upgrading to Toucan crossings and the upgrading of the existing footpath on the south eastern side of West Hendford to a shared footway/cycleway.
- The provision of a permissive route through the site suitable for pedestrians and cyclists which links Lysander Road and land to the east, former SSE site, as and when that site is developed.

The site has now been acquired by Lidl UK. This application seeks permission solely for the foodstore element. The store would extend to 2,611sqm gross internal area (1,583sqm net area). The site is still to be served by a vehicular access off West Hendford, and will be provided parking (109 spaces inclusive of 6 disabled spaces), along with landscaping and associated works. Cycle links will be provided around the West Hendford side of the site to the main entrance and through the site to link into the neighbouring site at a future date.

The application is supported by the following documents:

- Design and Access Statement
- Transport Assessment
- Travel Plan
- Retail and Planning Statement

- Flood Risk Assessment
- Geo-Technical and Geo-Environmental Report
- Extended Phase 1 Ecological Assessment and update
- Tree Survey
- Environmental Noise Report
- Ventilation/Extraction Statement
- Daylight - Sunlight Study
- Energy Statement
- Crime and Disorder Statement
- Waste Management Statement
- Community Involvement Statement

The terms of the planning obligation signed as part of the previous application would continue forward to this scheme in a new agreement and the highway works secured by a separate s278 Highway Authority agreement would be honoured, again via a new agreement if necessary.

For comparison the Lidl store at Lyde Road extends to 1,635sqm gross internal area (1,286sqm net area).

Additional information has been received detailing an access barrier at the site entrance and a document which compares and contrasts the current Lidl store format evident at Lyde Rd to a new style of store format proposed by this application. The document seeks to explain the increase in the size of the store and the new design features that the store would offer customers.

During the course of the application the applicant agreed to make a financial contribution to create a bus stop in the vicinity of the site on Lysander Road.

## **RELEVANT PREVIOUS APPLICATIONS**

13/03564/FUL: Demolition of existing buildings, the erection of a food retail unit (Use Class A1), a drive-through coffee shop (Use Class A3), and a restaurant/public house (Use Class A4) with associated car parking, infrastructure and landscaping: 18/11/2014: Application permitted with conditions.

10/00316/FUL: Closure of existing northern access into Ashley's and reconfiguration of the existing southern access, and associated widening of West Hendford: 22/09/2011: Application permitted with conditions.

08/04456/FUL: Alterations to existing access to include provision of a new roundabout: 10/02/2009: Application permitted with conditions.

08/03529/FUL: Demolition of existing industrial unit and the erection of a new foodstore with associated parking, servicing and infrastructure improvements: 22/07/2009: Application Withdrawn.

04/01763/OUT: The erection of a non-food retail development with car parking and service yard: 10/04/2007: Application Refused.

03/01529/OUT: The erection of a non-food retail development with car parking and service yard: 18/07/2003: Application Withdrawn.

Adjacent site (SSE site):

09/03469/FUL: Demolition of existing warehouse and office buildings and the erection of a new food retail store with associated parking, servicing and on site road infrastructure:  
10/12/2010: Approved with conditions.

## **POLICY**

Section 38(6) of the Planning and Compulsory Purchase Act (2004), and Paragraphs 2, 11, 12, and 14 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  
EQ1 - Addressing Climate Change in South Somerset  
EQ2 - Design & General Development  
EQ3 - Historic Environment  
EQ4 - Biodiversity  
EQ5 - Green Infrastructure  
EQ7 - Pollution Control  
TA1 - Low Carbon Travel  
TA3 - Sustainable Travel at Chard and Yeovil  
TA4 - Travel Plans  
TA5 - Transport Impact of New Development  
TA6 - Parking Standards

### National Planning Policy Framework (March 2012):

Chapter 1 - Building a Strong, Competitive Economy  
Chapter 2 - Ensuring the Vitality of Town Centres  
Chapter 4 - Promoting Sustainable Transport  
Chapter 7 - Requiring Good Design  
Chapter 8 - Promoting Healthy Communities  
Chapter 10 - Meeting the Challenge of Climate Change, Flooding and Coastal Change  
Chapter 11 - Conserving and Enhancing the Natural Environment  
Chapter 12 - Conserving and Enhancing the Historic Environment

### Other

Somerset County Council Parking Strategy (March 2012)

## **CONSULTATIONS**

### Yeovil Town Council:

Support; the TC encourage the inclusion of a bus stop on Lysander Road.

Highways Authority (Somerset CC):

"...the Highway Authority has the following observations to make on the highway and transportation aspects of the proposal.

There is a previously approved scheme on this site that included a discount food store as part of a mixed use development. That scheme included a redesigned access to the site that accommodated the additional traffic and a financial contribution to further offsite improvements. The traffic generation calculations and distribution of that traffic onto the network had been agreed as part of that submission. It was determined that the impact of that traffic had been properly mitigated by the works proposed.

The current scheme is for a larger discount food store only and whilst there is more traffic associated with the food store is increased the removal of the other uses from the proposal has resulted in the levels of predicted traffic being very similar. The previously agreed distribution of this traffic on the network has been repeated in this submission as have the proposed improved access arrangements. The applicant has agreed to make a financial contribution to the offsite works which will help mitigate the impact of the development and improve the accessibility of the store to people travelling by foot, cycle and public transport. The proposed level of car parking is considered acceptable for the predicted level of traffic.

