

## Development Management Report

Responsible Officer: Tim Rogers

Email: [tim.rogers@shropshire.gov.uk](mailto:tim.rogers@shropshire.gov.uk) Tel: 01743 258773 Fax: 01743 252619

### Summary of Application

**Application Number:** 16/00181/FUL

**Parish:**

Shrewsbury Town Council

**Proposal:** Erection of retail store, associated car parking and servicing facilities, site access and associated works

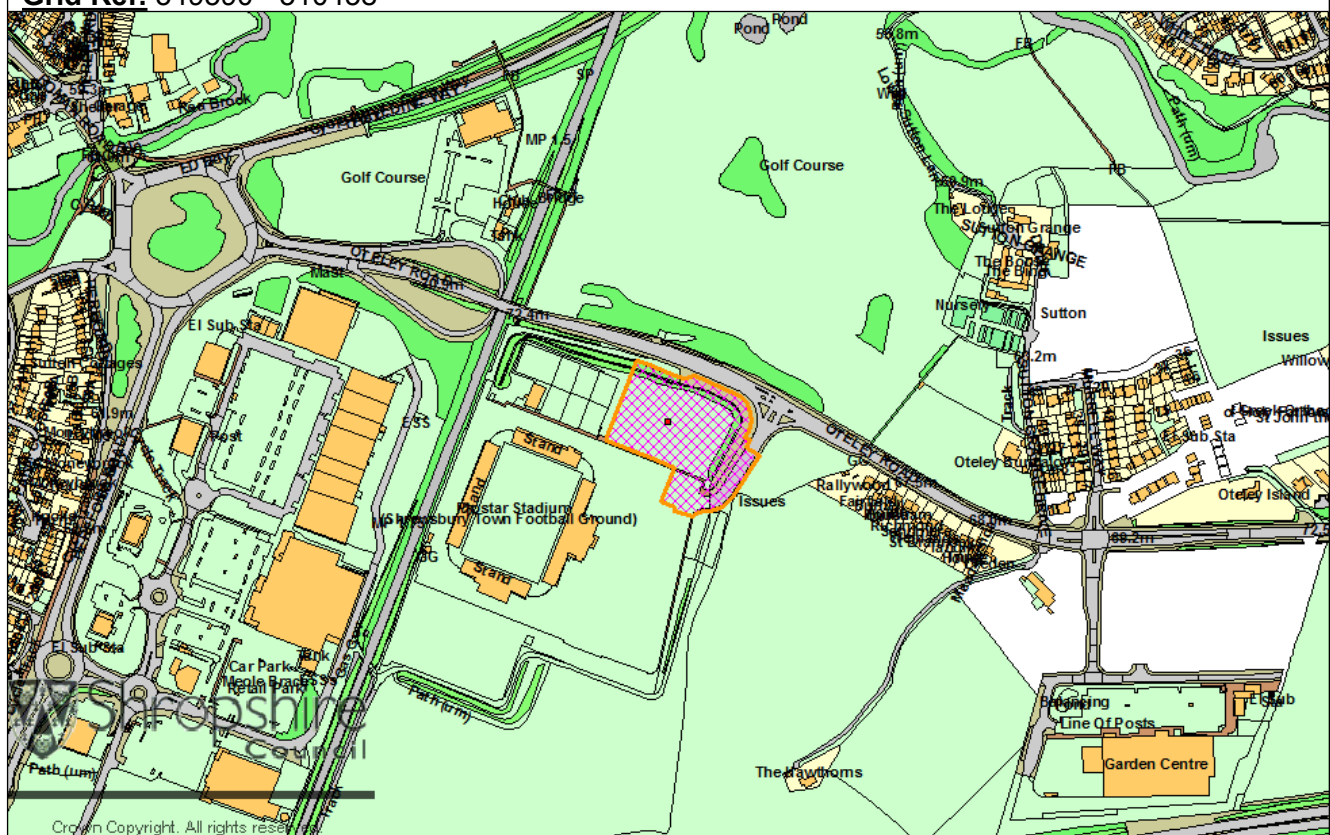
**Site Address:** Land At Oteley Road Shrewsbury Shropshire SY2 6ST

**Applicant:** Lidl UK GmbH

**Case Officer:** Karen Townend

**email:** [planningdmne@shropshire.gov.uk](mailto:planningdmne@shropshire.gov.uk)

**Grid Ref:** 349590 - 310458



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**Recommendation: That delegated powers be given to the Area Planning Manager to grant planning permission subject to the conditions set out in Appendix 1 and subject to a legal agreement to secure a financial contribution towards improving public transport on Oteley Road and to secure match day management of the car park.**

## REPORT

### 1.0 THE PROPOSAL

- 1.1 This report relates to the application for the new Lidl foodstore on land at Oteley Road, Shrewsbury. The land is part of the football club site and is currently sports pitch for planning purposes. The proposal was previously considered by members on the 24<sup>th</sup> November 2016 and members resolved to delegate powers to the Area Planning Manager to grant planning permission subject to:
- The conditions set out in Appendix 1;
  - Additional Highway Conditions as set out on the Schedule of Additional Letters;
  - An additional Condition in relation to the inclusion of a footpath along the side of the building for pedestrian access;
  - A legal agreement to secure match day management scheme and also a contribution to public transport on Oteley Road; and
  - The decision not being called-in by the Secretary of State.
- 1.2 The Sport England objection detailed in the November committee report (which is attached in full at appendix 2 of this report) was considered by officers to be overcome by the information received at that time. The officer recommendation in November was based on there being no loss of sports pitch provision as the applicant was providing facilities at Sundorne Road.
- 1.3 Members also considered that the loss of sports pitch provision would be dealt with under the two applications submitted by the football club, 16/03786/VAR106 & 16/04201/VAR.
- 1.4 Since the November meeting Sport England have maintained their objection as they have confirmed that the Sundorne Road pitch is not new provision and was already considered to be sports pitch and furthermore that they consider that this application causes the loss of the sports pitch. Sport England do not object to the two applications submitted by the football club but continue to object to the Lidl application. This on-going objection is new information which members were not aware of at the time they made their decision on the application for the Lidl store.
- 1.5 As such this report has been brought to members to allow them to take into account the Sport England objection and the additional information provided by the football club which is submitted to seek to overcome this outstanding objection.
- 1.6 Officers would strongly advise against re-opening the debate on any other matter other than the loss of sports pitch as all other matters were considered acceptable by members in November and there has not been any other material change to the planning application, local policies or situation since that November meeting. Accordingly this report provides detail of the Sport England objection and, along with the two reports for the football club proposals, provides details of the applicant's mitigation for the loss of the sports pitch.

## 2.0 SPORT ENGLAND COMMENTS

- 2.1 **15.11.16 Sport England** – Thank you for re-consulting Sport England on additional information submitted in support of the above planning application. The applicant proposes to mitigate the loss of playing field through a financial contribution towards a 3G pitch on the site of an existing Shrewsbury Town FC training pitch. There will be a net loss of playing field and no new playing field is proposed.

Sport England has consulted the FA who have provided the following comments:

1. The FA are not aware of the finances involved with this project, both in a capital delivery perspective and from an ongoing revenue position to ensure sustainability.
2. The FA and the County FA met with Shrewsbury Town FC and the Football In the Community Department in June 2016 and requested site of usage plans, football development plans and the business case showing sustainability. The FA also requested that the club speak with the County Sports Partnership in light of the place plans to provide strategic direction. To date, no information has been received to comment on with regards to demand and the projects sustainability. With no current Playing Pitch Strategy available it is hard to comment with no further information provided
3. It is clear that the mitigation for the loss of the grass playing field area to a LIDL development is to provide funding towards a 3G, meaning there is a loss of playing field land.

