



BROMSGROVE DISTRICT COUNCIL

MEETING OF THE PLANNING COMMITTEE

MONDAY 29TH MARCH 2010

AT 1.00 P.M.

★★ PLEASE NOTE CHANGE OF START TIME ★★

COUNCIL CHAMBER, THE COUNCIL HOUSE, BURCOT LANE, BROMSGROVE

MEMBERS: Councillors E. C. Tibby (Chairman), G. N. Denaro (Vice-Chairman), Mrs. J. M. Boswell, Miss D. H. Campbell JP, R. J. Deeming, Mrs. J. Dyer M.B.E., B. Lewis F.CMI, Mrs. J. D. Luck, E. J. Murray, S. R. Peters, C. J. Tidmarsh, P. J. Whittaker and C. J. K. Wilson

Updates to the Reports of the Head of Planning and Environment Services will be available in the Council Chamber one hour prior to Meeting. You are advised to arrive in advance of the start of the Meeting to allow yourself sufficient time to read the updates.

Members of the Committee are requested to arrive at least fifteen minutes before the start of the meeting to read any additional representations and to ask questions of the Officers who will also make themselves available for at least one hour before the meeting. Members are also requested to give Officers at least forty-eight hours notice of detailed, technical questions in order that information can be sought to enable answers to be given at the meeting.

AGENDA

1. To receive apologies for absence and notification of substitutes
2. Declarations of Interest
3. Updates to planning applications reported at the meeting (to be circulated prior to the start of the meeting)

4. 09/0729-JT - Demolition of existing industrial building and erection of new single storey (Class A1) food retail store incorporating car-parking and landscaping - BGW Business Park, 76 - 88 Sherwood Road, Bromsgrove, B60 3DR - Aldi Stores Limited (Pages 1 - 34)
5. 10/0120-MT - Change of use from Market Hall to car park - Market Hall, St. John Street, Bromsgrove, B61 8QY - Bromsgrove District Council (Pages 35 - 40)

K. DICKS
Chief Executive

The Council House
Burcot Lane
BROMSGROVE
Worcestershire
B60 1AA

18th March 2010

Agenda Item 4

Name of Applicant Type of Certificate	Proposal	Map/Plan Policy	Plan Ref. Expiry Date
Aldi Stores Limited 'A'	Demolition of existing industrial building and erection of new single storey class A1, food retail store incorporating car-parking and landscaping (as amended Proposed Site Access Arrangements drawing A1-08016-002G received 23.12.2009)	EMP	09/0729-JT 03.12.2009

RECOMMENDATION: that permission be **GRANTED** subject to conditions and the satisfactory completion of a section 106 legal agreement.

Consultations

Worcestershire Highways Consulted: 06.10.2009. Final response received: 04.01.2010.

No objections subject to the imposition of conditions and informatives relating to:

- access, turning and parking arrangements;
- disabled parking provision;
- cycle parking provision;
- details of parking and unloading arrangements;
- details of off-site highway improvements;
- location of entrance and exit;
- details of parking for site operatives;
- submission of a travel plan;
- the laying of private apparatus on the highway;
- the completion of an agreement under section 278 of the Highways Act 1980 to secure necessary works;
- drainage details;
- protection of visibility splays;
- re-siting of street lighting columns.

Also required is the completion of a legal agreement securing a £75,000 contribution towards the installation of a controlled crossing on the A38 prior to the commencement of development.

Environment Agency Consulted: 06.10.2009. Responses received: 02.11.2009 and 30.12.2009.

The site falls partly in Flood Zone 3 (High Probability) and partly in Flood Zone 2 (Medium Probability). Retail food stores are classed as Less Vulnerable development in Table D2 of PPS25. Such development is considered appropriate in Flood Zones 3a and 2. The Spadesbourne Brook is classed as a Main River in this location. The applicant submitted a revised Flood Risk Assessment as a result of concerns raised by the EA.

The site lies over an aquifer, is in SPZ2 for public water supply purposes and forms part of the Bromsgrove Groundwater Management Unit.

Natural England
The EA raises no objections subject to conditions controlling the form of the development in relation to flood risk and pollution prevention.
Consulted: 12.11.2009. Response received: 01.12.2009.

Worcestershire Wildlife Trust
No objection in respect of legally protected species and biodiversity enhancement measures. The use of sustainable drainage systems is welcomed. A condition is requested to secure the measures set out in the ecological survey. An informative reminding the developer of its duty to comply with relevant wildlife law and to secure appropriate licences is also recommended.
Consulted: 06.10.2009. No comments received.

Severn Trent Water
Consulted: 06.10.2009. Response received: 12.10.2009.

No objection, subject to attachment of a condition and an informative as follows:

Condition: The development hereby permitted shall not commence until drainage details for the disposal of surface water and foul sewage have been submitted to and approved by the Local Planning Authority. The scheme shall be implemented in accordance with the approved details before the development is first brought into use.

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

Suggested informative: Severn Trent Water advises that there is a public sewer located within the application site. Public sewers have statutory protection and may not be built close to, directly over or diverted without consent. You are advised to contact Severn Trent Water to discuss your proposals. Severn Trent Water will seek to assist you obtaining a solution which protects both the public sewer and the building. Please note: when submitting a Building Regulations application, the Building Control officer is required to check the sewer maps supplied by Severn Trent and advise them of any proposals located over or within 3 metres of a public sewer. In many cases, under the provisions of Building Regulations 2001 Part H4, Severn Trent can direct the Building Control officer to refuse building regulations approval.

Strategic Planning
Consulted: 06.10.2009. Response received: 04.11.2009.

Advises of site's location on designated employment land and in an out-of-centre Bromsgrove Town location. Policies S21 and E10 of the adopted Local Plan are relevant, and also PPS1, PPS6 and the draft PPS4 (NB. This has now been adopted, superseding PPS6).

Two key areas to address: 1) the application of the sequential test for an out-of-centre site in accordance with PPS6; and 2) the implications of the loss of employment land. It is necessary to ensure that the

application fully satisfies the sequential test set out in PPS6, and to weigh up the implications of a loss of some employment land in light of a reasonable current supply and possible economic development gains as supported by PPS4.

It is noted that these comments were made before the adoption of PPS4.

Woodland
Officer

Consulted: 06.10.2009. Response received: 12.03.2010.

No objection subject to conditions relating to tree protection, landscaping (including enhancement works to riparian habitat adjoining the brook), and ongoing maintenance.

The proposed development requires the loss of a small number of existing trees in the interior of the site to allow for car parking and on the northern boundary to enable the new access onto the A38. While this conflicts with the requirements of policy C17, I consider this to be acceptable subject to the provision of a scheme of replacement tree planting on the north-east edge of the site. This will mitigate for the loss of the existing trees while reducing the visual impact of the proposed building from the A38 and Sherwood Road aspects.

Some work is required to a number of the large Crack Willows along the river banks on the southern boundary of the site and so these will have to be carried out as per the submitted surveys, report and schedule from Acorn Tree Surgery (as amended). I consider, however, that further works may be required both for long-term safety of users of the site and in the interests of enhancing and maintaining wildlife habitat as discussed below.

Biodiversity: While I am satisfied that the findings of the Extended Phase 1 Habitat Survey by Middlemarch Environmental Ltd. are correct in respect of the evidence found on site regarding protected species, existing habitat condition and other wildlife aspects, these appear to be based on limited historic data and fail to take into account the requirements of PPS9 and policies C10A, C11 and C12.

Bats: I concur with the findings of the Bat Survey that no bats are present on the site though I note that no bat survey was carried out on the large crack willows as mentioned above. The past failure of some of these trees has created some sections with cavities of sufficient size and depth to be suitable bat roosts and so further survey work will be required on this aspect and before works are carried out to the trees. There are also suitable opportunities for the creation of artificial bat roosts either within the structure of the proposed building or among the adjacent trees.

Water voles: I concur with the finding that the current section of the brook at this site is in sub-optimal condition for water voles. This is as a consequence of the shading of the channel and banks resulting from lack of management of this area by past occupiers of the site and

therefore it is not unexpected that no recent signs of resident water vole activity could be found. However, recent surveys carried out by Worcestershire Wildlife Trust found active colonies of water voles both upstream and downstream within 500 metres of this site and the brook forms an important corridor for wildlife, particularly voles and other riparian and aquatic species.

I therefore consider that the importance of the Brook as a wildlife corridor and the currently sub-optimal condition of this section, requires this development to provide enhancement of the section of the site adjoining the Brook to improve its ecological condition, particularly for water voles, in order to meet the requirements of policies C10A, C11 and C12 and to create a sustainable development in accordance with DS13.

Environmental Health

Consulted: 06.10.2009. Response received: 05.11.2009.

No objections in relation to stated time limits during construction phase, delivery times and opening hours. Notes that use of LED lights will be generally encouraged. No back plates will be necessary as there are no residential properties adjacent to the site or in its line of sight.

Commercial Regulation

No objections in principle. Advises that the premises and food business will be required to comply with Food Safety and Health and Safety legislation enforced by this Council. The premises will be subject to routine inspection to assess compliance. Recommended that advice on detailed compliance with this legislation is sought from the Commercial Regulation section. Also notes that it is a legal requirement that the premises be registered with the Council at least 28 days before starting the food business.

Contaminated Land and Air Quality

Advises that the submitted Preliminary Land Quality Risk Assessment is a full and appropriate desk study, and the conclusions are agreed. It is recommended that the recommendations of the report are adhered to, and that a condition is attached to secure an investigation and remediation scheme in the event that previously unidentified contamination is discovered.

The site lies within the Redditch Road Air Quality Management Area. The proposal will not result in any adverse air quality impacts.

Economic Development
Retail Advisor

Consulted: 06.10.2009. No response received.

Consulted: 06.10.2009. Responses received: 26.10.2009, 21.12.2009 and 29.01.2010.

No objection raised in principle to the proposals. The detailed comments made inform the retail analysis in the report below and are not repeated here.

Engineers / Drainage

Consulted: 06.10.2009. Verbally advised no objections subject to drainage conditions. Formal comments awaited.

Publicity

Site Notice posted 12.10.2009; expired 02.11.2009.

Press Notice (Bromsgrove Standard): 15.10.2009; expired 05.11.2009.

Objection received from discount supermarket operator Lidl UK GmbH on 09.12.2009, on the basis that the proposals are contrary to current planning policy and would be detrimental to Bromsgrove's vitality and viability. In particular, Lidl is of the view that the proposals do not accord with the 'town centre first' approach set out in PPS6. (NB. it should be noted that the objection was received prior to the adoption of the new PPS4 on 29.12.2009, which supersedes PPS6. However, the 'town centre first' approach in the new document is broadly similar.)