Therefore, subject to the applicant agreeing a contribution of £100k to the provision of all or some of a bus stop, improved footway/cycleway and an upgrade of the traffic signals at the adjoining junction secured by a signed S106 Agreement...[no objections]".

Conditions proposed concerning the access, the provision of a construction compound, a road condition survey, surface water drainage, travel planning and the retention of parking without obstruction.

SSDC Planning Policy:

Due to the length and detail contained within the consultation response from Planning Policy colleagues this is attached as **Appendix 1**.

The comments relate to the compliance with the sequential test, the impact of additional floorspace on the Town Centre and whether the proposal affects the overall level of planned investment in convenience goods retail floorspace in Yeovil.

SSDC Area Development:

"the Area South Development Team are keen to protect the Economic Viability of Yeovil Town Centre and therefore oppose any out of Town Development that could prove detrimental to it's future".

SSDC Environmental Protection and SSDC Contaminated Land Officer:

Verbal discussion - previous comments regarding land contamination apply, the recommendations of the Acoustic Consultants Ltd report should be carried out and there should be a night time curfew on the operation of the air conditioning units.

SSDC Tree Officer:

Verbal discussion - Based on drawing 1174 HRH Design Associates Landscaping Plan - Good framework for detailed scheme via condition.

SSDC Ecologist:

"I'm satisfied that further bat and reptile surveys and an update Phase 1 Ecological Assessment have largely addressed the potential issues that were identified in the earlier 2013 assessment. One issue that could still be outstanding is that of Japanese Knotweed. I recommend an informative".

Crime Prevention Officer:

Observations regarding layout and security.

#### Environmental Agency:

No objection subject to conditions and informatives concerning ground levels in the flood risk area, contaminated land, sustainable construction and pollution prevention during construction.

#### Wessex Water:

Presence of a foul sewer crossing part of the site, the application indicates surface water will be attenuated on site and discharge to land drainage and this requires the approval of the LLFA. There is capacity on the foul drainage network and water supply network for domestic type demand only.

#### Lead Local Flood Authority (LLFA):

No objection subject to conditions to ensure a satisfactory system of surface water drainage is achieved.

#### South West Heritage Trust (Archaeology):

No objections.

### **REPRESENTATIONS**

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

Two representations have been received both setting out a desire to see a bus stop along the Lysander Road frontage.

### **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.

Section 38(6) of the Planning and Compulsory Purchase Act (2004), and Paragraphs 2, 11, 12, and 14 of the National Planning Policy Framework indicate it is a matter of law that applications are determined in accordance with the development plan unless material considerations indicate otherwise.

As such the comments of colleagues from Planning Policy are noted regarding the compliance with the sequential test, the impact of additional floorspace on the Town Centre and whether the proposal affects the overall level of planned investment in convenience goods retail floorspace in Yeovil.

#### **Sequential Test**

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 and was refused following strong representations made by SSDC and is now at appeal. The basis for these objections was the

'town centre first policy' and the presence of sequentially preferable sites, such as the Quedam Extension, Cattle Market, Stars Lane/Box Factory and Olds Garage to name a few. The Planning Department is working with colleagues in Spatial Policy, Economic Development and Area Development plus Yeovil Chamber of Trade, Yeovil Vision and Love Yeovil and relevant landowners to ensure the message is consistent. It is clear that town centre (sequentially preferable) sites exist and they have not been satisfactorily discounted, and therefore compliance has not been demonstrated with Local Plan policies EP9 and EP11.

### Impact Assessment

In terms of the additional floorspace on the town centre the applicant concludes that the proposed store would not have a significant adverse impact on the vitality and viability of Yeovil town centre as a whole, or any planned investment.

The view of the LPA is that given there are sequentially preferable sites available that trade will inevitably be diverted, the ability for linked trips will be lost, the town centre vacancy rate will not be improved and there will be an impact to some degree on planned future investment in the town centre contrary to EP10 and EP12 of the Local Plan.

### Discussion

In normal circumstances the committee would be advised to refuse the application. Importantly however national 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 the most significant material consideration in this case is the fact an extant consent for an almost identical deep discount foodstore albeit with a smaller footprint is capable of implementation on the site. In addition this application has been submitted by Lidl UK and so for the first time there is a named operator associated with a scheme. The applicant has bought the site with that extant consent present and so, in reality, is now not going to look at investing instead in one of the sequentially preferable town centre sites instead.

Notwithstanding the sequential test one of the main arguments against out-of-town retail development is that it threatens planned investment in the town centre. This is especially relevant where there are a limited number of retailers looking to invest in the town and competition between sites is high. It has however been the case that a deep discount retail store, irrespective of absolute size, has been approved in this vicinity (out-of-town) since 2009. Indeed the acquisition of the Quedam Shopping Centre has occurred since 2009. As such there has been sufficient time for town centre landowners to allow for/re-orientate investment plans in light of this. One also has to be mindful of the fact that this particular operator already has a store on the east side of town and so a town centre site, it has been explained would in any case, be considered too close to their existing store.