There is a lack of evidence to support the need/demand required form a sustainable 3G pitch in this location. Furthermore it is not clear how the 3G pitch will be funded in its entirety; the level of funding from the applicant and other sources is not clear. Without this information Sport England are unable to assess whether or not the 3G pitch is sustainable and deliverable or whether the applicant's contribution is an acceptable form of mitigation for the loss of playing field.

Sport England recommends that the applicant provides further information relating to the proposed financial contribution and the proposed demand/usage plans/business case showing sustainability for the 3G pitch as outlined by the FA. Sport England's interim position on this proposal is to maintain our objection.

- 2.2 **02.02.17 Sport England** – Sport England objected to planning application (ref. 16/00181/FUL) as insufficient information has been provided in relation to the mitigation for the loss of playing field. Despite this statutory objection, Shropshire Council's Planning Committee resolved to approve the application subject to a legal agreement relating to community use of Shrewsbury Town's training pitch. This resolution has, in effect, approved the principle of the loss of the existing community pitch subject to the approval of a legal agreement.

The FA has provided further comments:

1. The site where Lidl is planned for was used as a community pitch as recently as 2007, reasons for no more recent use are down to the fact that it has not been maintained for this type of use.
  - a. Use of the main pitch being classed as community is subjective – the school finals take place once a year with an average of 5 games (max of 10 games as per the lease agreement) for Shropshire CFA Cup finals – it is agreed that this is a

great offer but it does not afford regular community use of the pitch which is the key debate here.

b. The FA'S Pitch Improvement Programme could have suggested ways to improve the pitch without the need for expensive drainage.

2. The new Shrewsbury Town FC training ground is existing playing field land that has been improved. There is no net gain in playing field area or any community use from.

3. There is no such surface as 4G, so I presume they mean 3G rubber crumb

4. We would need to see the full detailed business plan from Shrewsbury Town in the Community to assess the long term sustainability of the pitch.

a. Changing rooms would be essential to permit full use of the adult football pitch, grass or 3G.

5. The Usage plan is very generic and only indicates available slots with no potential club or community users noted.

a. Community use noted between the hours of 9am and 5pm is unlikely to materialise based on other Football Foundation funded facilities that are not on an education site.

b. 100 hours of use is ambitious – through the Football Foundation and with a facility based on a school site we push for 85 hours of which 36 are for community use outside of school hours and this is not always achieved.

6. Premier league support is based on seeing more detail.

7. There is a 3G facility on site which is a commercial 5 a-side facility, it has 6 x 5v5 pens and 1 x 7v7 pen which is not big enough for affiliated match play due to no run-off areas – is there an upgrade project here to support along with the grass pitch being transferred for the community department to run? Obviously discussions would be needed here to see if viable and if the current tenant would be open to this in some capacity.

Sport England maintain their objection to this application as we are still unable to assess the suitability of the proposed mitigation from the information submitted. If a 3G pitch is being proposed as mitigation, evidence is required to support the need/demand in this location in order to ensure that the facility is sustainable; the submitted Usage Plan does not provide the necessary detail (see FA comments above) and I am not aware of this specific location for a 3G pitch being supported by any relevant strategy. Furthermore it is not clear how the 3G pitch will be funded in its entirety; the level of funding from the applicant and other sources is not clear. If the Section 106 does not cover the entire cost of the 3G pitch how will the shortfall in funding be met? The absence of a clear strategic need for a 3G pitch in this location will restrict potential funding from Sport England. Changing facilities will also be required and it is not clear how these will be funded.

Without the type of information listed above Sport England are unable to assess whether or not the 3G pitch is sustainable and deliverable or whether the applicant's financial contribution is an acceptable form of mitigation for the loss of playing field. In order to make an assessment against Policy Exception E4 I need to

weigh up the benefits to sport of the proposed mitigation (in this case the partial or full provision of a 3G pitch) against the loss of playing field. As there is insufficient information in relation to the proposed mitigation I am unable to make that assessment.

Sport England did not object to the two variation of condition applications as these applications in themselves did not permit the loss of playing field land. The applications seek to transfer the community use from one area of playing field to another. In this case the community use transferred from the training pitch which is a better quality pitch than the existing community pitch.

It is my understanding that Shrewsbury Town FC's training ground is located on a former sports ground which was purchased by the Chairman of STFC 20 years ago. The supporting information submitted by the applicant indicates that investment was made into the site in 2016 to improve pitch quality as drainage of the pitches was poor. From historic aerial photos it appears that the site was laid out for training use in 2010 (see image below). Although improvements to pitch quality may have been made since this time, new playing field has not been created.



From the 2010 image it appears that the site was laid out with pitches suitable for training purposes. It is not entirely clear whether the improvements works were necessary to resolve issues created by lack of maintenance or fundamental issues with the site. The additional capacity of the playing field resulting in the improvements works is also not known. Given this missing information an assessment against Policy Exception E4 cannot be made, although clearly no new playing field has been created.

#### **4.0 ADDITIONAL INFORMATION FROM AGENT – April**

4.1 The agent for the football club has been in discussion with the football club, Lidl, Sport England and officers of the Council since the February committee meeting at which members reconsidered the two applications from the football club. A revised supporting statement has recently been submitted which will be attached to all three applications (the two for the football club 16/04201/VAR & 16/03786/VAR106 and the Lidl application 16/00181/FUL). The statement is appended to this report so that members have all of the information before them.

4.2 The statement includes technical reports on all three pitches and the mitigation

proposals from the applicant. The technical reports advise on the ground conditions of all three pitches and what works are required, or in the case of the off-site pitch were required. The front pitch is to be lost for the development of the Lidl food store.

- 4.3 The rear pitch already has a drainage system but the applicant accepts that a secondary drainage system would improve the surface water run-off, a matter raised by Councillor Moseley at the February meeting, and has agreed to provide the secondary drainage at the end of this football season. The applicant has also agreed to provide changing facilities adjacent to the rear pitch, either within the existing stadium building converting existing office space into two 15sqm changing areas with 3 showers and a toilet each and a referees room with shower and toilet, or within a new modular building adjacent to the STinC building. Both the drainage upgrades and the changing facilities can be required as part of the S106.
- 4.4 The off-site pitch has been upgraded in accordance with the recommendations of the ground conditions report. The works include installing drainage, improvements to the surfacing, provision of car parking and construction of a building providing changing facilities, kitchen, dining room, gym, physiotherapy room, laundry room, boot room and staff offices. All of these works have been carried out.
- 4.5 SPFA have commented that the off-site pitch is not available for the community and therefore is not relevant. However, this is confusing user with pitch provision. The issue is the loss of a sports pitch. At no time, and the agent has confirmed in the latest statement, has anyone proposed the removal of the community pitch use from the S106. The application relates to three pitches one of which is to be lost and the improvements to the other two are being put forward as mitigation. The rear pitch will become the new community pitch and the most recent statement has confirmed that this will be available for hire by the community for 57 hours a week in the evenings and at weekends. The statement also advises that the rear pitch is large enough to be subdivided into three pitches and therefore could be used by three different users at any one time.
- 4.6 In addition to physical improvements to the rear pitch and off-site pitch the applicant has now also offered a financial contribution of £65,000 to be paid to the Council to be spent on sport and recreation within the local area. The figure has been proposed by the club as a figure which was raised by Sport England early in the application process as the estimated cost of replacing a pitch.