The main concerns raised may be summarised as follows:

- *Sequential test*: The sequential test carried out by the applicant identifies two preferable sites (the Market Hall site at the western end of the High Street, and the car dealership site on Birmingham Road) capable of accommodating an Aldi store. The objector notes that flexibility would be required on the part of the applicant to use either of these sites. The objector states that the applicant should provide evidence to validate the claim that the sites are: i) not available in the short term in the case of the Market Hall; and ii) financially unviable in the case of the car dealership.
- *Impact on town centre*. The out-of-centre location of the proposed development would have a degenerative impact on the town centre, in particular by the cumulative impact of both Morrisons and Aldi becoming 'almost a one-stop shop'. There is no evidence to support linked trips between the town centre and the site.
- *Accessibility*. The site is poorly linked to bus stops and pedestrian connections. The site is 'significantly disjointed' from the main residential element by a busy roundabout and dual carriageway with no pedestrian connectivity.
- *Re-use of existing buildings*. The existing buildings may be re-used for industrial / commercial purposes, either for small units, for which the Bromsgrove District Employment Land Review (ELR) identifies a greater market, or as a larger single unit, the ELR identifying a lack of supply of such buildings.
- *Jobs*. The validity of the applicant's claim that 20 jobs (Full Time Equivalent) would be created is questioned. An example of a similar Aldi scheme (Woodgate, Leicester) with 900 sq. m. sales floor area is given, with jobs for only 10 people. Based on job generation figures accompanying the ELR, retaining the site in storage / warehousing use could support 78 employees if the total site were to be redeveloped and the capacity to employ 46 people in its current form. There is no evidence to support the claim that the current occupiers will relocate.
- *Employment land policy*. The ELR identifies the Aston Fields Industrial and Trading Estate and Silver Birches Business Park as being 'good' employment land. The site should therefore be retained in employment use in accordance with Local Plan Policy E10.

- *Compatibility.* The proposal does not comply with Local Plan Policy E6, which seeks to prevent incompatible uses where employment uses predominate, as there could be 'an adverse impact on health and safety with issues such as traffic'.
- *PPS4.* In accordance with the (then) draft PPS4, the Council should consider the costs incurred by allowing the development, which are identified as 1) impact on job creation; 2) impact on existing vitality of the town centre; 3) generation of a barrier to new retailers which would have sought to achieve a unit within the town centre, however will choose not to due to the extent of the provision of out-of-town retailing; and 4) increased congestions on an already busy stretch of road.
- *Lidl proposals.* The letter states that Lidl anticipates submitting proposals to the Council for a site that is substantially closer to the centre than the application site in the 'relatively near future'. The site is not named.

Objection received on behalf of WM Morrison Supermarket PLC on 15.02.2010. The objection is made by a transport consultant and relates to technical issues with regard to assessment methodology, and operations and access arrangements for the proposed development. The implications of the proposals are underestimated. The main points raised are as follows:

- It is not clear whether the base traffic data used in the submitted Transport Assessment is appropriate, or 'arrival profiles' during the assessment periods is completely uniform;
- The composition of development trips is disputed;
- A more robust data set is required to test assumptions made with regard to linked trips;
- The Transport Assessment assumes all transferred trips will be from Morrisons, and not Iceland, Somerfield and Asda;
- The Arcady inputs and parameters are incorrect; [note: ARCADY (Assessment of Roundabout Capacity And DelaY) is a type of transport modelling software];
- The proposal would lead to intensification in the use of the substandard junction arrangement at the proposed inbound access.

The site and its surroundings

The application site occupies an area of 9,827 sq. m. on the BGW Business Park at the western end of the Aston Fields Industrial Estate. The site is located to the east of the roundabout junction of the A38 (Stoke Road / Bromsgrove Eastern Bypass), Austin Road and Buntsford Park Road. A large WM Morrisons supermarket is located to the south west, on the opposite side of Buntsford Park Road, and the Charford residential area lies to the north west of the A38. The site is immediately bounded to the east by the Sugar Brook, with industrial buildings beyond.

Two steel portal frame buildings built in the early 1990s currently occupy the site, and are used for a series of light industrial manufacturing units and trade counters, built in the early 1990s. The buildings are of modest architectural quality but appear to be in an

adequate state of repair. The larger of the buildings (76-80b Sherwood Road / Units 1-5 BGW Business Park), which would be demolished to make way for the application proposals, has a floorspace of 2,357 sq. m. The smaller of the two buildings does not form part of the proposals and is to be retained.

Unit 1 is currently occupied by Bromsgrove Glass, Windows & Conservatories (BGW). It is understood that the unit is used for sales, manufacture, storage and distribution of conservatories and windows. Unit 2 was originally used for furniture manufacture. However, it is understood that this activity has ceased, with Furniture Harmony Ltd. now using the unit for the storage and sale of furniture. Unit 3 is used as a warehouse, and units 4 and 5 are used for a combination of warehousing, storage and light industry.

The remainder of the site is occupied by hardstanding and grassed areas, with mature trees bounding the eastern edge of the site adjacent to the brook. There are also mature trees on the western edge of the site facing onto the A38, and to the south on the Buntsford Park Road side. The site is accessed from Buntsford Park Road near to its junction with Sherwood Road.

Proposal

The application seeks planning permission for the demolition of the larger of the existing industrial buildings (76-80b Sherwood Road / Units 1-5 BGW Business Park) on the site and erection of new single storey Use Class A1 food retail store, incorporating car-parking for 95 vehicles and landscaping.

The store would occupy a single building with a gross external floor area of 1,466 sq. m., with retail floorspace of 995 sq. m. (net internal) and storage floorspace of 275 sq. m. The building would have a maximum height of approximately 6.59 metres. Two principal facing materials are proposed - white painted render and glazing. Permeable paving and soakaway roof drainage is proposed, along with low maintenance fixed boundary landscaping.

Opening times for the store would be 0900 - 2000 Mondays-Fridays, 0830 - 2000 Saturdays, and 1000 - 1600 Sundays and bank holidays. Delivery times would be 0700 - 2200. Standard working hours during construction would be 0730 - 1700.

The applicant, Aldi Stores Ltd., states that the company is a 'deep discount' retailer, differing from mainstream grocery retailers in a number of respects. The business model operated by Aldi is based on offering own label groceries at heavily discounted prices with the objective of value for money. This is achieved through:

- efficiency of operation;
- the encouragement of bulk purchasing;
- deliberate restriction of the number of stock lines (approximately 1,000 in comparison to around 20,000 in a typical superstore) and concentration on convenience rather than comparison goods;
- a predomination of canned and bottled products with a limited range of fresh food and cooked chilled items;
- the absence of products such as newspapers / magazines, fresh meat and vegetables;
- the absence of facilities such as a delicatessen, bakery counters, cash dispensers, customer toilets, cafes / restaurants, crèches, in-store franchises, etc.

The store would have an estimated annual turnover of £4.2 million, with £3.6 million coming from convenience sales, and £600,000 from comparison sales.

Relevant Planning History

B15832	Erection of industrial / warehouse development on land adjoining the corner of Sherwood Road and Stoke Road. Approved 1988.
B17679	Erection of Phase 2 of industrial / warehouse development. Approved April 1989.
B/1996/0719	Showroom conservatory. Approved 25.10.1996.
B/1998/0428	Extension to existing industrial unit to provide further warehouse storage space. Approved 04.09.1998.
B/1999/0140	Erection of three small conservatories in UPVC forming extension to showroom. Approved 23.04.1999.
B/2000/1253	Enhancement of existing sign at BGW. Approved 15.01.2001.
B/2007/0946	Alter and extend 2 no. display UPVC conservatories. Approved 05.11.2007.

Also relevant is the permission to extend the Morrisons store on the opposite side of Buntsford Park Road to the application site (B/2007/1137). This application allowed for approximately 550 sq. m. of additional space and was approved in March 2008.

An application (09/0365) made by Sainsbury's Supermarket Ltd. is currently under consideration for the redevelopment of the Bromsgrove Retail Park to provide a new supermarket (Class A1) and retail units (Class A1 - A3) with associated car parking access, highway, landscaping and other works. This development would have a total retail floorspace of 4,148 sq. m.

Relevant Policies

WMSS	PA1, PA6, PA6B (draft), PA13, QE3, UR3
WCSP	CTC.8, CTC.9, D.19, D.31, D.32, D.33, SD.2, SD.3, SD.4, SD.9, T.1, T.4
BDLP	C10A, C11, C12, C17, DS3, DS11, DS13, E1, E6, E10, ES1, ES2, ES4, ES6, ES7, ES11, ES12, ES14, S20, S21, TR1, TR8, TR10, TR11, TR13
Others	PPS1, PPS4, PPS9, PPS23, PPS25, Bromsgrove Town Centre Area Action Plan - Issues and Options Report 2008, Bromsgrove District Employment Land Review 2009, Annual Monitoring Report 2009, Bromsgrove Town Centre Study 2004, Bromsgrove Town Centre Retail Capacity Analysis Update 2007

Notes

It is considered that the main issues in determining the application are as follows:

- 1) The loss of allocated employment land and the appropriateness of retail development on the edge of a predominantly industrial / commercial area; and
- 2) The compliance of the proposals with the 'town centre first' approach set out in national, regional and local policy, and the impact on the vitality and viability on Bromsgrove Town Centre.

These issues are discussed in the following paragraphs. Also discussed are matters of highways and access, flood risk and contamination, air quality, residential amenity, and ecology and trees.

Loss of employment land and appropriateness of development

In relation to the loss of employment land, Structure Plan policy D.19, Local Plan policies E10 and S21(c), RSS policy PA6, draft policy PA6B contained within the emerging RSS, and the newly adopted PPS4 (Planning for Sustainable Economic Growth) are most relevant to the application proposals. Policy D.19 of the WCSP envisages the provisions of about 55 ha. of employment land in Bromsgrove District over the plan period (excluding that required to meet Redditch needs). The site forms part of a wider employment area allocated for Class B1, B2 and B8 uses.

Local Plan policy E10 prohibits retail uses on land allocated for industrial and commercial purposes. Similarly, policy S21(c) states that retail uses will not normally be permitted on land allocated for industry or employment where this can be shown to have the effect of limiting the range and quality of sites that would be available.