A deep discount retailer has a limited product range and do not stock multiple lines of the same product to ensure the lowest possible operating costs. The previous application was approved subject to the legal agreement which limited product lines; the types of services offered and restricted the net sales area of non-food comparison goods. As such any perceived impact of a food retail store on the town centre traders is tempered by these restrictions.

The most significant change to the proposed retail store is its size. The applicant has



provided a document entitled 'Compare and Contrast' to set out why this new store format is preferred to the old store format previously approved.

Previously the 2013 approval allowed a store of 1,575sqm gross whereas the proposal now is 2,611sqm gross. Whilst this represents a 1,036sqm increase in overall size, the net tradable area has only increased by a more modest 460sqm from the 1,123sqm previously approved. It is clear therefore that the new store format has a larger amount of ancillary and welfare areas. Whilst these predominately include larger 'back of house' staff rooms, warehousing and chiller space it also encompasses features like the inclusion of customer toilets/baby changing which the last approval did not have.

The advantage of this scheme over the fall-back scheme is the improved store format now being rolled out by the applicant. They suggest this is one of the first in the region and will enhance the current shopping experience and will be different to their other local stores. This is because of the use of higher internal ceiling heights and full height glazing to the frontages, gaining natural light into the store; also wider aisles and a new internal colour scheme and contemporary décor. The applicant states *'The new store, although larger in footprint than the previous stores due to increased warehouse and staff facilities, provides a much improved energy efficient building that not only reduces the amount of consumable energy used but also benefits the efficiency of the staff and deliveries to the store'*. If the town is to receive a new retail food store then the LPA should ensure it is the best design and layout available and provides the best offer for residents.

It is considered the issue regarding the loss of traditional 'B' use employment land was considered by the previous application. At that time it was noted the Ashley's Engineering site provided 38 jobs. The then intended uses (inclusive of the pub/restaurant and coffee shop) would have created somewhere in the region of 80 jobs comprising part-time and full-time posts, in addition to those during the construction period. The application form to this application suggests 40 jobs would be created (excluding those employed in the construction phase) and so whilst this is fewer than would be created by the last application it is still comparable to the previous industrial use in accordance with Local Plan policy EP3. The applicant also pays the Living Wage to its employees.

It is important to make the clear statement that by potentially approving this application the LPA is not conceding that there are not sequentially preferable sites and there would not be impacts and that it has set an unwelcome precedent in supporting out-of-town retail. The LPA remains committed to the town centre first policy to enhance the vitality and viability of the town centre and to facilitate the existing and planned investment. To this end those landowners have to play their part in ensuring those sites are suitable, available and deliverable in a short timescale, unencumbered by planning issues so as to offer a realistic alternative to generally easier to develop and more heavily promoted out-of-town sites.

Whilst the LPA strong stance on out-of-town retail will continue to be the case for sites without a retail planning history this site is considered to be an entirely different proposition because of the historic approvals in 2008 (albeit a resolution), 2009 and 2013. As such this is a material consideration to which, as previously explained, substantial weight is attached that overrides the policy position regarding the sequential test and impact on the town centre. At any time in the last 6-7 years a store could have already been built at West Hendford.

This type of issue is of course a balancing exercise and the LPA is mindful of the stance it has taken on other similar applications elsewhere but again for the reasons set out above, given the fall-back position, the committee can be reasonably satisfied that no greater significant harm would result by reason of the proposed development and although contrary to the Local Plan the material consideration of the previous schemes take precedence.

## **Design and Layout**

The context to the site is varied, comprising industrial buildings with aspects of red-brick under dark roofs and the completed part of the new residential development at Seaton's Garage comprising red-brick and render walls under slate roofs. Allied to this are the established residential properties further along West Hendford, constructed of red-brick under tiled and slated roofs, to the east of the site and the retail warehouse on the opposite side of Lysander Road.

The previous scheme used a coherent palette of materials to draw the development of three buildings together including the use of red-brick to root it in its context. The new proposal seeks a departure from this, and obviously now only a single building is proposed rather than three. The predominant materials of a grey plinth, silver cladding and white render to the walls and a grey composite panel and single ply membrane roofing system allied to the full height glazing system imply 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 and clearly from the supporting paperwork the design of the store is key to the retailer and the offer it wants to make its customers. As such it is considered the design is appropriate for this setting.

The remaining aspect that can unify the site with its context is the scheme of soft landscaping scheme. The proposal will include significant tree planting. This will ensure the perimeter of the site receive trees which provides a visual softening of the built form. The approach to tree planting and soft landscaping has been endorsed by the Council's Tree Officer.

As well as the application being supported by a Design and Access Statement, a Daylight-Sunlight study has been submitted which does not raise any issues. It is considered with suitable and reasonable conditions in place to agree the specific facing/landscaping materials and the final soft landscaping scheme the proposal accords with policies EQ2 and EQ5 of the Local Plan and the NPPF.

## **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 though 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 will be requested by condition and a separate condition will control construction hours in accordance with policy EQ7 of the Local Plan.

The application is supported by an Environmental Noise Report which sets out the potential sources of noise from the on-going operation and how they can be mitigated. The report details air-conditioning, bakery and refrigeration plant will be located in the north-eastern corner behind the delivery area approx. 25m from nearest properties. The air-conditioning plant also operates during opening hours whilst the other plant works 24/7. The report recommends an acoustic fence be erected around the plant and this will be conditioned. The report also details delivery operation noise emission and outlines suitable mitigation.