## **5.0 OFFICER REPORT**

### **5.1 Loss of pitch**

- 5.1.1 The policies within paragraph 74 of the NPPF and CS6 of the Core Strategy are the policies against which development on sports pitches should be considered ease. Paragraph 74 of the NPPF states:

*“Existing open space, sports and recreational buildings and land, including playing fields, should not be built on unless:*

- *An assessment has been undertaken which has clearly shown the open space, buildings or land to be surplus to requirements; or*
- *The loss resulting from the proposed development would be replaced by equivalent or better provision in terms of quantity and quality in a suitable location; or*



- *The development is for alternative sports and recreational provision the needs for which clearly outweigh the loss.”*

- 5.1.2 Policy CS6 of the Shropshire Core Strategy requires all development to contribute to the achievement of local standards for the provision and quality of open space, sport and recreational facilities. Proposals resulting in the loss of existing facilities will be resisted unless provision is made for equivalent or improved provision, or it can be clearly demonstrated that the existing facility is not viable over the long term. Paragraph 4.58 of the explanatory text advises that the standards are set out in the Shropshire Open Space, Sport and Recreation study.
- 5.1.3 The construction of a Lidl food store on the front pitch will result in the loss of sports pitch. Both national and local policies allow for the loss of sports pitch. Shropshire Playing Fields Association have commented that there has not been an assessment to show the land is surplus to requirement, however this is not a requirement unless “surplus to requirements” is the case being put forward by the applicant. With regard to the Lidl store and the two applications by the football club the case being put forward is for “replacement provision”. The replacement is not in the form of a new sports pitch but in the form of improvements to existing pitches.
- 5.2 **Improvement proposals**
- 5.2.1 It is acknowledged that the proposals put forward are not for any new pitches to be provided to replace the pitch to be lost to development. Their proposals relate to enhancements proposed to the rear pitch and the off-site pitch and the offer of a financial contribution to be paid to the Council to be made available for enhancement to other sports pitches in the area.
- 5.2.2 The enhancement works are detailed above in section 4 of this report. At the time of writing this report the supporting statement has been sent to Sport England and SPFA for comment, any responses received before the meeting will be provided to members either in writing or verbally.
- 5.2.3 Notwithstanding any comments which may be received it is officer’s opinion that the additional enhancements and the financial contribution now proposed by the applicant provide improvements to the rear pitch, off-site pitch and opportunities to improve other sports facilities in the area to be considered as equivalent or better provision in terms of quantity and quality in a suitable location to the front pitch which is to be lost for the construction of the Lidl food store. With regard to the financial contribution offered officers can confirm that this is the figure quoted by Sport England in their comment of the 19<sup>th</sup> April 2016 on the Lidl application as the cost of replacing the natural turf pitch, excluding the cost of the land. It is a definable figure with clear linkage to the loss of the pitch, as such it is considered to be a reasonable and appropriate figure which is reasonably related to the development. The overall package now proposed and clearly set out in the new supporting statement is considered by officers to mitigate the loss of the pitch and therefore meet the requirements of paragraph 74 of the NPPF and policy CS6 of the Shropshire Core Strategy.
- 5.2.4 Members may wish to defer making a decision on this application (and the two from the football club) until consultation comments are received. This is a decision



which only members can make. However, the latest offer from Lidl and the football club has been increased to include all of the information and improvements suggested by Sport England and to include a financial contribution towards other sports facilities.

- 5.2.5 It is therefore officer's opinion that a decision now needs to be made on this application. There is a risk that Sport England and SPFA may still object, there is still a loss of a sports pitch, however the final decision rests with the Council. Sport England and SPFA are consultees, members are free to make a decision on the planning application based on the planning merits and consideration of the improvements and financial contribution.
- 5.2.6 The means of securing the improvements proposed and the financial contribution will be dealt with through a variation to the S106 agreement attached to the consent for the football club and the variation of condition 2 on the football club. No changes are proposed to the terms of the S106 for Lidl in that it will still require a contribution towards public transport and a car park management plan to be submitted.
- 5.2.7 Officers can also confirm that the consultation with the Secretary of State has been carried out and the Secretary of State has considered his policy on calling in planning applications. This policy gives examples of the types of issues which may lead him to conclude, in his opinion that applications should be called in. The Secretary of State has decided, having had regard to this policy, not to call in the application. He is content that the application should be determined by the local planning authority.
- 5.2.8 The recommendation has therefore been revised to reflect this and furthermore the conditions detailed below include the additional conditions previously sought by members.

## **6.0 CONCLUSION**

- 6.1 The additional enhancements carried out and proposed to the existing pitches to be retained, the pitch at the rear of the Oteley Road site and the pitch at Sundorne Road, and the financial contribution of £65,000 now proposed by the applicant provide improvements to existing sports pitches and opportunities to improve other sports facilities in the area. This is considered to mitigate for the loss of the pitch at the front of the Oteley Road site and is considered to be better provision in terms of quality to the front pitch which is to be lost for the construction of the Lidl food store. As such it is officer's opinion that the proposals meet the requirements of paragraph 74 of the NPPF and policy CS6 of the Shropshire Core Strategy.
- 6.2 As such officers remain of the opinion that the proposed food store has been assessed in accordance with section 38(6) of the Planning and Compulsory Purchase Act 2004, namely that any determination must be made in accordance with the development plan unless material considerations indicate otherwise. In particular, the proposed development has been assessed against locally adopted policies and the National Planning Policy Framework in relation to retail development. This assessment concludes that approval of a food store on the application site would not have a significant adverse impact on the vitality and viability of Shrewsbury town centre and that there are no sequentially preferable

sites.

- 6.3 Furthermore it is considered that the layout, scale and design of the site, as amended, is appropriate for the end uses and the context of the surrounding site; the level of parking and service delivery space is acceptable and accords with adopted policy; that the development will not have an unacceptable detrimental impact on the amenities of the neighbouring properties, ecology, flood risk or drainage.
- 6.4 Accordingly the proposal is considered to comply with the Development Plan Core Strategy policies CS2, CS6, CS7, CS17 and CS18 and with the requirements and aims of policy CS15 in seeking to protect the vitality and viability of Shrewsbury Town Centre. The scheme is also in accordance with policies MD1, MD2, MD10a, MD10b and S16 of the Shropshire Site Allocations and Management of Development (SAMDev) and the National Planning Policy Framework (NPPF), specifically paragraphs 23 to 27. In arriving at this decision the Council has used its best endeavours to work with the applicant in a positive and proactive manner to secure an appropriate outcome as required in the National Planning Policy Framework paragraph 187.

## 10. Background

### Relevant Planning Policies:

NPPF

CS1 - Strategic Approach

CS2 - Shrewsbury Development Strategy

CS6 - Sustainable Design and Development Principles

CS7 - Communications and Transport

CS15 - Town and Rural Centres

CS17 - Environmental Networks

CS18 - Sustainable Water Management

MD1 - Scale and Distribution of Development

MD2 - Sustainable Design

MD10A - Managing Town Centre Development

MD10B - Impact Assessments for Town and Rural Centres

Settlement: S16 - Shrewsbury

### Relevant planning history:

16/03786/VAR106 Variation of Section 106 Legal Obligation pursuant to SA/02/0278/F *PCO*

16/04201/VAR Variation of condition 2 attached to Ref:14/00587/VAR dated 17/03/2016 relocate community football pitch. *PCO*

14/00587/VAR Variation of Condition Nos. 19 and 23 (restrictions of use) attached to Planning Permission 02/0278/F to permit no more than 6 no. non-football events at the stadium during any one year; to permit the use of the stadium for international matches without having to seek prior approval of the Council; variation of the S106 Planning Obligation to increase in the number of car parking spaces and reduction in coach parking *GRANT* 17th March 2016

11/00199/FUL Application for temporary use (5th June - 18th June 2011) of football stadium for operations to facilitate the preparation/staging and de-rigging of a music concert *GRANT* 23rd March 2011

SA/05/0257/VAR Variation of condition No. 6 attached to Planning Permission Reference 02/0278/F, to allow for the deferment of the children's pitch and five-a-side-pitches to read as follows: 'The community pitch and temporary changing building shall be completed and fully operational before the first beneficial occupation of the stadium. The children's pitch, five-a-side pitches and the permanent changing buildings to be completed and fully operational within 5 years of the first beneficial occupation of the stadium.' *REFUSE* 29th April 2005

SA/02/0278/F Erection of a new football stadium, construction of training pitch, community pitch, childrens pitch, 6 no. five-a-side pitches, changing facilities, formation of car parking, taxi rank/bus stop layby, and new access and associated engineering and other works. *GRANT* 4th September 2003

## 11. Additional Information

List of Background Papers (This MUST be completed for all reports, but does not include items containing exempt or confidential information)

Cabinet Member (Portfolio Holder)  
Cllr M. Price

Local Member  
Cllr Jon Tandy  
Cllr Ted Clarke  
Cllr Jane Mackenzie

Appendices  
APPENDIX 1 – Conditions  
APPENDIX 2 – Committee report 24th November 2016  
**Please see Appendix 3 of Agenda Item 5 which is also relevant to this application.**

## **APPENDIX 1**

### **Conditions**

#### **STANDARD CONDITIONS**

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.  
Reason: To comply with Section 91(1) of the Town and Country Planning Act, 1990 (As amended).
2. Notwithstanding the details reserved by other conditions in this decision notice the development shall be carried out strictly in accordance with the deposited plans and drawings as amended by the revised plans as detailed below.