RSS policy PA6 states that local authorities should aim to provide and maintain a range and choice of readily available employment sites to meet the needs of the regional economy. Policy PA6B of the emerging RSS sets out a framework for protection of employment land. The policy states:

"Employment land and premises are a valuable resource to the economy of an area and should be protected from competing uses where it can be demonstrated that they make an important contribution to the portfolio within an authority's area."

The policy emphasises the importance of protecting good quality employment sites from uses that fall outside B class employment uses. Whilst the policy is not yet adopted, the overall thrust of the policy is supported within the Panel's Report into the Phase 2 Revision of the RSS and therefore carries significant weight.

In the June 2009 Employment Land Review (ELR) all main employment sites in the District were assessed by qualitative and quantitative means. The application site forms part of the Aston Fields Estate that was assessed as a 'good' quality employment site, whilst conceding that the area 'varies in quality' (Para. 5.51). The ELR states that sites ranked as 'best' or 'good' should be retained as they are considered to be valuable employment sites which should be protected against loss and gradual erosion through the encroachment of alternative uses.

Whilst the wider employment area has been assessed as 'good', the scale and type of land uses that would be lost should be considered. The existing uses on the site consist primarily of manufacturing and storage with a retail element with the overall loss of 2,357 sq. m. of designated employment land.

The ELR sets out the minimum forecast employment land requirements for the period to 2026. This suggests the main growth area will be offices and there will be a possible small decline in manufacturing employment meaning the impact of the loss of the site would be modest. It has been recognised within the ELR that there is a reasonable supply of employment land (currently 35.68 ha.) in the District meaning the proposed

allocation of 28 ha. in the emerging RSS would be met in the event of the loss of the application site for employment purposes.

In summary, there is a general policy presumption against the loss of good quality employment sites such as the application site. However, it is also clear that the loss of the site to a non-industrial land use would not prejudice the District's targets as set out in regional policy.

A key material consideration in the assessment of the application proposals is the newly adopted PPS4, which contains a broad definition of economic development. Paragraph 4 states that, as well as the traditional B Use Classes (manufacturing, offices, etc.) economic development includes 'main town centre uses' and other development which achieves one or more of the following objectives: 1) provides employment opportunities; 2) generates wealth; or 3) produces or generates an economic output or product. It is considered that retail is encompassed by this definition.

PPS4 policy EC10.1 requires local planning authorities to adopt a positive and constructive approach towards planning applications for economic development. Planning applications that secure sustainable economic growth should be treated favourably. This onus on the Council is considered to be a consideration with significant weight in considering the principle of changing the use of this employment site to retail.

The applicant has submitted an Employment Land Assessment with the application. In support of the proposals, this study concludes that:

- Not all of the application site can be considered to constitute employment land, since elements are already being used for retail purposes;
- The rationale for Local Plan policy E10 is to ensure that Structure Plan employment land requirements to 2011 are met. The Council's 2008 monitoring report demonstrates that the Structure Plan requirements have already been met and exceeded. In light of PPS4 there is therefore no longer any justification to seek to restrict retail development on employment land.
- There is adequate provision of industrial / warehousing units in the vicinity of the site to accommodate the relocation of the current users of the site to equivalent or higher quality accommodation.
- The development of the site by the applicant would generate an overall increase in local employment, on the basis that there are suitable sites and premises available close to the site for the existing occupiers.
- The Council's Employment Land Review forecasts a reduction in the requirement for industrial units in the District over the period to 2026.
- The site, by virtue of its accessibility and prominence, taking into account the proximity of Morrisons supermarket, would be better suited to a foodstore than the moderate / poor quality units which currently exist on the site.

Officers do not agree with the applicant's assertion that the fact that employment land targets has been reached amounts to a reason to disregard Local Plan policy E10 in all cases: the retention and encouragement of traditional employment generating uses is central to Local Plan employment policy. However, the adoption of PPS4 compels the Council to look upon the application proposals favourably.

The proposed development would be likely to support at least comparable levels of employment as the existing uses on the site, which are relatively low scale and do not appear to use the site efficiently. The applicant states that 20 full time equivalent jobs would be created. Lidl's concern that the site might support a greater level of employment if the site was redeveloped or used more intensively is noted. However, these considerations are hypothetical, and the chances of redevelopment are considered to be low. Similarly, no evidence suggests that the current occupiers are likely to increase the scale of their operations. It is therefore considered that the proposal would create employment opportunities in the District, and should therefore be supported.

The fact that a portion of the use of the site is already given over to low level retail activities weighs in favour of the proposals, since it reduces the level of Class B activity on the site. Similarly, the fact that the District has an adequate supply of employment land reduces the importance of protecting all employment designations within the District.

Local Plan policy E6 states that, in areas where employment uses predominate, the District Council will not allow other land uses in locations where they could be adversely affected by noise, smell, or traffic or for reasons of health or safety. It is not considered that the use of the site for retail purposes would result in any harm as a result being located close to existing employment uses.

On balance, officers therefore consider that the loss of a relatively small area of allocated employment land for retail purposes will not significantly harm the Council's duty to maintain a portfolio of suitable employment sites, nor the ongoing viability of the wider Aston Fields / Silver Birches employment area. The principle of use of allowing the release of employment land is therefore considered to be acceptable.

Retail policy considerations

Development plan policy

National, regional, county and district policy and guidance all broadly follow the 'town centre first' approach to retail development, which seeks to ensure the vitality and viability of town centres by making them the focus for retail activities. Only when sites are not available in these locations should alternatives be considered.

RSS policy PA13 requires that out-of-centre retail proposals should be considered in light of policies and proposals in development plans and take full account of government guidance, including the sequential approach and an assessment of need. WCSP policy D.31 designates Bromsgrove as one of two Minor County centres, the third rung of the 'retail hierarchy'. Retail proposals should be of a scale which is appropriately related to this role in order to retain and reinforce the hierarchy. Policy D.32 states that the preferred location for new large scale retail developments that attract many trips in the County will be within town centres. Out-of-centre developments should only be considered where applicants can demonstrate that town centre and edge-of-centre sites are not available, the site is accessible and there is a need for the development. Policy D.33 states that development in out-of-centre locations should:

- not adversely affect the vitality and viability of existing town centres;
- be easily accessible, or capable of being made easily accessible, by a choice of means of transport;

- where possible, be close to existing major out-of-centre developments which attract vehicular trips; and
- not normally be allowed on land allocated for other uses, especially for industry, employment and housing, where retail development would limit the range and quality of sites available for such uses.

Local Plan policy DS3 aims to centre the majority of growth in the District on the urban area of Bromsgrove, which has the majority of the population and is well served by existing public transport networks including the railway station. Policy S20 seeks to ensure that Bromsgrove remains the main location for general shopping facilities relative to other locations within the District.

Policy S21 sets out a sequential 'town centre first' approach to site selection for retail facilities, in accordance with the Structure Plan. Proposals will be considered against the following criteria:

- a) there will be a presumption against development within the Green Belt;
- b) out-of-centre developments will not be acceptable where the development adversely affects the vitality and viability of nearby town centres whether by itself or having regard to other recent and proposed retail developments and the cumulative impact of such developments;
- c) retail uses will not normally be permitted on land allocated for industry, employment and housing where this can be shown to have the effect of limiting the range and quality of sites that would be available;
- d) the proposed development is well-located in relation to different modes of transport;
- e) the proposed development is not likely to lead to an increase in the length and number of motorised trips;
- f) the suitability and viability of the site for the proposed use, and whether it is likely to become available within a reasonable period of time.

Planning Policy Statement 4: Planning for sustainable growth

The newly published PPS4 sets out a revised mechanism for assessing retail developments. The sequential approach is retained, but the 'needs test' has been subsumed into a wider test of impact. Policy E10 sets out the approach to be taken towards all proposals for 'economic development'. Policies EC15 - EC17 set out transitional arrangements for the assessment of applications in advance of the new approach being adopted in development plan policy.

In assessing applications for main town centre uses outside of existing centres, developers are expected to demonstrate that two tests have been satisfied: 1) that there is no available town centre or edge-of-centre site available for the proposed development (i.e. the 'sequential test', as set out in the regional, county and district policy set out above); and 2) that the proposal will not result in significant adverse impacts on existing centres (i.e. the 'impact test').

Accordingly, policy EC17.1 states that planning applications for main town centre uses that are not in an existing centre and not in accordance with an up-to-date development plan should be refused planning permission where:

- a) the applicant has not demonstrated compliance with the requirements the **sequential** approach (PPS policy EC15.1);
- b) there is clear evidence that the proposal is likely to lead to significant adverse **impact**, taking account of the likely cumulative effect of recent permissions, developments under construction and completed development (PPS4 policies EC10.2 and EC16.1).

Policy EC17.2 states that where no significant adverse impacts have been identified, planning applications should be determined by taking account of:

- a) the positive and negative impacts of the proposal and any other material considerations; and
- b) the likely cumulative effect of recent permissions, developments under construction and completed developments.

The 'sequential test'

PPS4 policy EC15.1 requires the Council in considering sequential assessments to ensure that:

- a) sites are assessed for their availability, suitability and viability;
- b) all in-centre options have been thoroughly assessed before less central sites are considered;
- c) where it has been demonstrated that there are no town centre sites to accommodate a proposed development, preference is given to edge-of-centre locations which are well connected to the centre by means of easy pedestrian access;
- d) ensure that in considering sites in or on the edge of existing centres, developers and operators have demonstrated flexibility in terms of:
 - i) scale: reducing the floorspace of their development;
 - ii) format: more innovative site layouts and store configurations such as multi-storey developments with smaller footprints;
 - iii) car parking provision: reduced or reconfigured car parking areas; and
 - iv) the scope for disaggregating specific parts of a retail or leisure development, including those which are part of a group of retail or leisure units, onto separate, sequentially preferable, sites. However, local planning authorities should not seek arbitrary sub-division of proposals.

The application site occupies an out-of-centre location. The applicant has carried out a search of sites within and on the edge of Bromsgrove town centre. These have been assessed for their potential availability, suitability and viability in accommodating the proposed development. Beyond the town centre, the defined local centres of Aston Fields and Catshill have also been considered as potential locations.

The following table summarises the applicant's sequential assessment, and the reasons for the discounting of each site assessed. Further information has been sought by officers on three of the sites - the Market Hall site, the second of the Recreation Road

sites, and the 'car dealerships' site on Birmingham Road. These sites are therefore covered in more detail below.