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

The application contains a 'Crime and Disorder Statement'. It states 'Secured by Design' principles have been incorporated. In terms of potential noise disturbance from other on-

going activities the Rustywell Residents Association have previously pointed to potential anti-social behaviour associated to misuse of the car park. Whilst this is acknowledged the management of the site is one for the site owner and the police and is now perhaps aided by the site being in one operators control rather than three. A barrier across the entrance has been indicated to prevent access when the site is not open for business.

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.

Concern has also been raised previously by the Rustywell Residents Association regarding external lighting and litter. Whilst controls regarding litter collection are not generally imposed on the type of use proposed; it is considered reasonable to agree details of all external lighting via condition and for the scheme 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 West Hendford in an identical form to that approved previously and for which an agreement under s278 of the Highways Act 1980 was signed with the Highway Authority in October 2014.

The Highways Authority has maintained its request for a financial sum towards the improvement of the West Hendford-Lysander Road junction to include upgrading to Toucan crossings and the upgrading of the existing footpath on the south eastern side of West Hendford to a shared footway/cycleway. During the course of the application, an enhanced financial contribution was agreed with the applicant to provide a bus stop on Lysander Road. Such a request was then validated by local demand via the two public representations and the consultation with Yeovil Town Council. The bus stop would be able to serve three separate routes.

The site is already easily accessible by foot given its location on the edge of a large residential area and this will be improved once the Seaton's Garage site is fully developed which includes a footway/cycle link to Westland Rd. The West Hendford-Lysander Road junction also provides traffic lighted crossings from the south side of Lysander Road and this will be improved for cyclists with some of the financial contribution. In addition to this a dedicated cycle link is included around the western edge of the site leading to the main site access. Furthermore a permissive cycle/pedestrian link has been incorporated creating a direct link from the traffic lighted crossings into the site and beyond through the site to the boundary with the neighbouring SSE site. With the SSE site having development potential it is feasible that this link could continue through that site creating greater permeability. These links, allied to the inclusion of a new bus stop improve non-car access both to the site, through the site and beyond to places like the Yeovil Country Park in compliance with policies SS6, TA1, TA3 and TA5 of the Local Plan.

The proposal would provide 109 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 and more than previously approved. A Travel Plan has been requested by condition to promote non-car modes of transport to accord with policy TA4 of the Local Plan.

The Highway Authority raises no objections and has suggested a number of conditions. Several of these are considered unreasonable. Other conditions have been merged or are

achieved by alternative wording. It is considered with suitable and reasonable conditions the proposal accords with policy SS6, TA1, TA3, TA5, TA5 and TA6 of the Local Plan, the Parking Strategy and the NPPF.

### **Flooding and Drainage**

The EA's flood zone mapping shows the majority of the site within Flood Zone 2 and so at a medium risk of fluvial flooding. The applicant has undertaken a modelling study for the SSE site taking into account the Dodham Brook (south) and the 'headwaters' of Dodham Brook to the east. The modelled flood outlined a significantly different flood outline and shows the majority of the site to be in Flood Zone 1 and so at low risk from fluvial flooding, although a small section to the south-east of the site is within the predicted 1 in 1000 year flood event (Flood Zone 2) outline and is therefore at medium risk. This area is proposed as car parking.

The southern section of the site is also at low-medium risk of surface water flooding but the northern part including the areas of the proposed access and the proposed building are considered low risk.

The proposed development is also considered to fall within the 'less vulnerable' category. Such uses are deemed to be acceptable in Flood Zone 2. The report also concludes that the site is at low risk from groundwater flooding, sewer flooding and flooding from artificial sources. The proposal is also unlikely to increase flood risk elsewhere.

The report suggests the finished floor level of the proposed store should be set 600mm above current ground levels to ensure the unit is set above the worst case predicted surface water flood level.

The NPPF requires surface water runoff from the site to be restricted to 70% of the existing rate. Utilising cellular storage with controlled discharge would provide this betterment. It is considered with suitable and reasonable conditions suggested by the LLFA the proposal accords with the NPPF.

### **Contaminated Land**

The application is supported by a Phase 1 Geo-Technical and 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, prior to more detailed intrusive investigations and consideration of possible remediation requirements in order to enable the safe development of the site.

On the basis of the historical use the site is considered to be generally of moderate risk to future site users and the wider environment, however further assessment is required. The comments of the EA and 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 accords with policy EQ7 of the Local Plan and the NPPF.

### **Wildlife**

The application is supported by an Extended Phase I Ecological Assessment dating from 2013 and an addendum update letter dated September 2015. A Phase 2 reptile survey and bat survey has now been undertaken and no evidence of roosting bats or reptiles being present on the site. The site is considered to have negligible potential for roosting bats, badgers, dormouse and great crested newts. The site is considered to have low potential for

breeding birds, reptiles and low value habitat for foraging and commuting bats.