Reason: For the avoidance of doubt and to ensure that the development is carried out in accordance with the approved plans and details.

3. No construction and/or demolition work shall commence outside of the following hours: Monday to Friday 08:00 to 18:00, Saturday 08:00 to 13:00. No works shall take place on Sundays and bank holidays.

Reason: to protect the health and wellbeing of residents in the area.

#### **CONDITIONS THAT REQUIRE APPROVAL BEFORE THE DEVELOPMENT COMMENCES**

4. No development shall take place, including any works of demolition, until a Construction Method Statement and Traffic Management Plan has been submitted to, and approved in writing by, the local planning authority. The approved Statement shall be adhered to throughout the construction period. The Statement/Plan shall provide for:
  - i. the parking of vehicles of site operatives and visitors
  - ii. loading and unloading of plant and materials
  - iii. storage of plant and materials used in constructing the development
  - iv. the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate
  - v. wheel washing facilities
  - vi. measures to control the emission of dust and dirt during construction
  - vii. a scheme for recycling/disposing of waste resulting from demolition and construction works
  - viii coordination and management of all deliveries, HGV routing proposals and off-site holding areas
  - ix phasing of any temporary and/or permanent vehicular/pedestrian accesses and management thereof within the construction period of the development.

Reason: To avoid congestion in the surrounding area and to protect the amenities of the area.

5. Prior to commencement of development a scheme for surface water drainage shall be submitted to and approved by the Local Planning Authority. The submitted scheme shall take account of the advice provided in the Council Drainage Engineer consultation response. The approved scheme shall be completed before the development is occupied.

Reason: To ensure satisfactory drainage of the site and to avoid flooding.

6. No built development shall commence until samples of all external materials including hard surfacing, have been first submitted to and approved by the Local Planning Authority. The development shall be carried out in accordance with the approval details.

Reason: To ensure that the external appearance of the development is satisfactory.

7. Notwithstanding the details shown on the submitted landscaping plans, no above ground works shall be commenced until full details of both hard and soft landscape works (in accordance with Shropshire Council Natural Environment Development Guidance Note 7 'Trees and Development') have been submitted to and approved in writing by the local planning authority. The landscaping works shall show native planting to include, amongst other trees, replacement Lime trees to mitigate the loss of the existing Lime trees. The landscape works shall be carried out in full compliance with the approved plan, schedule and timescales. Any trees or plants that, within a period of five years after planting, are removed, die or become, in the opinion of the Local Planning Authority, seriously damaged or defective, shall upon written notification from the local planning authority be replaced with others of species, size and number as originally approved, by the end of the first available planting season.

Reason: To ensure the provision, establishment and maintenance of a reasonable standard of landscape in accordance with the approved designs

8. Notwithstanding the details shown on the submitted access plans, prior to the commencement of development on site details of the means of access and highway improvements to the existing access shall be submitted to and approved in writing by the Local Planning Authority. The details shall not include the relocation of the zebra crossing over the access road unless it can be shown provided with a refuge point in the centre of the road. The approved details shall be fully implemented before the food store is open to trade.

Reason: This detail is required prior to commencement to ensure a satisfactory means of access to the highway.

9. Notwithstanding the details shown on the submitted plans prior to the commencement of the development a plan shall be submitted for approval by the Local Planning Authority to show a pedestrian access link between Oteley Road and the football club car park between the food store hereby approved and the existing five-a-side pitches. The footpath shall be provided to the satisfaction of the Council prior to the opening of the store and shall be retained and maintained available for pedestrian use at all times.

Reason: To enhance pedestrian linkages around the site and to the community facilities within the football club.

10. No development shall take place until details for the proposed cycle parking have been submitted to and approved by the Local Planning Authority. The approved scheme shall be installed prior to the first occupation of the development and thereafter be kept clear and maintained at all times for that purpose.

Reason: To avoid congestion in the surrounding area and to protect the amenities of the area.

### **CONDITIONS THAT REQUIRE APPROVAL DURING THE CONSTRUCTION/PRIOR TO THE OCCUPATION OF THE DEVELOPMENT**

11. Prior to the development hereby permitted being brought into use/open to trading the Draft Travel Plan should be developed as a full operational living document which sets out the Travel Plan objectives of the site in promoting sustainable travel and reducing car bourn trips. The Travel Plan should be the subject of annual review and should remain in force for the lifetime of the development.

Reason: To promote sustainable travel modes in the interests of carbon emission reduction and travel health benefits.

12. Prior to the development hereby permitted being first brought into use/open to trading the access, parking and servicing areas shall be laid out in accordance with the approved drawings and in accordance with a specification to be first submitted to and approved in writing by the Local Planning Authority.

Reason: In the interests of highway safety.

13. Following completion of measures identified in the approved remediation scheme and prior to the first use of the building a Verification Report shall be submitted to and approved in writing by the Local Planning Authority that demonstrates the contamination identified has been made safe, and the land no longer qualifies as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land.

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 human health and offsite receptors.

14. Prior to the erection of any external lighting on the site a lighting plan shall be submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details and thereafter retained for the lifetime of the development. The submitted scheme shall be designed to take into account the advice on lighting set out in the Bat Conservation Trust booklet Bats and Lighting in the UK.

Reason: To minimise disturbance to bats, a European Protected Species.

### **CONDITIONS THAT ARE RELEVANT FOR THE LIFETIME OF THE DEVELOPMENT**

15. Deliveries to the food store hereby approved shall be limited to only during the hours 22:00hrs to 07:00hrs the following day (08:00hrs Sundays).

Reason: To reduce the conflict between store deliveries, customer traffic and traffic and pedestrians associated with the adjacent football stadium.

16. Notwithstanding the provisions of the 1987 Town and Country Planning (Use Classes) Order or succeeding orders, the food store hereby approved shall be operated by a discount food store operator only and shall not be used for any other retail, including food retail.

Reason: To maintain planning control over the type of goods and services available in the store and to safeguard the vitality and viability of Shrewsbury town centre.

17. Notwithstanding the provisions of the 1987 Town and Country Planning (Use Classes) Order or succeeding orders, the food store hereby approved shall not include the following dedicated ancillary retail facilities:
- A post office
  - A dry cleaners
  - A travel agents
  - An optician
  - A pharmacy

Reason: To maintain planning control over the type of goods and services available in the store and to safeguard the vitality and viability of Oswestry town centre.