PPS4 EC15.1: Sequential assessment for applications for town centre uses in out-of-centre locations

- | | |
|---|--|
| 1. Market Hall site, St. John Street | The site is owned by Bromsgrove District Council and is identified in the Draft Bromsgrove Town Centre Area Action Plan (AAP) as a potential location for a 'quality food store'. This site is discussed in more detail below. |
| 2. Land adj. Recreation Road South Car Park, Recreation Road | The site is currently used for recreation purposes and is in Council ownership. It is identified as being capable of use for a food store.
The site has been discounted due to potential impact on the transport network at that part of the town centre, and the fact that the site is in use for open space. |
| 3. Recreation Road | This site is on the opposite side of Recreation Road to site 2 and is occupied by several commercial units. It is in mixed private ownership and is assessed as being capable of accommodating the proposals. This site is discussed in more detail below. |
| 4. Car dealerships site, Birmingham Road | This site is in private ownership and is occupied by vacant car dealerships, and is located opposite Bromsgrove Retail Park (site 5 below). This site is discussed in more detail below. |
| 5. Bromsgrove Retail Park, Birmingham Road | This site is currently subject to planning application 09/0365 made by Sainsbury's Supermarkets Ltd. for a food store and retail units (see Relevant Planning History section above). As a result, this site has been discounted as it is not currently available. |
| 6. Dolphin Centre, School Drive | The site is in Council ownership. The Draft Town Centre AAP states that the Council is considering the longer term future of the centre, with aspirations for the development of public / community facilities. The applicant therefore states that it is unlikely that the site will be made available for private development and that any requirement for alternative community / leisure uses would make the application proposals unviable. |
| 7. Fire station and library site, Windsor Street | This site is owned by Worcestershire County Council. The Draft Town Centre AAP states that the Council is currently considering the relocation of the fire station and library. However, the site is not currently available for development, and any redevelopment is reliant on the outcome of consultation on the AAP and the need to find suitable alternative premises.
As with site 6, replacement community facilities are also likely to be required. The applicant therefore contends that this site is unlikely to be suitable, viable or deliverable for the application proposed in the short to medium term. |
| 8. Police station site, The Crescent | This site has an edge-of-centre location and is in County Council ownership. The AAP states that West Mercia Police is seeking to relocate from their current site. As with site 7 above, the redevelopment of the site would be subject to the availability of the site and the relocation of the Police Station. |

9. Station Street site, Station Street	The AAP highlights this site as an opportunity site with potential to accommodate mixed-use development. The applicant contends that the size and nature of the site means it is cannot suitably accommodate the application proposals, and that the site's mixed ownership would make acquisition complex and protracted and render any redevelopment of the site financially unviable.
- Cleared site on Birmingham Road, opp. Victoria Road	This site was not identified in the applicant's initial assessment, and is included at the request of officers. The applicant has subsequently demonstrated to the satisfaction of officers that the site is too small to accommodate the proposed store.
- Aston Fields and Catshill local centres	No suitable site has been identified in either centre. In any event, officers consider that the size of the unit proposed would not be compatible with the scale and nature of these centres.

Market Hall site, St. John Street (site 1)

As is noted above, this site is Council owned and has been identified in the Draft Bromsgrove Town Centre Area Action Plan (AAP) as a potential location for a 'quality food store'.

The site was dismissed by the applicant on the basis that the site could not accommodate the proposals. Officers are not satisfied that this is the case. Although the difficulties of accommodating the applicant's preferred format are recognised given the site's irregular shape, it has not been adequately demonstrated that the store could not be moved back into the site towards Hanover Street, serviced from the rear, with car parking at the George Street end. This may involve some flexibility on the part of the applicant.

However, officers consider that the disposal of this site would present difficulties for the Council's wider aspirations for the town centre. One of the objectives of the Town Centre Area Action Plan currently under preparation is to provide a masterplan for land usage within Bromsgrove town centre. A key element of this is a rationalisation of land holdings of District and County Councils and other partner organisations.

Therefore any consideration of land disposal would at the moment be premature for the following reasons:

- The preferred usage for all possible development sites is being considered in the context of the masterplan and not as individual or discrete developments.
- The current depressed nature of property values means that it is not an optimum time to dispose of such a key site.
- Part of the AAP process is a car parking review to establish which, if any, car parks are surplus.

In summary, it would not be appropriate for the Council to dispose of the Market Hall site until a clear vision for the whole of the town centre is established through a detailed masterplanning exercise which will form the basis of the final AAP. This exercise will deal with a number of potential development sites which will need to be carefully phased to ensure the town centre remains viable through a period of significant change and

investment. Early releases of these sites outside of a wider strategy could hamper the ability of the council to ensure the desired regeneration takes place.

It is also understood that, if the Council were to offer the site as a potential development option, European Union regulations may require a formal procurement process is undertaken which could be lengthy and ultimately may lead to a different developer being preferred.

It is therefore considered on balance that the site can be discounted in this particular instance on the basis of availability, as it is unlikely that the site will come forward for development in the short to medium term. Furthermore, County Highways has advised that a store of the format proposed would present servicing and parking issues.

Recreation Road (site 3)

The site was initially discounted by the applicant due to complex ownership arrangements, which would mean it is likely to be unavailable for the foreseeable future, and the same traffic impacts as identified for site 2 (on the opposite side of Recreation Road). Officers requested further information with regard to this site. Subsequent assessment revealed that the Drill Hall, at the east end of the site, is of significant architectural interest and is being considered for local listing. The feasibility of the site has also been assessed, and it has been concluded that the irregular shape of the site results in a poor fit for a store in the format of the one proposed. As with the Market Hall site, it is considered that with a flexible approach, this site could accommodate the proposals, albeit with possible reduced parking, given the proximity of other car parks.

The applicant has raised highway concerns, due to the closeness of the site to the existing Asda store, and the lack of signalisation at the junction with Market Street. The applicant contends that the proximity of other side roads would prevent signal control, and that a roundabout would not be suitable for pedestrians or cyclists. The County Highways officer agrees with this analysis.

On balance, officers are satisfied the site can be discounted in this particular instance on the basis of access arrangements.

Car dealerships site, Birmingham Road (site 4)

The applicant initially discounted this site on the basis that the site is subject to a prohibitive valuation on the part of the present owner, and has also been assessed as being too small to 'comfortably' accommodate the proposals. Further clarification on these matters was sought by officers. The applicant submits that the cumulative highway impact of the application proposals with the opposite Sainsbury scheme (assuming it were to be approved by the Council) would be likely to make the application proposals unfeasible. Information from the site's vendor's agent suggests that the cost of the site would render the application proposals unviable. On the basis of the additional information, the site can be dismissed in this particular instance on the grounds of viability.

Conclusion on sequential approach

In conclusion, and on balance, officers are of the view that the sequential exercise carried out by the applicant demonstrates that there is no more sequentially preferable in-centre or edge-of-centre site to accommodate the proposed development - all sites have been discounted on the basis of either availability, suitability or viability. In reaching this conclusion, other options, such as changes of format, reduced car parking and flexible layouts have been considered and discounted. It is not considered that any element of the proposed scheme could be disaggregated onto separate sequentially preferable sites. In summary, it is concluded that the proposals complies with the sequential approach to site selection as set out in PPS4 policy EC15.1 and development plan policy.

It should be noted that this conclusion relates to the current proposal at the current time. In the future, should further proposals for centre uses come forward and as circumstances change, it would be necessary thoroughly to revisit these and indeed all other possible sites to assess compliance with the sequential test.

The 'impact' test

PPS4 EC10.2 states that all planning applications for economic development should be assessed against the following impact considerations:

- a) whether the proposal has been planned over the lifetime of the development to limit carbon dioxide emissions, and minimise vulnerability and provide resilience to, climate change;
- b) the accessibility of the proposal by a choice of means of transport including walking, cycling, public transport and the car, the effect on local traffic levels and congestion (especially to the trunk road network) after public transport and traffic management measures have been secured;
- c) whether the proposal secures a high quality and inclusive design which takes the opportunities available for improving the character and quality of the area and the way it functions;
- d) the impact on economic and physical regeneration in the area including the impact on deprived areas and social inclusion objectives;
- e) the impact on local employment.

The table below assesses the application proposals against these criteria.

Policy EC10.2: Determining planning applications for economic development

Carbon dioxide emissions and climate change

The applicant's Design and Access Statement sets out a range of sustainability measures to be incorporated into the design and operation of the proposed store, including heat recovery systems for refrigeration equipment, energy control systems (e.g. automatic lighting), control over deliveries, and packaging minimisation. It is recommended that a condition is attached to ensure that sustainability measures are confirmed and implemented prior to the occupation of the development.

Accessibility	The applicant has agreed to enter into a planning obligation to secure a £75,000 contribution to the installation of a controlled crossing on the A38 and an associated footway, payable prior to the commencement of development. This payment will ensure that the scheme is delivered, in conjunction with existing funding secured through the extension of the adjacent Morrisons store. This is considered necessary in order to connect the development with the Stoke Heath residential area on the west side of the A38. This will provide enhanced pedestrian connectivity to the site and reduce dependency on car-bourn access. The site is also accessible by bus. It is recommended that a condition requiring the submission of a travel plan promoting sustainable forms of access to the development is attached.
Design	The proposed store would be of contemporary design, in keeping with the character of the area, and representing an improvement over the present building.
Regeneration and social inclusion	The applicant concedes that 'the site is not within a town centre and as such the economic and physical regeneration benefits associated with the development on that location would be limited' but contends that 'the proposal will enhance the A38 road corridor through a visible, high quality development', and that the deep discount products offered will be attractive to relatively less well-off members of the local community. As is noted above, the proposal would improve the physical quality of the site.
Local employment	The applicant states that the proposals would generate around 20 full time equivalent jobs. It is therefore considered that the proposal would make a positive contribute to local employment. A full assessment of the proposals against employment policy can be found above.

As the site occupies an out-of-centre location, the application proposals must also be assessed against policy EC16.1, which requires an additional assessment on the impact of town centre uses in out-of-centre locations.

Policy EC16.1 identifies the following additional impacts against which proposals for out-of-centre uses should be assessed:

- 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;
- b) the impact of the proposal on town centre vitality and viability, including local consumer choice and the range and quality of the comparison and convenience retail offer;
- c) the impact of the proposal on allocated sites outside town centres being developed in accordance with the development plan;
- d) in the context of a retail or leisure proposal, the impact of the proposal on in-centre trade / turnover and on trade in the wider area, taking account of current and future

- consumer expenditure capacity in the catchment area up to five years from the time the application is made, and, where applicable, on the rural economy;
- e) if located in or on the edge of a town centre, whether the proposal is of an appropriate scale (in terms of gross floorspace) in relation to the size of the centre and its role in the hierarchy of centres;
 - f) any locally important impacts on centres.