Recommendations from the 2013 report are still offered to increase biodiversity; these will be covered by a condition. The Council's Ecologist is satisfied that previous issues have been addressed and it is also recommended that Japanese Knotweed be eradicated. A condition and informative will assist. It is considered with suitable and reasonable conditions in place the proposal accords with policy EQ4 of the Local Plan and the NPPF.

### **Archaeology**

The South West Heritage Trust provides the LPA with advice concerning archaeology. The site lies very close to the Roman settlement, located off Westland Road. The space in-between is the area of the former Seaton's Garage which has planning permission for residential development. As such is it considered no harm would result from this application but a condition should be imposed to require the applicant to provide an archaeological investigation of the development and a report on any discoveries made as indicated in the National Planning Policy Framework (Paragraph 141).

### **Sustainable Construction**

The application is supported by an Energy Statement and a Waste Management Statement. The documents set out the applicants' corporate aspirations in waste reduction and energy efficiency to accord with Policy EQ1 of the Local Plan.

### **Public Consultation**

Prior to the submission of the planning application there was no pre-application discussion undertaken with the LPA regarding the revised application.

The application does contain a 'Community Involvement Statement'. It states the applicant distributed 18,000 response cards to households to the west of Yeovil announcing their development proposal at West Hendford. It is reported that as of the date of submission over 3,288 responses indicated they were in favour of the proposed food store, with 310 against and 46 undecided. There have only been two representations received to date in response to the planning consultation process.

## **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**

A planning obligation was entered into under the previous scheme and so in the event of an approval of this application an updated planning obligation will be required to restrict the range of product and services which can be sold/offered from the store, to ensure revocation of the foodstore permission (09/03469/FUL) on the neighbouring site and to secure an off-site highways contribution of £100,000 towards the improvements of the Lysander Road/West Hendford junction and the Lysander Road bus stop and to ensure the provision of a permissive route through the site suitable for pedestrians and cyclists which links Lysander Road and land to the east, former SSE site, as and when that site is developed.

## SECRETARY OF STATE CONSULTATION

Although the original application on this site 08/03529/FUL was referred to the Government Office of the South West to give the option for the Secretary of State to 'call-in' the application for determination Circular 02/2009 has now altered the referral criteria. On the basis of a floor area of 2,611sqm, and therefore less than the 5,000sqm threshold for development outside town centres, no referral is required.

### RECOMMENDATION :

#### Grant planning permission for the following reason, subject to:

- (a) the prior completion of a section 106 planning obligation (in a form acceptable to the Council's solicitor(s)) before the decision notice granting planning permission is issued, the said planning obligation to cover the following:
  - (i) Restriction of the range of products and services which can be sold/offered from the deep discount foodstore, including:
    - o No more than 3,000 product lines,
    - o Restriction on net sales area of non-food caparison goods to 20% of total net sales area,
    - o No butchers, fresh fish, delicatessen counters,
    - o No café/restaurant, post office or pharmacy,
    - o No lottery sales, photographic booth or dry cleaning service
    - o No cigarettes or tobacco products
  - (ii) Revocation of the foodstore permission (09/03469/FUL) on the neighbouring SSE site without compensation.
  - (iii) An off-site highways financial contribution of £100,000 towards the improvements of the Lysander Road/West Hendford junction to include upgrading to Toucan crossings and the upgrading of the existing footpath on the south eastern side of West Hendford to a shared footway/cycleway and the provision of a bus stop on Lysander Road. The bus stop and shared footway/cycleway works to be prioritised.
  - (iv) The provision of a permissive route through the site suitable for pedestrians and cyclists which links Lysander Road and land to the east, former SSE site, as and when that site is developed; and
  - (v) index linking of all financial payments.
- (b) the imposition of the planning conditions set out below on the grant of planning permission.

It is considered any perceived impact on the vitality and viability on the town centre is offset by the real and evidenced fallback position of an extant deep discount foodstore on the same site and the history of such a permission in the vicinity since 2010. These matters and the creation of employment comprise material considerations that outweigh the conflict with national and local policy. The application detail also allays concerns regarding pollution and contaminated land, ecology, flooding and surface water drainage, and the impact on the local highway network. The design and layout of the scheme is appropriate in this location. The proposal is considered to therefore be in compliance with the aims and objectives of the National Planning Policy Framework, the Somerset County Council Parking Strategy (September 2012) and policies SD1, SS1, SS3, SS6, EP3, EP9, EP10, EP11, EP12, EQ1, EQ2, EQ3, EQ4, EQ5, EQ7, TA1, TA3, TA4, TA5 and TA6 of the South Somerset Local Plan (Adopted 2015).

**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:

- a) Site Location Plan, Drawing No. AD100
- b) Proposed Site Plan, Drawing No. AD110 RevB
- c) Proposed Building Plan, Drawing No. AD111
- d) Proposed Roof Plan, Drawing No. AD112
- c) Proposed Elevations, Drawing No. AD113
- d) Proposed Boundary Treatment, Drawing No. AD114 RevB
- e) Proposed Site Finishes, Drawing No. AD115 RevA

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

03. The subject land including the buildings thereon shall be used for Use Class A1 and for no other purpose (including any other purpose in the Schedule to the Town and Country Planning (Use Classes) Order 1987, or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order with or without modification). There shall be no sub-division or fragmentation of the unit hereby approved without the prior express grant of planning permission. The net trading area for the approved store shall not exceed 1,583sqm without the prior express grant of planning permission.