18. The net sales floor area of the food store hereby approved shall not exceed 1,400 square metres. No more than 210 square metres of the net sales floor area of the store shall be used for the sales of comparison goods. Comparison goods are defined within the COICOP categories for the following goods:
- Clothing materials & garments
  - Shoes & other footwear
  - Materials for maintenance & repair of dwellings
  - Furniture & furnishings
  - Carpets & other floor coverings
  - Household textiles
  - Major household appliances, whether electric or not
  - Small electric household appliances
  - Tools & miscellaneous accessories
  - Glassware, tableware & household utensils
  - Medical goods & other pharmaceutical products
  - Therapeutic appliances & equipment
  - Bicycles
  - Recording media
  - Games, toys & hobbies
  - Sport & camping equipment
  - Musical instruments
  - Gardens, plants & flowers,
  - Pets & related products
  - Books & stationery
  - Audio-visual, photographic and information processing equipment,
  - Appliances for personal care, jewellery, watches & clocks
  - Other personal effects.

Reason: To maintain planning control over the type of goods sold from the store and hence the viability of Shrewsbury town centre.



**APPENDIX 2 – REPORT – 24<sup>th</sup> November 2016****1.0 THE PROPOSAL**

- 1.1 This application is for the erection of a retail food store, associated car parking and servicing, site access and associated work. Full details, plans and supporting information have been submitted with the application. The store is proposed to have a footprint of 2,468sqm gross. The applicant, Lidl, is intended to be the end user of the food store. As part of the proposal, following concerns and negotiations carried out during the application, the scheme recognises that the application site is currently identified as a community sports pitch through the consent granted for the construction of the football club. The club and Lidl have proposed an alternative community pitch and this will be dealt with later in the report and is also being considered under a separate application for variation of the approved plans and conditions on the consent for the football club.
- 1.2 The supporting information includes full plans, landscaping plan, existing topography plan, proposed access alterations, Design & Access Statement, Planning & Retail Statement, Statement of Community Involvement, Transport Assessment and Geo-Environment Statement.
- 1.3 Prior to consent being granted the Council is required to notify the Secretary of State under The Town and Country Planning (Consultation) (England) Direction 2009 as the application consists of the provision of out of centre retail where, cumulatively, with other consented developments, will provide new floor space of more than 5,000 square metres. There are a number of other out of centre retail consents including Waitrose site and the Morbaine site (Hereford Road) and as such any recommendation for approval would be subject to this notification and, subject to the application not being called in, conditions as detailed within the report.
- 1.4 It is the opinion of Shropshire Council as Local Planning Authority that the proposal is not an EIA development under any part of either Schedule 1 or Schedule 2 of the Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 2015 and as such do not require an Environmental Statement to be submitted. The application does meet the criteria of Part 10(b) of Schedule 2 of the 2015 Regulations being an urban development project however taking into account the advice in the National Planning Practice Guidance (available online) the application is not considered to require an Environmental Statement as the proposed development is not significant in relation to the surrounding uses and would not have a significant impact or result in significant effects on the environment by virtue of its nature size or location.

**2.0 SITE LOCATION/DESCRIPTION**

- 2.1 The site is 1.07 hectares of relatively flat grassed land within the existing security fence for the Shrewsbury Town Football Club (STFC). A grassed embankment runs around the two external edges of the site, the east and north boundaries, with the fencing on the top. The stadium and car park lie to the south of the site with five a side pitches to the west and the railway and Meole Brace retail park beyond. Access to the site is off Oteley Road using the existing traffic light junction which leads to a mini roundabout within the football club. The proposal is to amend this roundabout which is dealt with later in the report.
- 2.2 The land is south of Oteley Road with Meole Brace golf course on the opposite side of the road and residential areas beyond. Over the SAMDev plan period the football club land will become encompassed into the Shrewsbury South Sustainable Urban Extension (SUE)

which is an allocated urban extension to the town to include around 900 houses, 22ha of employment land, retail and commercial uses and infrastructure. The SUE will mean that the character of the area will change significantly.

- 2.3 The site is clearly within the development boundary for Shrewsbury and within an area which although is currently edge of urban area will become part of the urban area after the construction of the SUE.

### **3.0 REASON FOR COMMITTEE DETERMINATION OF APPLICATION**

- 3.1 Councillor Tandy has requested that the application be determined by committee (as detailed at 4.2.3) and the Town Council have raised concerns which the Chair and Vice Chair, in discussion with the Area Planning Manager, agreed are material planning considerations which merit debate at committee. Therefore, in accordance with the adopted scheme of delegation the matter is to be considered at committee.

### **4.0 COMMUNITY REPRESENTATIONS**

#### **4.1 Consultee Comments**

- 4.1.1 **Shrewsbury Town Council** – The Town Council have no overall objections to these proposals, they do query whether there were any conditions imposed on the original sale of the land to the current owners and the initial planning permission for the football stadium in respect of future uses. In addition, members have expressed concerns over potential traffic problems for visitors to both the football stadium and the supermarket on match days.
- 4.1.2 **Sport England** – It is understood that the proposal prejudices the use, or leads to the loss of use, of land being used as a playing field or has been used as a playing field in the last five years, as defined in The Town and Country Planning (Development Management Procedure) (England) Order 2015 (Statutory Instrument 2015 No. 595). The consultation with Sport England is therefore a statutory requirement.

Sport England has considered the application in light of the National Planning Policy Framework (particularly Para 74) and Sport England's Playing Fields Policy, which is presented within its Planning Policy Statement titled 'A Sporting Future for the Playing Fields of England' (see link below):

[www.sportengland.org/playingfieldspolicy](http://www.sportengland.org/playingfieldspolicy)

Sport England's policy is to oppose the granting of planning permission for any development which would lead to the loss of, or prejudice the use of, all/part of a playing field, unless one or more of the five exceptions stated in its policy apply.

#### The Proposal and Impact on Playing Field

The proposal is for the erection of a retail store on an area of playing field land. The playing field which could accommodate an U15/U16 football pitch (97m x 61m including runoff), would be lost through this proposal. No mitigation has been proposed for the loss of playing field. The application site forms part of the site which was granted planning permission (ref. SA/02/0278/F) for a new football stadium, training pitch, children pitch, five-a-side pitches and associated infrastructure. The application site has been prepared and turfed as playing field as part of the implementation of the planning permission (ref. SA/02/0278/F). The approved plans show the application site marked out with a football pitch, although it appears that the site has not been marked out as a football pitch.

Nevertheless the application site is playing field as it forms part of 'the whole of the site which encompasses at least one playing pitch' as defined in the Town and Country Planning (Development Management Procedure) (England) Order 2015. Sport England's Playing Fields Policy covers the entire playing field site and not just the areas currently marked out with pitches. This is because playing field is seen as a resource for pitches to be marked out on, repositioned to allow areas of the playing field to rest from over play, and to change from one pitch sport type to another to meet demand.

#### Assessment against Sport England Policy/NPPF

I have assessed the proposal against the five Sport England policy exceptions:

E1 – In order to satisfy policy exception E1, up to date evidence would have to be made available to suggest that the playing field is surplus to sporting requirements. There is no up-to-date Playing Pitch Strategy for Shropshire. No evidence is available to demonstrate that there is an excess of playing fields in the catchment and therefore policy exception E1 does not apply.

E2 – Sport England considers that the proposed development is not ancillary to the principle use of the playing field and is considered to affect the quantity of pitches that could be accommodated. Policy exception E2 would therefore not be satisfied.

E3 – In order to meet policy exception 3 it will need to be demonstrated that the area proposed to locate the proposed retail unit is unsuitable for pitches to be marked (e.g. steeper than the recommended falls for pitches etc) whether it is marked out at the current time or not) and that the proposed development would not lead to a loss of ability to use the playing pitches. The site has been created as playing field and is clearly suitable for football. The proposal would therefore not meet policy exception 3.

E4 – No replacement playing field has been proposed so policy exception E4 does not apply.

E5 – The proposal is not for a sports facility and therefore policy exception E5 does not apply.

Paragraph 74 of the National Planning Policy Framework (NPPF) states that existing recreational facilities should not be built on unless: an assessment has been undertaken which has clearly shown that the building is surplus to requirements; the loss resulting from the proposed development would be replaced by equivalent or better provision in terms of quantity or quality in a suitable location; or the development is for alternative sports and recreational provision, the needs or which clearly outweigh the loss.