Public and private investment

The document *Planning for Town Centres: Practice guidance on need, impact and the sequential approach* advises that where Councils and / or private developers have identified town centre development opportunities and is actively progressing them, it will be highly material to assess the effect of proposals on that investment'. Key considerations include: the stage at which the proposal has reached; the degree to which key developer / occupier interest is committed; and the level and significance of predicted direct and indirect impacts.

The applicant has identified the proposed Sainsbury's store at Birmingham Road, Bromsgrove (currently under consideration - application ref: 09/0365) as the only private sector investment in the area and concedes that the application proposals would compete with that store for weekly bulk shopping. However, the applicant concludes that the small turnover of the Aldi store relative to a larger Sainsbury store, along with the fact that the proposed Aldi store would draw the bulk of its turnover from the existing out-of-centre Morrisons store, means that there is no realistic threat that the proposals would undermine the Sainsbury proposal (assuming it is granted and comes forward). Officers agree with this assessment.

The only other proposals are those included, or to be included, in the Bromsgrove Town Centre Area Action Plan. Given the early stage of preparation, it is not considered that any meaningful comparative assessment between this application and any proposals in that document can be made at this stage. It is also noted that the application site has been selected to avoid conflict with the wider town centre regeneration strategy that is under development through the Town Centre AAP process.

It is therefore concluded that the proposals would not compromise or otherwise affect any public or private investment opportunities elsewhere in the District.

Vitality and viability, choice and range / quality of retail offer

The applicant argues that there is no directly comparable retail offer to the Aldi store in Bromsgrove town centre, and that the store would have a low turnover, meaning that the proposal has only a limited capacity to affect local consumer choice and the quality and range of the convenience retail offer within the town centre. The applicant also contends that the proposal will improve local consumer choice through its unique 'deep discount' retail offer.

Officers are satisfied that the applicant, through the Retail Impact Assessment reports submitted with the proposal, has demonstrated a quantitative and qualitative need within Bromsgrove for a retail use of the type proposed, and that the proposals would have no significant impact on the vitality and viability of Bromsgrove Town Centre.

Allocated sites outside town centres

There are no allocated out-of-centre sites which would be affected by the application proposals.

Trade / turnover in centre and wider area

The applicant's Retail Impact Assessment reports address the impact of 'trade draw' from existing stores and also the proposed Sainsbury store. It has been concluded that there is sufficient retail capacity with the area to accommodate both the application proposals and the Sainsbury's scheme. As is noted above, officers are therefore satisfied that the applicant has demonstrated a quantitative and qualitative need for the proposals, and that there would not be a significantly adverse effect on trade and turnover in the centre and the wider area. This conclusion holds regardless of whether the Sainsbury's proposals at the Bromsgrove Retail come forward, based on the differing retail offers of the two stores.

By way of illustration, the applicant has provided a summary of expenditure capacity showing that, should both schemes be developed, there is sufficient expenditure capacity to accommodate both, which is reproduced in the table below.

Summary of expenditure capacity - Aldi and Sainsbury's development scenario 2012

	Turnover 2012 (£ million)	
	Convenience	Comparison
CBRE Bromsgrove expenditure capacity - 2012	130.3	178.6
Bromsgrove existing turnover - 2012*	83.6	155.2
Aldi turnover	3.6	0.6
Sainsbury's turnover (inc. retail units)**	30.8	9.55
Total	118	165.35
Net increase in turnover	34.4	10.15
CBRE residual expenditure capacity - 2012***	46.7	23.4
Surplus capacity after Aldi and Sainsbury's	12.3	13.25

Notes

* minus CBRE Somerfield turnover (£4.1m: £3.7m convenience; 0.4m comparison)

** based on information submitted in application ref. 09/0365

*** CBRE figure (based on constant market share) adjusted to account for loss of Somerfield

All references to CBRE relate to *Bromsgrove Town Centre Retail Capacity Analysis Update (2007)* prepared by CBRE on the Council's behalf.

Scale in relation to size of centre and retail hierarchy

The Practice Guidance advises that, in assessing what represents an 'appropriate' scale of development, relevant considerations may include:

- Whether the proposals could be accommodated in whole or in part on more central sites in other centres (i.e. the sequential approach).
- Whether the proposals will be accessible to their likely catchment by alternative means of transport.
- Whether if they rely on a significant change in market shares, they will have an adverse effect on planned investment or the trade / turnover of nearby centres.
- Whether there are positive effects of the proposed scale of development (e.g. employment, infrastructure, regeneration).

As the above assessments indicate, there are no 'sequentially preferable' sites available in or on the edge of Bromsgrove town centre, and the site would be accessible on foot and by bus. The fact that the proposal would create employment within the District within easy walking distance of several residential areas also weighs in favour of the proposal. The floorspace proposed is relatively modest (in the context of supermarket developments). WCSP policy D.31 designates Bromsgrove as a Minor County centre, and Local Plan policy DS3 aims to centre the majority of growth in the District on the urban area of Bromsgrove. In this context, it is concluded that the scale of the proposals is satisfactory.

Locally important impacts on centres

No local impacts have been defined in development plan documents, as the development plan pre-dates the adopted of the new PPS4. However, although it has been concluded that the general impact of the proposals would be acceptable (see 'vitality and viability' section above), there would inevitably be some trade lost and some diversion of activity away from the town centre. It is therefore considered necessary and reasonable for the applicant to provide a financial contribution towards town centre improvement measures to safeguard the vitality and viability of the town centre and / or improve links between the Stoke Heath / Charford area and the town centre. In order to ensure that this payment would be used for improvements closer to the site, it is considered that the project(s) funded by the payment should be limited in geographical extent to the south of the town centre.

Conclusion on impact

In conclusion, the applicant has demonstrated that there will be no significant impact on any retail centre as a result of the proposals. There would be no significant impact on existing, committed and planned public and private investment; the vitality and viability of Bromsgrove town centre; any other allocated site; or existing trade and turnover in the area. The scale of the proposals would be appropriate to the size of Bromsgrove and to their location. No locally important impacts on centres have been identified.

Once again, it should be noted that this conclusion relates to the current proposal at the current time, and any future proposals for centre uses would need to be assessed thoroughly against each of the criteria outlined above.

Conditions

The above assessment is predicated on the assumption that the Aldi business model is fundamentally different to that of mainstream supermarkets, and will therefore not unduly affect the operation of any existing grocery stores. It is therefore considered necessary to impose conditions to ensure that the store is of an appropriate scale and nature and is differentiated from a mainstream supermarket. Conditions to secure the following are therefore recommended:

- Net retail floor space to be no greater 995 sq. m.
- Comparison goods to be limited to no more than 15 per cent of the total net retail floor space.
- No subdivisions to take place, to prevent smaller stores with different business models from occupying the development.
- Proportion of non-'own label' convenience goods not to exceed half of total goods sold, and range of convenience product lines sold from the store not to exceed 1,500.
- No separate franchises, concessions, etc., to be operated, and no service counters, cafeteria or restaurant.
- No tobacco products or magazines to be sold.
- No post office or pharmacy to be operated.

Highways and access

The proposed development would be served by a one-way access arrangement, with entrance to the site via a reconfigured access on Buntsford Park Road at the south west edge of the site, and exit via a new opening onto the southbound A38 Stoke Road. This exit would be configured to prevent right turns into northbound traffic. This access arrangement has been worked up in consultation with Worcestershire County Highways. The development would be served by 99 car parking spaces, including 4 bays for disabled users.

It is noted that Worcestershire County Highways does not object to the proposals subject to imposition of a number of conditions and informatives relating to a number of issues, including access, turning and parking arrangements, car and cycle parking provision, parking for site operatives, travel plan and drainage details.

A travel plan promoting sustainable forms of access to the development is required in order to minimise the traffic impact of the proposals. It is also proposed that pedestrian connectivity to the site would be improved by the provision of a controlled pedestrian crossing on the A38 to provide better access to the Stoke Heath residential area. This would be achieved by a £75,000 contribution, payable prior to the commencement of development, and secured through a section 106 legal agreement.

It is therefore considered that the proposals would not result in any highways, access and parking issues.

Flood risk and contamination

The site falls partly in Flood Zone 3 (High Probability) and partly in Flood Zone 2 (Medium Probability). However, retail food stores are classed as Less Vulnerable development in by PPS25 and is therefore considered appropriate in Flood Zones 3a and 2. The Spadesbourne Brook is classed as a Main River in this location and the site lies over an aquifer, is in SPZ2 for public water supply purposes and forms part of the Bromsgrove Groundwater Management Unit. The Environment Agency raises no objection to the proposals subject to the imposition of conditions controlling the form of the development in relation to flood risk and pollution prevention.

Air quality

Local Plan policy ES14 states that where development is proposed close to sources of pollution and this would be likely to adversely affect the amenity of those occupying the subsequent scheme the District Council will seek to ensure that the conflict between such land uses can be ameliorated to its satisfaction.

The application site lies at the eastern edge of the recently designated Redditch Road Air Quality Management Area. The applicant has submitted an Air Quality Assessment with the proposal, and officers are satisfied that there will be no adverse air quality impacts as a result of the application proposals.

Residential amenity

The nearest residential properties are located 75 metres way on Avon Close, which runs off Austin Road. These properties are separated from the development by the busy A38 road. It is therefore not considered that the properties would be unduly sensitive to any effects caused by the development. In order to ensure that any harm caused is minimised, it is recommended that conditions are attached controlling opening hours, delivery times and lighting. Specifically, the standard opening hours of Aldi stores is 0900 - 2000 Monday - Friday, 0830 - 2000 Saturday and 1000 - 1600 Sunday. Delivery times are 0700 - 2200, on weekdays and Saturdays, and 0900 - 1700 Sundays. It is considered that this should be required by condition. It is also recommended that a condition requiring compliance with the submitted lighting scheme is attached.

Trees and ecology

The proposed development requires the loss of a small number of existing trees in the interior of the site to allow for car parking and on the northern boundary to enable the new access onto the A38. While this conflicts with the requirements of policy C17, this is considered to be acceptable subject to the provision of a scheme of replacement tree planting on the north-east edge of the site. This will mitigate for the loss of the existing trees while reducing the visual impact of the proposed building from the A38 and Sherwood Road aspects.