Reason: In the interests of clarity, and given the out of centre location to accord with policies EP9 and EP11 of the South Somerset Local Plan (Adopted 2015) and the National Planning Policy Framework.

04. During the construction phase no site machinery or plant shall be operated, no process shall be carried out and no construction related deliveries taken at or dispatched from the site except between the hours of 08:30 and 19:00 Monday to Friday and between the hours of 08:30hrs and 13:00hrs on Saturdays but not at any time on Sundays, Bank or Public Holidays.

Reason: To protect the amenity of the locality to accord with policy EQ7 of the Somerset Local Plan (Adopted 2015).

05. No deliveries shall be taken at or despatched from the site outside the hours of 06:00 to 00:00 Monday to Saturday or 08:00 to 19:00 on Sundays).

Reason: To protect the amenity of the locality to accord with policy EQ7 of the Somerset Local Plan (Adopted 2015).

06. No development shall be commenced until the finished floor level of the building hereby approved has been submitted to and approved by the Local Planning Authority. The scheme shall thereafter be carried out in accordance with the agreed FFL. There shall be no raising of the site within the Flood Zone 2 area above existing ground levels.

Reason: In the interests of visual amenity and to ensure there is no loss in floodplain through the redevelopment of the site to accord with policy EQ2 of the South Somerset Local Plan (Adopted 2015) and the National Planning Policy Framework.

07. Prior to its use the specific details of the red brick to be used for the boundary treatments shall have been agreed in writing by the Local Planning Authority. All other materials shall be as detailed on drawings AD113, AD114RevB and AD115RevA and/or as stated on the planning application form unless any variation is first agreed by the Local Planning Authority.

Reason: In the interests of visual amenity in accordance with policy EQ2 of the South Somerset Local Plan (Adopted 2015).

08. A full landscaping scheme based on Drawing No.1174 (HRH Design Associates) shall be submitted indicating all new planting across the site also taking into account the biodiversity recommendations in the ECOSA-Extended Phase 1 Ecological Assessment-Aug 2013. All planting comprised in the approved details of landscaping shall be carried out in the first planting and seeding season following the first use of any building or the completion of the development, whichever is the sooner; and any trees or plants which within a period of ten years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority gives written consent to any variation.

Reason: In the interests of visual amenity and to enhance the local character to accord with policies EQ2 and EQ4 of the South Somerset Local Plan (Adopted 2015).

09. No development shall take place until a scheme for the eradication of Japanese Knotweed from the site has been submitted to, and approved in writing, by the Local Planning Authority. The approved scheme shall be implemented in full unless otherwise agreed in writing.

Reason: To counter an invasive species.

10. Prior to the first occupation of the building a scheme promoting biodiversity within the site utilising the recommendations made in the ECOSA-Extended Phase 1 Ecological Assessment-Aug 2013, shall be submitted to and approved in writing by the Local Planning Authority.

Reason: For the promotion of biodiversity in accordance with policy EQ4 of the South Somerset Local Plan (Adopted 2015).

11. Prior to its installation a scheme of external lighting shall have been submitted to and agreed in writing by the Local Planning Authority. The development shall be constructed in accordance with the agreed details. Such a scheme shall ensure the pedestrian/cycle linkage to the neighbouring site is sufficiently lit and such a scheme shall take into account the biodiversity recommendations in the ECOSA-Extended Phase 1 Ecological Assessment-Aug 2013.

Reason: In the interests of visual and residential amenity in accordance with policies EQ2 and EQ7 of the South Somerset Local Plan (Adopted 2015) and the National Planning Policy Framework.



12. No development hereby approved shall take place until the applicant, or their agents or successors in title, has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation which has been submitted by the applicant and approved by the Local Planning Authority.

Reason: To require the archaeological investigation of a potential heritage asset due to the proximity of a Roman settlement as indicated by policy EQ7 of the South Somerset Local Plan (Adopted 2015) and the National Planning Policy Framework.

13. Prior to the first occupation of the building a schedule detailing all the equipment, plant and machinery to be used to serve that building shall be submitted to and agreed in writing by the Local Planning Authority. A scheme that specifies the provisions to be made for the control of noise emanating from the aforesaid and otherwise on the site as detailed in the Environmental Noise Report (Acoustic Consultants Ltd-October 2015) shall accompany such a schedule. In any case the air conditioning units shall not operate beyond 22:30 on any given day. The noise mitigation scheme shall be in place prior to the first use of the development, thereafter maintained and shall not be altered without the prior written approval of the Local Planning Authority.

Reason: In the interests of residential amenity and pollution control to accord with policy EQ7 of the South Somerset Local Plan (Adopted 2015) and the National Planning Policy Framework.

14. Prior to the first occupation of the building a scheme for an extraction system to control any fumes and odour from that building shall have been submitted to and approved in writing by the Local Planning Authority. The measures shall be implemented in strict accordance with the approved details prior to the occupation of the building concerned and shall thereafter be retained as such.

Reason: In the interests of residential amenity and pollution control to accord with policy EQ7 of the South Somerset Local Plan (Adopted 2015) and the National Planning Policy Framework.