Based on the information submitted in support of the application Sport England considers that the playing field is not surplus to requirements. Sport England are therefore seeking to protect the site, replace the playing field or negotiate financial compensation for this loss. Based on current costs, Sport England estimates the cost of replacing the natural turf football pitches (97m x 61m including runoffs) would be approximately £65,000 excluding the cost of the land.

#### Conclusion

In light of the above, Sport England **objects** to this application on the basis that it will result in the loss of playing field, until a suitable Section 106 agreement, or other legal mechanism is delivered, or arrangements are confirmed on replacement provision. Sport England can confirm that once a suitable section 106 agreement or other legal mechanism has been signed, we will withdraw our objection. Sport England would be pleased to discuss the contents of the section

106 agreement or other legal mechanism, with a view to withdrawing the current objection.

If this application is to be presented to a Planning Committee, we would like to be notified in advance of the publication of any committee agendas, report(s) and committee date(s). We would be grateful if you would advise us of the outcome of the application by sending us a copy of the decision notice.

#### 4.1.3 **Policy Officer** – No objection.

These policy comments respond to the proposal by Lidl to develop a new 2,468sqm gross floorspace store at land at Shrewsbury Town Football Club on Oteley Road.

In providing these policy comments, regard has been had to other comments made on the application. In particular, it is noted there have been objections made by How Planning on behalf of Waitrose, and Morbaine Developments.

In summary, How Planning's objections to the proposal are:

- The applicant has misinterpreted the Development Plan regarding the status of the committed Waitrose development at Oteley Road, and the impact upon the proposed Waitrose as a defined 'Local Centre' within of the Shrewsbury South SUE.
- The applicant's sequential site assessment is flawed and should have recognised the Riverside Mall as a sequentially preferable site.
- The applicant's methodology has not accounted for the full level of impact; specifically that the proposed store's trade diversion is not realistic.

In summary, Morbaine's objections to the proposal are:

- The proposal would prejudice the delivery of the approved scheme at Hereford Road, Shrewsbury, which in the view of the objector represents a sequentially preferable site.
- The Hereford Road site is viable and deliverable, and recent landowner discussions have improved the potential 'offer' to an end user.

The following Local Plan policies and national guidance are of particular relevance to this application:

National Planning Policy Framework (NPPF) Paragraphs 23-27

- Core Strategy Policy CS15 - Town and Rural Centres
- Core Strategy Policy CS2: Shrewsbury – Development Strategy
- Core Strategy Policy CS6: Sustainable Design and Development Principles
- Core Strategy Policy CS8: Facilities, Services and Infrastructure Provision
- SAMDev Policy MD10b – Town and Rural Centre Impact Assessments

In addition, it is relevant to give consideration to the conclusions of the Shrewsbury Retail Study from 2014 prepared by Perter Brett Associates on behalf of the Council.

#### Sequential Site Assessment

It is useful to outline the purpose and implementation of the sequential site assessment as set out in the NPPF and the NPPG. The NPPF identifies the need for Local Authorities to apply a sequential assessment for applications for main town centre uses (including retail) not in an identified centre and not in accordance with the Development Plan. This therefore applies to the current Lidl proposal.

The NPPG says the following about the practical implementation of the sequential test: *“The sequential test guides main town centre uses towards town centre locations first, then, if no town centre locations are available, to edge of centre locations, and, if neither town centre locations nor edge of centre locations are available, to out of town centre locations, with preference for accessible sites which are well connected to the town centre. It supports the viability and vitality of town centres by placing existing town centres foremost in both plan-making and decision-taking.”*

Further to the advice in the NPPF/NPPG it is accepted that for a site to be sequentially preferable it should be suitable, available and viable, and that Local Planning Authorities should take a flexible approach, including appropriate recognition of the requirements of the operator.

Plan A (the applicant) provide a sequential site assessment as part of their application, considering a number of additional sites. This includes ‘in centre’ sites consisting of: five currently vacant premises; the town centre Riverside Mall, and the ‘Gap’ site at Raven Meadows. The following ‘out of centre’ sites are then considered: Land adjacent to BP Station, Hereford Road; Meole Brace Retail Park; Land south of Meole Brace Retail Park; and the Local Centre site at the Oteley Road SUE.

For reasons of scale and availability the applicant dismisses the ‘in centre’ options. The applicant goes on to consider that none of the out-of-centre proposals considered represent sequentially preferable options.

When objecting to the proposal How Planning consider that the Riverside Mall represents a sequentially preferable site, and that the applicant has not provided sufficient information in dismissing it. Despite How Planning’s concerns, it is considered the applicant has sufficiently addressed the issue. Whilst the Riverside Mall approval technically allows for convenience retail, it is evident the primary objective of the Riverside scheme is to consolidate and improve Shrewsbury’s comparison retail offer. Therefore, whilst an element of convenience retail within the current Riverside scheme is acceptable in principle, it is considered reasonable to discount the scheme as part of the sequential assessment.

In objecting to the proposal, Morbaine Developments consider their existing committed site at Hereford Road is “sequentially superior” when compared against the Oteley Road site. Morbaine focus their argument on the comparative bus links of the two sites to the town centre.

In addressing this objection, it is acknowledged that in granting the Hereford Road proposals, the Appeal Inspector correctly stated that the site is on a bus route linking to the town centre. However, it is important to recognise the Appeal Inspector was purely seeking to satisfy himself that the Hereford Road proposal passed the sequential test in its own right. There was no direct comparison of sites, aside from an acknowledgement that sites at Meole Brace and the Sustainable Urban Extension were not sequentially preferable.

In instances where there are alternative out-of-centre options, the implementation of the sequential test (as advised by the NPPG) specifically gives preference to accessible sites that are well connected to the town centre. It therefore can be reasonable to conclude that two out-of-centre sites are sequentially equal. Solely being on a bus link does not in itself

make one site sequentially preferable than one which is not, and it is important to consider the practical use of the bus route as a means for the public to link their shopping trip with a visit to the town centre. If link trips are unlikely to be encouraged in practice there is no practical basis for distinguishing between competing out-of-centre sites purely on this basis.

Whilst physically closer to the town centre, the Hereford Road site is still a considerable distance from the town centre, and certainly beyond a reasonable walking distance. In considering the ability for customers to link their trips with other shopping, it is considered more likely customers would choose to visit Meole Brace Retail Park rather than the town centre. In addition, the applicant points out that the major proposed development in the Shrewsbury South SUE over the coming years will in itself facilitate improved bus links.

In responding to the objection from Morbaine I therefore do not consider the Hereford Road site is sequentially preferable to the proposed site at Oteley Road, and it is considered the applicant has met the requirements of the sequential test.

#### Impact Test

SAMDev Policy MD10b establishes the threshold of 500sqm, over which proposals for retail should prepare an impact assessment. The application site has therefore correctly undertaken such an assessment.

The NPPF states that applications for retail in out-of-centre locations not in accordance with an up-to-date Local Plan, should be refused where they are likely to have a significant adverse impact on existing, committed and planned public and private investment in a centre of centres in the catchment area of the proposal, and on town centre vitality and viability, including consumer choice and trade diversion.

In undertaking their Impact Assessment, the applicant concludes the proposed store would not have a significant adverse impact on the town centre. In objecting to the proposal How Planning consider that the applicant's Impact Assessment is unsatisfactory, specifically criticising the lack of consideration on the impact on the proposed Waitrose at Oteley Road, and more generally regarding the overall methodology used.

#### *Impact on Proposed Waitrose*

How Planning raise concern that the combined impact of the recently opened Marks and Spencer Food store at Meole Brace Retail Park and the proposed Lidl would impact on the potential turnover of the proposed Waitrose scheme to an extent to make it unviable, and on that basis the impact on the Waitrose scheme as a defined Local Centre would be significantly adverse.