Although no bats have been found to be present at the site, no survey was carried out on the large Crack Willow trees along the river banks on the southern boundary of the site. It is understood that these trees may be suitable bat roosts, and it is therefore considered that a condition should be attached requiring that no works may be carried out on these trees until a Bat Survey has been undertaken. It is also considered that a condition

should require enhancement of the section of the site adjoining the brook to improve its ecological condition, particularly for water voles.

Planning obligation

It is recommended that planning obligation secured by a section 106 legal agreement is required by the applicant, to provide the following before the commencement of development:

- £75,000 contribution towards a controlled pedestrian crossing on the A38 to better provide better access to Stoke Heath.
- £20,000 towards town centre improvement measures to safeguard the vitality and viability of the town centre and / or improve links between the Stoke Heath / Charford area and the town centre.

Referral to the Secretary of State

Members are advised that resolving to approve the application would depart from the development plan and, in particular, would be contrary to policy E10 of the Local Plan, as well as the 'town centre first' approach set out in various development plan policies.

It is noted that the Town and Country Planning (Consultation) (England) Direction 2009 directs that, where the Council does not propose to refuse planning permission for certain categories of development, it should consult the Secretary of State. One such category (as listed at paragraph 5(1)) includes retail development which:

- (a) is to be carried out on land which is edge-of-centre, out-of-centre or out-of-town; and
- (b) is not in accordance with one or more provisions of the development plan in force in relation to the area in which the development is to be carried out; and
- (c) consists of or includes the provision of a building or buildings where the floor space to be created by the development is:
 - (i) 5,000 square metres or more; or
 - (ii) extensions or new development of 2,500 square metres or more which, when aggregated with existing floor space, would exceed 5,000 square metres.

Although the proposed development is in an out-of-centre location and would constitute a departure from the development plan, the proposed gross external floor area is only 1,466 sq. m. The decision would therefore not need to be referred in the event that Members resolve to grant planning permission.

Conclusion

As the proposals involve the redevelopment of an employment site, approval of the application would depart from the development plan, and specifically Local Plan policy E10 which prohibits retail uses on land allocated for industrial and commercial purposes. However, on balance, officers consider that the loss of a relatively small area of allocated employment land for retail purposes will not significantly harm the Council's duty to maintain a portfolio of suitable employment sites, nor the ongoing viability of the wider Aston Fields / Silver Birches employment area.

The site also occupies an out-of-centre location inconsistent with the 'town centre first' approach set out in the development plan and the guidance in PPS4. However, the applicant has demonstrated that there are no available, suitable or viable sites in any 'sequentially preferable' location; that there is a quantitative and qualitative need for the proposals; and that there would not be a significant impact on the vitality and viability of Bromsgrove Town Centre.

The proposals would be acceptable in highway terms, would result in no harm to the amenities of any residential properties, would not increase the risk of flood risk and would not result in any adverse air quality management impacts. It is therefore recommended that permission be granted.

RECOMMENDATION: that permission be **GRANTED** subject to the satisfactory completion of a section 106 legal agreement and the following conditions:

- 1) C001 Standard time - three years
- 2) The development hereby permitted shall not be carried out except in complete accordance with the details shown on the submitted plans: T08A07-003-D (Proposed Site Plan), T08A07-004 (Proposed Drainage and Roof Plan), T08A07-020-B (Proposed Floor Plan), T08A07-030-B (Proposed Elevations), T08A07-040 (Proposed Section A-A), T08A07-041 (Existing and Proposed Site Sections - Proposed Section B-B), T08A07-2000FS-003 (Proposed Site Plan - Landscaping), MJA-P105-3048-B (Lighting Scheme) and A1-08016-002G (Proposed Site Access Arrangements - received 23.12.2009) and the recommendations of the following documents: Design and Access Statement (T08A07/18/PE), Preliminary Land Quality Risk Assessment (404.2748.00002), Flood Risk Assessment (FRQ) (ref: 09230/FRA/RevB) and Extended Phase 1 Habitat Survey (ref: RT-MME-106361) unless otherwise agreed in writing by the Local Planning Authority.

Reason: To define the permission and in order to secure the satisfactory appearance of the development in accordance with policy CTC.1 of the Worcestershire County Structure Plan 2001 and policy DS13 of the Bromsgrove District Local Plan.

- 3) C003 Materials to be submitted
- 4) C026 Demolish existing buildings
- 5) The retail store hereby permitted shall not be open to customers outside the following times: 0900 - 2000 Monday - Friday, 0830 - 2000 Saturday and 1000 - 1600 Sunday.

Reason: In order to protect the amenities of the area in accordance with policy DS13 of the Bromsgrove District Local Plan.

- 6) No deliveries shall be taken at or despatched from the site outside the hours of 0700 - 2200 Monday - Saturday, 0900 - 1700 Sundays, nor at any time on Bank or Public Holidays.

Reason: In order to protect the amenities of the area in accordance with policy DS13 of the Bromsgrove District Local Plan.

- 7) No external lighting shall be provided other than in accordance with drawing no. MJA-P105-3048-B, unless otherwise agreed in writing by the Local Planning Authority.

Reason: In order to protect the amenities of the area in accordance with policy DS13 of the Bromsgrove District Local Plan.

Retail

- 8) The total net retail floor space of the retail store hereby approved shall not exceed 995 sq. m.

Reason: In order to define the permission and in order to minimise the potential for future harm to the vitality and viability of existing retail centres within the District, in accordance with policy PA13 of the West Midlands Regional Spatial Strategy, Worcestershire Structure Plan policies D.31, D.32 and D.33 and Bromsgrove Local Plan policies DS3, S20, and S21, and the provisions of PPS4.

- 9) The display of comparison goods shall be limited to no greater than 15 per cent of the total net retail floor area.

Reason: In order to define the permission and in order to minimise the potential for future harm to the vitality and viability of existing retail centres within the District, in accordance with policy PA13 of the West Midlands Regional Spatial Strategy, Worcestershire Structure Plan policies D.31, D.32 and D.33 and Bromsgrove Local Plan policies DS3, S20, and S21, and the provisions of PPS4.

- 10) The hereby approved retail store shall not be subdivided other than in accordance with the approved plans.

Reason: In order to define the permission and in order to minimise the potential for future harm to the vitality and viability of existing retail centres within the District, in accordance with policy PA13 of the West Midlands Regional Spatial Strategy, Worcestershire Structure Plan policies D.31, D.32 and D.33 and Bromsgrove Local Plan policies DS3, S20, and S21, and the provisions of PPS4.

- 11) The retail store hereby permitted shall at no time be occupied other than in accordance with the following restrictions:

- i) The proportion of non-'own label' convenience goods sold from the store shall not exceed 50 per cent of the total of convenience goods sold;
- ii) The range of convenience product lines sold from the store shall not exceed 1,500;
- iii) No separate franchises, concessions or other operators shall operate from the application site;
- iv) There shall be no service counters within the store;
- v) The store shall not incorporate a cafeteria or restaurant;
- vi) The store shall not sell tobacco products or magazines;
- vii) The store shall not incorporate a post office or pharmacy.

Reason: In order to define the permission and in order to minimise the potential for future harm to the vitality and viability of existing retail centres within the District, in accordance with policy PA13 of the West Midlands Regional Spatial Strategy, Worcestershire Structure Plan policies D.31, D.32 and D.33 and Bromsgrove Local Plan policies DS3, S20, and S21, and the provisions of PPS4.

- 12) The development hereby approved shall not be commenced until a detailed statement outlining measures to ensure sustainable development has been submitted to and approved in writing by the Council. This statement shall demonstrate how the proposal has been planned over the lifetime of the development to 1) limit carbon dioxide emissions, and 2) minimise vulnerability and provide resilience to climate change. The approved details shall be implemented prior to the occupation of the development and shall be retained as operational thereafter, unless otherwise agreed in writing by the Local Planning Authority.

Reason: In order to ensure that the development limits carbon emissions and minimises vulnerability to climate change, in accordance with Local Plan policy DS13 and the provisions of PPS1 and PPS4.

Highways

- 13) HC25 - Access, turning and parking
14) HC30 Disabled Parking Need
15) HC35 Cycle Parking (Single Unit)
16) HC39 Parking / unloading submission of detail
17) Prior to the commencement of the development hereby permitted engineering details of the alterations to the access on Buntsford Park Road including the right turning lane, the new junction on to the Stoke Road and alterations to splitter islands and tactile paving shall be submitted and approved in writing by the Local Planning Authority, and the development shall not be occupied until the scheme has been constructed in accordance with the approved details.

Reason: To ensure the safe and free flow of traffic onto the Highway.

- 18) Means of vehicular access to the development hereby approved shall be from Buntsford Park Road only. Exit from the site shall be onto A38 Stoke Road.

Reason: In the interest of Highway Safety.

- 19) HC51 Parking for Site Operatives
20) HC53 Travel Plan Condition

Contaminated land

- 21) The remediation of the site shall be carried out in accordance with the approved Preliminary Land Quality Risk Assessment prior to the commencement of development other than that required to carry out remediation, unless otherwise agreed 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 ES7 of the Bromsgrove Local Plan.

- 22) Prior to the commencement of development approved by this planning permission (or such other date or stage in development as may be agreed in writing with the Local Planning Authority), the following components of a scheme to deal with the risks associated with contamination of the site shall each be submitted to and approved in writing by the Local Planning Authority:
1. A preliminary risk assessment which has identified:
 - All previous uses;
 - Potential contaminants associated with those uses;
 - A conceptual model of the site indicating sources, pathways and receptors;
 - Potentially unacceptable risks arising from contamination at the site.
 2. A site investigation scheme, based on component 1 above, to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off site.
 3. The site investigation results and the detailed risk assessment pursuant to component 2, and based on these, and optional appraisal and remediation strategy giving full details of the remediation measures required and how they are to be undertaken.
 4. A verification plan providing details of the data that will be collected in order to demonstrate that the works set out in component 3 are complete and identifying any requirements for longer term monitoring of pollutant linkages, maintenance and arrangements for contingency action.

Such scheme as is approved shall be implemented by the applicant in accordance with a schedule submitted to and agreed in writing by the Local Planning Authority prior to the commencement of works. Any changes to these components shall be submitted to and approved in writing by the Local Planning Authority prior to being carried out.

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 ES7 of the Bromsgrove Local Plan.

- 23) In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken and where necessary a remediation scheme must be prepared. These will be subject to the approval of the Local Planning Authority. Following the completion of any measures identified in the approved remediation scheme a validation report must be prepared, which is subject to the approval in writing of the Local Planning Authority prior to the occupation of any buildings.