15. No development shall be commenced until surface water drainage details based on sustainable drainage principles together with a programme of implementation and maintenance for the lifetime of the development have been submitted to and approved by the Local Planning Authority. The scheme shall subsequently be implemented and maintained in accordance with the approved details before the development is completed. Those details shall include: -
- a) Information about the design storm period and intensity, discharge rates and volumes (both pre and post development), temporary storage facilities, means of access for maintenance (6 metres minimum), the methods employed to delay and control surface water discharged from the site, and the measures taken to prevent flooding and pollution of the receiving groundwater and/or surface waters.
  - b) All surface water drainage from impermeable parking areas and hardstandings for vehicles shall be passed through an oil interceptor.
  - c) Any works required off-site to ensure adequate discharge of surface water without causing flooding or pollution (which should include refurbishment of existing culverts and headwalls or removal of unused culverts where relevant).
  - d) Flood water exceedance routes, both on and off site, (note, no part of the site must be allowed to flood unless it has been specifically designed to do so).
  - e) A management and maintenance plan for the lifetime of the development which shall include the arrangements for adoption by an appropriate public body or statutory undertaker, management company or maintenance by a Residents' Management

Company and / or any other arrangements to secure the operation and maintenance to an approved standard and working condition throughout the lifetime of the development.

Reason: To ensure that the development is served by a satisfactory system of surface water drainage and in accordance with paragraph 17 and sections 10 and 11 of the National Planning Policy Framework, Paragraph 103 of the National Planning Policy Framework and the Technical Guidance to the National Planning Policy Framework and that such drainage systems shall be maintained and managed in accordance with the approved details throughout the lifetime of the development.

16. The development hereby permitted shall not begin until a scheme to deal with contamination of land, controlled waters and/or ground gas has been submitted to and approved in writing by the Local Planning Authority. The scheme shall include all of the following measures, unless the Local Planning Authority dispenses with any such requirement specifically in writing:
- a) A Phase II intrusive investigation report detailing all investigative works and sampling on site, together with the results of the analysis, undertaken in accordance with BS 10175:2011 Investigation of Potentially Contaminated Sites - Code of Practice. The report should include a detailed quantitative human health and environmental risk assessment.
  - b) A remediation scheme detailing how the remediation will be undertaken, what methods will be used and what is to be achieved. A clear end point of the remediation should be stated, such as site contaminant levels or a risk management action, and how this will be validated. Any on-going monitoring should also be outlined.
  - c) A validation report detailing the proposed remediation works and quality assurance certificates to show that the works have been carried out in full accordance with the approved methodology. Details of any post-remedial sampling and analysis to show that the site has reached the required clean-up criteria shall be included, together with the necessary documentation detailing what waste materials have been removed from the site.
  - d) If during the works contamination is encountered which has not previously been identified, then the additional contamination shall be fully assessed and an appropriate remediation scheme submitted to and approved in writing by the Local Planning Authority.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors in accordance with Policy EQ7 of the South Somerset Local Plan (Adopted 2015).

17. Piling or any other foundation designs / investigation boreholes / tunnel shafts / ground source heating and cooling systems using penetrative methods shall not be permitted other than with the express written consent of the Local Planning Authority, which may be given for those parts of the site where it has been demonstrated that there is no resultant unacceptable risk to groundwater. The development shall be carried out in accordance with the approved details.

Reason: To ensure that risks from contaminated land to controlled waters is prevented in accordance with Policy EQ7 of the South Somerset Local Plan (Adopted 2015).

18. Prior to the first use of any part of the development hereby approved the proposed pedestrian/cycleway link from Lysander Road to the neighbouring site and the

vehicular access, as shown on Drawing No.AD110RevB shall be fully laid out. Within one month of the first use of the development the existing vehicular access to the site located in the north eastern corner of the site (fronting West Hendford Road) to the site shall be stopped up, its use permanently abandoned and the verge/footway crossing reinstated.

Reason: In the interests of Highway Safety to accord with policy TA5 of the South Somerset Local Plan (Adopted 2015) and the National Planning Policy Framework.

19. The new development shall not be commenced until a detailed Travel Plan has been submitted to and approved in writing by the Local Planning Authority. No part of the new development shall be occupied prior to implementation of those parts identified in the Approved Travel Plan as capable of being implemented prior to occupation. Those parts of the Approved Travel Plan that are identified therein as capable of implementation after occupation shall be implemented in accordance with the timetable contained therein and shall continue to be implemented as long as any part of the development is occupied.

Reason: In the interests of sustainable travel alternatives in accordance with the National Planning Policy Framework and policy TA4 of the South Somerset Local Plan (Adopted 2015).

20. 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 any part of the building is brought into use and thereafter maintained at all times. The area allocated for parking, turning and servicing on the submitted plan shall be kept clear of obstruction and shall not be used other than for parking and turning of vehicles in connection with the development hereby permitted. The car park shall not provide less than 109 parking spaces as shown on Drawing No.AD110RevB, at all times. Any part of the car park shall be properly consolidated and delineated before its first use.

Reason: To ensure the site is served by adequate on-site parking to accord with policies TA5 and TA6 of the South Somerset Local Plan (Adopted 2015) and the Somerset County Council Parking Strategy.