In responding to this objection it needs to be considered whether the proposed Waitrose scheme at Oteley Road warrants consideration in the Lidl's Impact Assessment.

The NPPF requires Impact Assessments to be focussed on the impact on centre or centres in the catchment area of the proposal. Lidl's Impact Assessment considers the impact on Shrewsbury's town centre but not the proposed Waitrose at Oteley Road. Core Strategy Policy CS2 identifies land at Oteley Road to accommodate the Shrewsbury South SUE (SSSUE). Policy S16 of the SAMDev Plan goes on to identify the uses to be accommodated in the SSSUE, informed by a masterplan process. This includes the provision of a local centre, which was combined with the relocation of the garden centre.

In 2012, ahead of the adoption of the SAMDev, Waitrose gained planning approval for a new store comprising a floorspace of 2,741sqm. In 2015 some elements of the store's layout and elevations were altered through agreed non-material amendments (15/03602/AMP), resulting in a very minor reduction to the store's proposed floorspace.

In determining the original application in 2012, the Council considered that whilst the store would provide a local centre role, the scale of the proposed store would mean it would have a much wider catchment area than the surrounding SUE. This point was acknowledged in 2012 through the applicant's Retail Impact Assessment, which in effect treated the store as an out-of-centre application. It is clear that the design of the Waitrose will allow it to act as a local centre for the residents of the SUE. However, given the scale of the proposed store and its wide catchment area, it is considered the store will act as more than a local centre. It is therefore considered inappropriate for the council to require other out-of-centre proposals to assess their impact on the proposed Waitrose store directly. In addition, given the proposed Waitrose is in an out-of-centre location and presumably not available to Lidl, it is considered How Planning's concerns about the application of the sequential test are unwarranted.

How Planning raise more general concern over the methodology used by the applicant in their RIA. This includes the use of store sales density (linked to overall turnover) data at a rate lower than the current Mintel Retail Rankings for Lidl. This concern is shared by the Council, and it will be important for the applicant to provide an update to their RIA including these more up-to-date store density figures.

Whilst it is considered the scope of the appellant's Impact Assessment is reasonable, given the importance of the Shrewsbury South SUE, it is still relevant to consider what general impact, if any, the proposed Lidl will have on the delivery of the overall scheme. To this end, it is noted the applicant's Impact Assessment assumes 10% of the proposed Lidl's turnover will be diverted from the proposed Waitrose. It is also noted How Planning have raised concerns about this assumption, and have suggested this level of trade diversion will be higher, although they do not propose an alternative figure.

Any assessment of individual store impact is inevitably based upon broad assumptions, and in the case of Waitrose is further hindered by the fact the store is yet to be built. The applicant has drawn evenly from two main factors - 'like for like' and 'proximity' impacts - in assuming trade diversion levels. 40% trade diversion is expected from the existing Aldi and Lidl stores to the north of Shrewsbury. Given the 'deep discount' nature of Lidl, it is considered reasonable to assume a high trade draw from these stores despite the distance of these stores from the application site. This view is supported by the current lack of 'deep discount' operator in the south of the town.

The applicant also uses a 40% diversion rate from non-discount stores within a greater proximity, including 10% from the proposed Waitrose. Whilst the concerns of How Planning are acknowledged, it is considered that these broad assumptions on more local impact are reasonably based. To this end, there is expected to be only a marginal impact on the proposed Waitrose, and it is considered this is unlikely to impact the delivery of the Shrewsbury South SUE. It is noted there has been no objection made by the other developers of the Shrewsbury South SUE raising concerns of this nature. It is noted that whilst the broad percentage diversion on individual stores is accepted, the actual level of that impact will need to be revisited once the applicant has updated their turnover figures,



as referred to above.

#### Other Planning Policy Issues

It is noted the proposed store is on the site of the current community pitch which formed part of the Section 106 Agreement when the stadium was developed. Recent alterations to the Section 106 agreement have not changed the need for the Football Club to provide this facility. Any loss of facility would be conflict with the current Section 106 agreement, and with Core Strategy Policy CS8. It is considered this issue is of significance and needs to be overcome for the scheme to be acceptable against adopted Local Plan policy. It is acknowledged there have been objections to the loss of this facility from Sport England, and there are ongoing discussions with the applicant about how this issue can be resolved. A further policy view will be prepared on this matter once an alternative proposal is provided by the applicant.

- 4.1.4 **Economic Development** –The Economic Growth Service supports the application which will provide a greater choice of offer as well as providing between 25-40 job opportunities however there are concerns on the location of the development.

As a discount operator Lidl stocks a limited range of goods, up to 1800 lines compared to the larger supermarkets offering up to 90,000 product lines and it is not expected it offer one stop shopping. There is also a higher percentage of convenience to comparison shopping (85:15 compared to 75:25). Lidl does not sell cigarettes, single confectionery items and does not include pharmacies Post Offices and meat and fish preparation on their premises .Consequently there is likely to be less direct comparison goods shopping and competition against the larger supermarkets and small independent retailers. The impact study also indicates that the impact of the store on the proposed Waitrose store at Otley Rd will be around 10% which is not considered to be significant.

The Shrewsbury South Sustainable Urban Extension Masterplan has been adopted as planning policy and has been through an extensive public consultation exercise. Whilst the supporting statement states that the site is within the SUE as defined in the adopted Core Strategy it is not located in the area defined in the master plan for the Local centre which includes community facilities and associated retail investment and is at odds with comprehensive planning of the area.

The site is located adjacent to the Shrewsbury FC football ground which acts as major venue for conferences and exhibitions supporting the Shropshire tourism economy. The development of the site would severely restrict opportunities for future expansion of operation which could include additional conference entertainment or sporting facilities.

Should the application be approved it is proposed that a condition is included on employing local people and to engage Job Centre Plus to ensure local people are matched to available positions where appropriate.

- 4.1.5 **SC Highways** – Recommends refusal as the proposed development has failed to demonstrate an acceptable means of sustainable pedestrian and vehicular access, as well as suitable operational activities/HGV movements from a highways and transport perspective.

Observations/Comments:  
Access

The proposed development seeks to utilise the existing vehicular access and traffic signal junction arrangements that were constructed to facilitate the football club and a primary future employment development area, supporting the Shrewsbury Sustainable Urban Extension South (SUE South).

Currently the signal controlled junction on Oteley Road works well within its designed capacity, as the SUE has only been partially developed, so far. Planning consent has been granted for further development which includes the extension of the football club approach road and its linkage to the local centre (Thrower Road) and the future adjacent employment land.

No account of these future developments have been considered by the proposed supermarket application and assumes that as the signal controlled junction and proposed roundabout is adequate to support the additional traffic generated by the store.

In the master planning of the SUE and the local environment, no further grocery retail use was expected or considered necessary, except that which had already been approved (i.e. Waitrose). Therefore, this junction has not been demonstrated within this application as being adequate to support this additional retail development at the football ground.

This development is also proposing to relocate and formalise the existing informal pedestrian crossing (at the club gates) to half way along the access road. There does not appear any justification for this as it would not relate to any other facility or linkage proposed. Pedestrian facilities already exist at the signal junction on Oteley Road, approximately 80m away from the proposed location of the zebra crossing. Therefore it would appear to serve no useful purpose. Although when the extension of the access road is undertaken and linked to the local centre and employment areas, then there may be a need to facilitate an additional pedestrian route.

However, the most logical and direct route for pedestrians would in all probability be in closer proximity to where the informal crossing exists currently.

#### Internal Layout

Although the application demonstrates that development can be serviced by articulated within the proposed car park no demonstration has been shown of the manoeuvres of these vehicles and the mini roundabout access road. However, it is not good practice to allow service vehicles to manoeuvre within spaces that could be occupied by car parking or pedestrians. If this is to be allowed servicing the store will need to form part of the approved Travel Plan to ensure that appropriate controls are put in place to only have HGV's present on site at times when the store is not open to the public. In order to reduce the likelihood of incident or injury whilst these articulated vehicles manoeuvre around and reverse within the car park.