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 ES7 of the Bromsgrove Local Plan.

- 24) No infiltration of surface water drainage into the ground is 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 controlled waters. The development shall be carried out in accordance with the approved details.

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 ES7 of the Bromsgrove Local Plan.

Flood Risk and Drainage

- 25) The development permitted by this planning application shall only be carried out in accordance with the approved Flood Risk Assessment (FRA) (ref: 09230/FRA/RevB) and the following mitigation measures detailed within the FRA:

1. Surface water run-off generated by the existing site to be reduced by 20 per cent so that the development will not increase the risk of flooding offsite.
2. Finished floor levels shall be set no lower than 70.0m above Ordnance Datum (AOD).
3. An overland flow route through the site as detailed in drawing no. 09230/FRA/1000 shall be incorporated into the design to allow floodwater from the A38 to flow into the Spadesbourne Brook.
4. There must be no new buildings, structures (including gates, walls and fences) or raised ground levels within 8 metres of the top of the bank of any watercourse.

Reason: To 1) prevent flooding by ensuring the satisfactory storage / disposal of surface water from the site; 2) reduce the risk of flooding to the proposed development and future occupants; 3) ensure that there will not be increased risk of flooding due to the impedance of flood flows; and 4) maintain access to the watercourse for maintenance or improvements and provide for overland flood flows in extreme flood events.

- 26) The development hereby permitted shall not commence until drainage details for the disposal of surface water and foul sewage have been submitted to and approved by the Local Planning Authority. The scheme shall be implemented in accordance with the approved details before the development is first brought into use.

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

Ecology and Landscaping

- 27) Prior to the commencement of any works on site, full details of a scheme of landscaping and planting shall be provided to the approval of the Local Planning Authority. This scheme shall include details of enhancement works to the riparian habitat adjoining the Brook course on the south side of the application site.

Reason: In order to protect the trees which form an important part of the amenity of the site and to safeguard and promote wildlife habitats and biodiversity in accordance with policies DS13, C10A, C11, C12 and C17 of the Bromsgrove District Local Plan January 2004 and policies CTC.1 and CTC.5 of the Worcestershire County Structure Plan 2001.

- 28) Prior to any occupation of the development hereby permitted, the approved scheme of landscaping and planting shall be completed to the satisfaction of the Local Planning Authority.

Reason: In order to protect the trees which form an important part of the amenity of the site in accordance with policies DS13 and C17 of the Bromsgrove District Local Plan January 2004 and policies CTC.1 and CTC.5 of the Worcestershire County Structure Plan 2001.

- 29) Any retained or new planting trees, hedges or shrubs on the site as shown on the approved landscaping scheme which are removed, or become dead, diseased or dangerous, shall be replaced to the satisfaction of the Local Planning Authority.

Reason: In order to protect the trees which form an important part of the amenity of the site in accordance with policies DS13 and C17 of the Bromsgrove District Local Plan January 2004 and policies CTC.1 and CTC.5 of the Worcestershire County Structure Plan 2001.

- 30) Prior to the commencement of any works on site including any site clearance, demolition, excavations or import of machinery or materials, the developer shall erect protective fencing around the Root Protection Areas (RPA) of the trees on and adjacent to the application site as illustrated by Figure 2 and at positions in accordance with Section 5.2.2 of British Standard BS5837:2005 to the satisfaction of the Local Planning Authority (LPA). This fencing shall be maintained to the satisfaction of the LPA until all development, the subject of this permission, has been completed.

Reason: In order to protect the trees which form an important part of the amenity of the site in accordance with policies DS13 and C17 of the Bromsgrove District Local Plan January 2004 and policies CTC.1 and CTC.5 of the Worcestershire County Structure Plan 2001.

- 31) No works of any kind, including changes in ground levels, installation of utility services, passage, storage or use of machinery or washing out of mixing or fuel tanks, shall be permitted within the Root Protection Areas of trees on and adjacent to the site without the prior specific written permission of the LPA.

Reason: In order to protect the trees which form an important part of the amenity of the site in accordance with policies DS13 and C17 of the Bromsgrove District Local Plan January 2004 and policies CTC.1 and CTC.5 of the Worcestershire County Structure Plan 2001.

- 32) No materials of any kind shall be stored, installed, burned or disposed of within the Root Protection Areas of trees on and adjacent to the site without the prior specific written permission of the LPA.

Reason: In order to protect the trees which form an important part of the amenity of the site in accordance with policies DS13 and C17 of the Bromsgrove District Local Plan January 2004 and policies CTC.1 and CTC.5 of the Worcestershire County Structure Plan 2001.

- 33) Where any new trees are planted within 2 metres of any pavement, kerb or other low-rise structure, a vertical root barrier shall be installed of suitable depth, position and construction to deflect root growth and avoid future damage to that structure to the satisfaction of the Local Planning Authority.

Reason: In order to protect the trees which form an important part of the amenity of the site in accordance with policies DS13 and C17 of the Bromsgrove District Local Plan January 2004 and policies CTC.1 and CTC.5 of the Worcestershire County Structure Plan 2001.

- 34) No trees or hedges shall be pruned, felled or uprooted without the specific written permission of the Local Planning Authority.

Reason: In order to protect the trees which form an important part of the amenity of the site in accordance with policies DS13 and C17 of the Bromsgrove District Local Plan January 2004 and policies CTC.1 and CTC.5 of the Worcestershire County Structure Plan 2001.

- 35) Prior to any occupation of the development hereby permitted, details shall be provided to the approval of the Local Planning Authority of a schedule of works and ongoing management operations to maintain the areas of wildlife habitat as shown on the approved landscaping and planting scheme in good ecological condition. The approved schedule and operations shall be carried out as detailed for the life of the development unless varied in writing by the Local Planning Authority.

Reason: In order to safeguard and promote wildlife habitats and biodiversity, in accordance with policies C10A, C11, C12 and C17 of the Bromsgrove District Local Plan.

- 36) The development hereby approved shall not be carried out other than in accordance with the recommendations of the Extended Phase 1 Habitat Survey (ref: RT-MME-106361) unless otherwise agreed in writing by the Council.

Reason: In order to safeguard and promote wildlife habitats and biodiversity, in accordance with policies C10A, C11, C12 and C17 of the Bromsgrove District Local Plan.

- 37) No works shall take place to the Crack Willow trees along the river bank on the southern edge of the application site until a Bat Survey has been undertaken to establish whether the trees are used by roosting bats. If the Survey confirms the presence of bat roosts, no works to the trees shall take place other than in accordance with a scheme of works previously submitted to and approved in writing by the Local Planning Authority.

Reason: In order to safeguard and promote wildlife habitats and biodiversity, in accordance with policies C10A, C11, C12 and C17 of the Bromsgrove District Local Plan.

Informatives

- 1) The development hereby approved will be required to comply with Food Safety and Health and Safety legislation enforced by Bromsgrove District Council. The premises will be subject to routine inspection to assess compliance. It is strongly recommended that advice be sought on detailed compliance with this legislation from the Commercial Team at the Council (telephone number 01527 881434) at the earliest opportunity. It is also a legal requirement that the premises be registered with the Council at least 28 days before starting the food business.
- 2) The Environment Agency advises that under the terms of the Water Resources Act 1991 and the Land Drainage Byelaws, the prior written consent of the Environment Agency is required for any proposed works or structures, in, under, over or within 8 metres of the top of the bank of the Spadesbourne Brook, designated as a 'main river'.
- 3) Severn Trent Water advises that there is a public sewer located within the application site. Public sewers have statutory protection and may not be built close to, directly over or diverted without consent. You are advised to contact Severn Trent Water to discuss your proposals. Severn Trent Water will seek to assist you obtaining a solution which protects both the public sewer and the building. Please note, when submitting a Building Regulations application, the building control officer is required to check the sewer maps supplied by Severn Trent and advise them of any proposals located over or within 3 metres of a public sewer. In many cases under the provisions of Building Regulations 200 Part H4, Severn Trent can direct the building control officer to refuse building regulations approval.
- 4) Natural England advises that this planning permission does not absolve the developer from complying with the relevant law, including obtaining and complying with the terms and conditions of any licences required as described in Part IV B of the *Circular 06/2005: Biodiversity and Geological Conservation - Statutory Obligations and Their Impact Within the Planning System*.
- 5) Worcestershire County Council's Highway Network Control Manager advises the following:
 - a) This permission does not authorise the laying of private apparatus within the confines of the public highway. The applicant should apply to the Worcestershire County Council's Network Control Manager, County Hall, Spetchley Road, Worcester WR5 2NP (telephone 0845 607 2005), for

consent under the New Roads and Streetworks Act 1991 to install private apparatus within the confines of the public highway. Precise details of all works within the public highway must be agreed on site with the Highway Authority.

- b) The applicant's attention is drawn to the need to ensure that the provision of the visibility splay(s) required by this consent is safeguarded in any sale of the application site or part(s) thereof.
- c) This permission does not authorise the resiting of any street lighting columns or illuminated road traffic sign(s) affected by the proposed development. The applicant should contact the Network Control Manager, Worcestershire County Council, County Hall, Spetchley Road, Worcester WR5 2NP for the necessary approval. Precise details of all works within the public highway must be agreed with the Highway Authority.
- d) No work on the site should be commenced until engineering details of the improvements to the Public Highway have been submitted to and approved by the Highway Authority and an agreement under Section 278 of the Highways Act 1980 entered into.
- e) Drainage arrangements shall be provided to ensure that surface water from the driveway and / or vehicular turning area does not discharge onto the Public Highway. No drainage or effluent from the proposed development shall be allowed to discharge into any Highway drain or over any part of the Public Highway.

Notes

This decision has been taken having regard to the policies within the West Midlands Spatial Strategy (WMSS) January 2008, the Worcestershire County Structure Plan (WCSP) June 2001 and the Bromsgrove District Local Plan (BDLP) January 2004 and other material considerations as summarised below:

WMSS	PA1, PA6, PA6B (draft), PA13, QE3, UR3
WCSP	CTC.8, CTC.9, D.19, D.31, D.32, D.33, SD.2, SD.3, SD.4, SD.9, T.1, T.4
BDLP	C10A, C11, C12, C17, DS3, DS11, DS13, E1, E6, E10, ES1, ES2, ES4, ES6, ES7, ES11, ES12, ES14, S20, S21, TR1, TR8, TR10, TR11, TR13
Others	PPS1, PPS4, PPS9, PPS23, PPS25, Bromsgrove Town Centre Area Action Plan - Issues and Options Report 2008, Bromsgrove District Employment Land Review 2009, Annual Monitoring Report 2009, Bromsgrove Town Centre Study 2004, Bromsgrove Town Centre Retail Capacity Analysis Update 2007

As the proposals involve the redevelopment of an employment site, approval of the application would depart from the development plan, and specifically Local Plan Policy E10 which prohibits retail uses on land allocated for industrial and commercial purposes. However, on balance, the Council considers that the loss of a relatively small area of allocated employment land for retail purposes will not significantly harm the Council's duty to maintain a portfolio of suitable employment sites, nor the ongoing viability of the wider Aston Fields / Silver Birches employment area.