21. No works shall be carried out until a Construction Management Plan (CEMP) has been submitted to and approved in writing by the Local Planning. Such a plan shall cover the demolition and construction period. 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 and a scheme to encourage the use of public transport amongst contractors. The CEMP shall also detail that all vehicles leaving the site are in such condition as not to emit dust or deposit mud, slurry or other debris on the highway. In particular (but without prejudice to the foregoing), efficient means shall be installed, maintained and employed for cleaning the wheels of all lorries leaving the site, details of which shall have been agreed in advance in writing by the Local Planning Authority and fully implemented prior to commencement, and thereafter maintained until the end of the construction period. The development shall be carried out strictly in accordance with the approved Construction Management Plan.

Reason: In the interests of Highway Safety, public amenity and to prevent pollution of the water environment to accord with the National Planning Policy Framework.

22. No raw materials, products of any description, scrap or waste materials whatsoever shall be stored in the open on any part of the subject land without the prior written consent of the Local Planning Authority.

Reason: To safeguard the amenities and character of the area in accordance with policies EQ7 of the South Somerset Local Plan (Adopted 2015) and the National Planning Policy Framework.

**Informatives:**

01. Your attention is drawn to the agreement made under Section 106 of the Town and Country Planning Act 1990, relating to this site.
02. The applicant will be required to enter into a suitable legal agreement with the Highway Authority to secure the construction of the highway works necessary as part of this development. The developer is advised to contact the Highway Authority to progress this agreement well in advance of commencement of development.
03. Where works are to be undertaken on or adjoining the publicly maintainable highway the developer will need to enter into a legal agreement with the Highway Authority. The developer will need to contact the Transport Development Group, Environment Department, County Hall, Taunton, TA1 4DY, or by email to discuss their proposal. Enquiries should be made as early as possible to allow adequate time for the negotiation and preparation of the legal agreements required.
04. With regards to Condition 15 the surface water drainage scheme for the proposed development must meet the following criteria:
  - a) Any outflow from the site must be limited to the maximum allowable rate, so there is no increase in the rate and/or volume of run-off, and preferably it should be reduced.
  - b) The surface water drainage system must deal with the surface water run-off from the site up to the critical 1% Annual Probability of Flooding (or 1 in a 100-year flood) event, including an allowance for climate change for the lifetime of the development. Drainage calculations must be included to demonstrate this (e.g. Windes or similar sewer modelling package calculations that include the necessary attenuation volume).
  - c) If there is any surcharge and flooding from the system, overland flood flow routes and "collection" areas on site (e.g. car parks, landscaping) must be shown on a drawing. CIRIA good practice guide for designing for exceedance in urban drainage (C635) should be used.
  - d) The adoption and maintenance of the drainage system must be addressed and clearly stated.
05. The applicant is strongly advised to carry through the recommendation contained in paragraph 4.4.3 of the Extended Phase 1 Ecological Assessment, ECOSA, Aug 2013 regarding measures to minimise harm to badgers.
06. With regard to Condition 09 Japanese Knotweed has previously been recorded on this site in an area now covered by rubble. This is an introduced and invasive species that, if still present, could spread over time and have a detrimental impact upon open spaces and can also cause structural damage (e.g. to car parks). Unless it has already been subject to proper eradication from the site, there is a moderate risk that it could re-appear during or after completion of the development, and will need to be subject to control or removal

measures. The spread of the plant is controlled by legislation and plant material is classed as licenced waste and hence the use of a licenced operator would be required.

07. The Wildlife and Countryside Act 1981 makes it an offence to disturb a nest of any wild bird whilst it is in use or in the process of being built. Clearance of trees, scrub, ivy, bramble or other dense vegetation, and demolition of, or works to buildings, could cause disturbance to nesting birds, and it is advisable to carry out such works outside of the main nesting season of 1st March to 31st August inclusive, unless a prior check by a competent person has confirmed the absence of nesting birds.

08. Your attention is drawn to the need to make provision, where reasonable and practicable, for the means of access, parking and sanitary conveniences for people with disabilities and for appropriate signposting of these facilities. Guidance on the appropriate standards for these facilities is available from this office.

09. This permission does not permit the display of any advertisements which require consent under the Town and Country Planning (Control of Advertisements) Regulations 1992, including any such advertisements shown on the submitted plans.

10. Safeguards should be implemented during the construction phase to minimise the risks of pollution and detrimental effects to the water interests in and around the site. Such safeguards should cover the use of plant and machinery, oils/chemicals and materials; the use and routing of heavy plant and vehicles; the location and form of work and storage areas and compounds and the control and removal of spoil and wastes. It is recommended the applicant refer to Pollution Prevention Guidelines provided by the Environment Agency, which can be found at:

<http://www.environment-agency.gov.uk/business/topics/pollution/39083.aspx>

11. The applicant is encouraged to consider reduction, reuse and recovery of waste in preference to offsite incineration and disposal to landfill during site construction.

If any controlled waste is to be removed off site, then site operator must ensure a registered waste carrier is used to convey the waste material off site to a suitably authorised facility. More specific guidance it is available via: [www.environment-agency.gov.uk/subjects/waste/](http://www.environment-agency.gov.uk/subjects/waste/)