The site also occupies an out-of-centre location inconsistent with the 'town centre first' approach set out in the development plan and the guidance in PPS4. However, the applicant has demonstrated that there are no available, suitable or viable sites in any 'sequentially preferable' location; that there is a quantitative and qualitative need for the proposals; and that there would not be a significant impact on the vitality and viability of Bromsgrove Town Centre.

The proposals would be acceptable in highway terms, would result in no harm to the amenities of any residential properties, would not increase the risk of flood risk and would not result in any adverse air quality management impacts.

It is therefore the Council's view that, on balance, there are no justifiable reasons to refuse planning permission.

Agenda Item 5

Name of Applicant Type of Certificate	Proposal	Map/Plan Policy	Plan. Ref Expiry Date
Bromsgrove District Council 'A'	Change of use from Market Hall to car park - Market Hall, St John Street, Bromsgrove	TCZ	10/0120-MT 09.04.2010

RECOMMENDATION: that **DELEGATED POWERS** be granted to the Head of Planning and Environment Services to determine the application upon the expiry of the consultation period on 06.04.2010.

MINDED to APPROVE temporary planning permission for a period of two years subject to the receipt of satisfactory comments from the Environment Agency.

Consultations

WH Comments received 08.03.2010: recommend that permission is refused for the following reasons:

The application will encourage additional car movements into the town centre. The development cannot promote sustainable means of access as there is no ability for the application to encourage walking, cycling or bus access over car access. There is a real danger of encouraging car trips into the town centre which will create congestion and, in educating motorists as once they regularly access the town via car, reversing that trend is very difficult regardless of how attractive the alternative means are.

It is considered that the principle of a development that encourages car activity and does not encourage sustainable development is unacceptable and should be refused.

WCC Public Rights of Way Comments received 24.02.2010 in relation to this application and an associated application for prior notification of proposed demolition at the same site (10/0109).

The development affects a public right of way as recorded on the Definitive Map. The public right of way is Bromsgrove Footpath 584 (BM-584).

I am concerned that the application mentions security fencing around the site. The Department of Environment Circular 2/93 states that no development should be allowed to obstruct a public right of way either during or after development. We must therefore object to this application although we may be able to withdraw the objection if the applicant can supply an indication of how the public right of way is to be accommodated.

Ramblers Association CO Consulted 01.03.2010: No comments received to date.

Verbal comments received 12.02.2010: No objection.

Drainage Engineer Verbal comments received 15.03.2010: No objection subject to the imposition of a condition to secure the appropriate drainage of surface water.

EA Consulted 16.03.2010: No comments received to date.

Publicity 1 letter received: concerns raised over publicity procedure and over car parking not being the most beneficial use of the site.
Site Notice Posted 01.03.2010; expired 22.03.2010.
Press Notice published 04.03.2010; expired 25.03.2010

The site and its surroundings

The application site relates to the vacant Market Hall building and surrounding areas of hardstanding. The site is bounded by St. John Street and Market Place to its northern and eastern boundaries, a public car park to its western boundary and the Spadesbourne Brook to its southern boundary. The site is within the Town Centre Zone and the junction of Market Place and St. John Street is defined in the BDLP as a Primary Shopping Street. The site is adjacent to, but not within, the Town Centre Conservation Area. There is a public right of way running along the south eastern boundary of the site.

Proposal

The building on the site is due to be demolished. Members determined at the meeting of the Planning Committee on 01.03.2010 (application ref. 10/0109) that the prior approval of the authority of the proposed method of demolition and restoration of the site would not be required. This application does not therefore seek permission to demolish the Market Hall building and that will not be a consideration in the determination of this application.

Following the demolition of the building this application proposes to change the use of the site to a public pay and display car park. This will effectively be an extension of the adjacent car park increasing the number of spaces from 138 to 210 (an additional 72 spaces would be provided including 4 disabled spaces). The car park would be accessed from the existing entrances on St. John Street and Hanover Street.

Relevant Policies

WCSP SD.9, CTC.1, CTC.8
BDLP DS13, ES1, ES2, BROM11, BROM12, BROM13
Others PPS1, PPS4, PPG13, PPS25

Relevant Planning History

10/0109 Demolition of Market Hall - Prior Approval of demolition not required.

Notes

I consider that there are a number of issues to address in the determination of this application. Firstly, it is important to establish the principle of the development. Would the proposed car park be appropriate in this location? Secondly, I note the concerns of the Highways Engineer and it will be necessary to consider the proposal against policies relating to transport. Thirdly, it is necessary to consider the appearance of the

development and its impact on the setting of the adjacent Conservation Area. Fourthly, I note the comments of the Public Paths Officer and these will be duly considered below. Finally, it is important to consider the implications of the proposed car park for the nearby watercourse. I will deal with each of these matters under separate headings below.

The principle of the development

Policy BROM13 of the BDLP provides that within the Primary Shopping Area of the town centre the District Council will normally allow proposals for retail development at ground floor level, and retail, office or residential use at upper floor level. The explanatory text to this policy states that '*The District Council wishes to maintain the primary shopping area as the key location for retail and associated uses. Other uses will not normally be permitted at ground floor level.*'

The proposal would not involve retail development nor is it considered to involve an associated use. I am of the view that the proposal would be ancillary to the main retail function of the Town Centre but I do not consider such a use to be appropriate in a Primary Shopping Area but rather in a secondary shopping or edge of centre location. As such I consider the proposal to be unacceptable in principle in this location.

However, it is understood that the long term plan is to use the site for retail development and the proposed car park is only intended to be a short term solution due to a lack of developer interest and the current economic situation. I appreciate the applicant's situation and I consider that this proposal would bring the site back into effective use until a long term solution is found.

I am nonetheless mindful of the provisions of Policy BROM13 and I consider that, if Members are minded to approve planning permission for the proposal, this should be permitted on a temporary basis so as to limit the car-park use to the short term. I consider that this approach would not irreversibly dilute the retail function of the Town Centre and prejudice the Council's commitment to Town Centre regeneration.

Highways

Members will note that Worcestershire Highways has recommended that the application is refused as it would undermine the objectives of sustainable transport. I am also mindful of the Government's planning policy advice for transport contained in PPG13. This advises local planning authorities to promote sustainable transport choices and reduce reliance on the car for work and other journeys. Reducing the amount of parking in new development is essential, as part of a package of planning and transport measures, to promote sustainable travel choices.

It is considered that increasing the parking provision of the Town Centre would act as a disincentive for people to travel to the Town Centre by more sustainable means such as public transport, cycling and walking. The proposed development would therefore contravene the Government's objectives for sustainable transport advocated in PPG13. It is however important to note that the use of the site as a car park is only intended to be a short term solution. Thus, if and insofar as the proposal does encourage car travel into the town centre, this would only be for a short period of time. The concept of sustainable development (and thus sustainable transport) refers to long term objectives and

protecting the environment for future generations. I do not consider that any harm resulting from this proposal (i.e. through vehicle emissions) would be material enough to substantiate an argument against the proposal in sustainability or strategic terms.

I am also mindful of a recent appeal decision against Leicester City Council for a similar proposal (Appeal ref. APP/W2465/C/09/2104664). Here the Inspector allowed an appeal against an enforcement notice for the unauthorised change of use of a city centre site to a surface car park. The appellant sought permission for a temporary period of two years. The Inspector found the principle of the car park to undermine national, regional and local planning policies and guidance seeking to promote sustainable transport choices but considered that, amongst other reasons, the temporary nature of the use would materially reduce any resulting harm. The appeal was allowed and a temporary two year planning permission was granted.

On the above basis I would give significant weight to the fact that the proposal is only intended as a short term venture and I would strongly recommend that any planning permission granted is only done so on a temporary basis.

Visual Impact

The proposal would involve a mismatch of surfacing materials. The area currently beneath the Market Hall building has a concrete base whereas the surrounding hardstanding comprises of block paving and the adjoining car park is surfaced with tarmac. I am of the view that the resulting area would be somewhat incongruent in appearance but I consider that this would only be noticeable from within the site itself. I do not therefore consider that the proposal would have any adverse impact on the visual amenities of the area.

Impact on setting of Conservation Area

It is considered that the proposal would have no adverse impact on the character and appearance of the adjoining Conservation Area. The Council's Conservation Officer has been consulted on the proposal and no objection has been raised.

The Public Right of Way

I acknowledge the comments of Worcestershire County Council in relation to the nearby public right of way. It should however be noted that the concerns raised relate to the security fencing that would be erected around the site whilst the approved demolition takes place. The proposed use of the site as a car park would not obstruct the public right of way.

Spadesbourne Brook

The site is located adjacent to Spadesbourne Brook and within Flood Zone 3 as defined by the Environment Agency (EA). The views of the EA have been sought on the proposal and these views are currently awaited. I will update Members at the meeting of the Committee on this issue.

The Council's Drainage Engineer has been consulted on the proposal and no objection has been raised subject to the imposition of a condition to secure the appropriate drainage of surface water.

Conclusion

Although the provision of additional car parking is not considered to be an appropriate land use in a Primary Shopping Area I do not consider that this short term proposal would irreversibly dilute the retail function of the Town Centre. The proposal would not promote sustainable transport but it is not considered that any strategic harm would result from the use of the site as a car park in the short term. Taking these points into consideration, it is thus recommended that any planning permission granted is only done so on a temporary basis.

Without the views of the EA the impact of the development on flood risk cannot be properly established. Members will note that the consultation period with the EA does not expire until 6th April 2010. I would therefore recommend that Delegated Powers be granted to the Head of Planning and Environment Services to determine the application upon the expiry of this consultation period.

RECOMMENDATION: that **DELEGATED POWERS** be granted to the Head of Planning and Environment Services to determine the application upon the expiry of the consultation period on 06.04.2010.

MINDED to APPROVE a temporary planning permission for a period of two years subject to the receipt of satisfactory comments from the Environment Agency.

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