It should be noted that an alternative solution could be to service the site from the football club side thereby, no compromising the shoppers' car park. Although service vehicles would have to be restricted from access on match/event days. Whilst the proposed pedestrian access from the B4380 Oteley Road, will improve connectivity to the site, consideration should be given if access on match days should be provided to reduce the possible conflict between shoppers vehicles and football supporters. Consideration should also be given to the gradient of any proposed pedestrian link is DDA (Disability

Discrimination Act 2005) compliant.

### Transport Assessment

#### Section 3 - Existing Conditions

- Bus – Public transport is not usually a viable option for customers, and with the stop being 650m away. This will be seen as being very unattractive for customers with shopping to carry. The report needs to be much more honest about the limitations of bus travel to the site, particularly for customers.
- Walking – There is no acknowledgement of the difference between walking take up by staff vs customers. The latter being very limited given the current level of population within the 1km isochrone. It is acknowledged that this is changing with the SUE but the report does not explain this satisfactorily.
- Cycling – similar to walking so the potential set out in the report is only relevant to staff trips.
- 3.25 The football club operate a parking permit system in relation to the stadium parking for the 670 car parking spaces are provided at the stadium. Permission has recently been granted to increase the parking provision up to 1000, this has not been acknowledged or taken into consideration.

#### Section 4 – Development Proposals

4.13 - The Shropshire standard cycle stand is a Sheffield type stand and these can be in individual or toast rack format. The report doesn't indicate where the cycle stands will be located (ideally near entrance) whether or not they will be covered (particularly for staff) consideration also needs to be given to expansion – see later comment under Travel Plan.

#### Section 5 – Trip Generation

5.3 – The report has not used comparable existing sites, with 2 survey days at sites with 500,000 population in 5 miles and 25-50,000 population in 1 mile. It is also suspected that many of the sites have much better public transport provision. It is difficult to find similar sites in TRICS then this needs to be explained and justified.

#### Section 6 – Traffic Impact Assessment

6.13 – States, "It is considered that the majority of Lidl customers will not seek to access the proposed development by car during the peak periods on a matchday (1400-1500 for arrivals and 1630-1730 for departures)

Whilst this logic is generally accepted, there has been no evidence submitted that this occurs in similar situations where retail facilities are located adjacent to sports grounds, nor does it address the issue that fixtures are subject to rearrangements throughout the season and additional fixtures added.

It does not adequately explain the potential trip changes and displaced peaks should shopper avoid football match or event times or possible measures to be out in place to control vehicles on match days.

6.15 – The conclusions in this paragraph or relevance to this assessment is not accepted. The TA needs to focus on what is actually happening at this junction now, as well as when the whole SUE (including the consented adjacent employment land) is fully developed. Then determine how this might change with the new food store in operation. A paragraph on the acceptability of the current queue length measured during the Saturday survey would be useful, as well as how the on-site traffic/pedestrian

management might affect the stores operation and the proposed formal pedestrian crossing. Particularly, as it also assumes that the level of occupancy of the stadium and car park are directly linked.

#### Outline Travel Plan

- The report is very generic and needs to be revisited to reflect the specific constraints and opportunities associated with this development. (i.e. para. 7.13 - there are no trams in Shrewsbury!). While sustainable travel by customers is limited they should still be considered and included in any objectives.
- The report needs to be more positive, looking to build on good practice and adapt to encourage more change (i.e. cycle stands start with standards but look to increase if it becomes popular, determined through on going surveys and encouragement)
- As previously stated the site is not well served by public transport but the planned SUE developments will bring enhanced public transport provision along Oteley Road. Therefore, it would be useful for the TP to highlight this and provide a commitment to push bus travel with the introduction of new facilities (bus stop?) and encouragement to use these services (discount vouchers?).
- Targets – reference needs to be made to working with and agreeing targets with the LA. Final targets will need to be based on the results of the initial surveys and agreed with Shropshire Council but some indication of what the developer feels might be appropriate would provide a starting point of discussion and help to demonstrate commitment.
- 7.18 – cycle parking needs to be flexible to meet demand.
- 7.19 – Travel Plan needs to include reference to working directly with staff to identify car sharing opportunities.
- 7.22 - The Travel Plan Coordinator does need to be appointed before the store opens and this needs to include a specifically role in the recruitment process where opportunities can be taken to work with potential staff. In any final document it will be necessary to specify who the TP Coordinator will be and how much time and authority they will be given. (Note: the football club has a travel plan coordinator, are there will be one for the adjacent employment site, so there will need to be commitment to working alongside neighbouring business, etc.
- 7.24 – Monitoring needs to start from the recruitment stage when an understanding of how staff plan/intend to travel can be established. The document should be made much less generic at this stage and then a much more comprehensive and specific plan produced and agreed prior to the store opening.

4.1.6 **Rights of Way** – Public Footpath UN1 Shrewsbury abuts the northern boundary of the site identified but will not be affected by the proposals. Footpath 74 Shrewsbury partly runs along the eastern edge of the access to the site but it will not be affected by the proposals. The routes are shown on the attached plan.

4.1.7 **Ecology** – If an application, submission of reserved matters or the development is likely to start after February 2017 then an update survey of ponds/ditches within 500m of the development site for Great Crested Newts would be required.

Ecological enhancements, including native tree planting, should be sought to maintain and improve the green frontage to the roads, the green strip between the store and the sports pitches and around any SUDS features.

#### Great Crested newts

There is a small population of Great Crested Newts (GCN) in ponds, surrounded by good quality newt habitat, to the north of Otley Road on the Golf Course. Otley Road is a busy and relatively wide main road, which will act as a barrier to GCN and it is unlikely that GCN from this population would be encountered on the proposed development site. There is a second pond just over 230m to the south of the proposed site which was surveyed in 2014 for another planning application and no GCN were found. This second pond is separated by c. 30 metres of grassland and c. 200m of tarmac car park. A grassland route around the edge of the car park stretches to 350m from the pond. In view of this, a Great Crested Newt survey will not be required unless additional ponds are found.

The pond to the south was created relatively recently when the football stadium was built, as were the ditches, which hold water for part of the year, adjacent to the site. If submission of an application or reserved matters or the development is likely to start after February 2017, an update survey for Great Crested Newts of ponds/ditches within 500m of the development site would be required. The survey would need to determine if the situation has changed and may need the following:

Any ponds within 500m should be re-assessed in terms of broad suitability for Great Crested Newts by carrying out a Habitat Suitability Index (HSI).

If any pond is suitable then it may be necessary to carry out a presence/absence survey for Great Crested Newts which is made up of 4 survey visits between mid-March and mid-June with at least 2 visits between mid-April and mid-May. Three survey methods (preferably torch survey, bottle trapping and egg searching) should be used on each survey visit. If Great Crested Newts are discovered then it may be necessary to carry out a population size class estimate which involves an additional 2 visits in the specified time period.

A recent alternative means of determining presence/absence is to take a water sample for eDNA testing between mid April and late June. Please note if Great Crested Newt presence is indicated a population estimate by conventional survey (6 visits in the correct time period) will still be required and timing issues may ensue (seek ecological consultants advice).

The Great Crested Newt survey should be carried out by an experienced, licensed ecologist in line with the Great Crested Newt Mitigation Guidelines by Natural England (2001). The ecologist should make recommendations as to whether a European Protected Species Licence with respect to Great Crested Newts would be necessary and the need for a mitigation scheme and/or precautionary method statement. Any deviation from the guidelines should be described together with the scientific justification for the alternative methods used.

#### Nesting Birds

The site has the potential to support nesting birds recommends an informative.

#### Bats

Recommends a condition should be on the decision notice to try and reduce the impact that lighting may have on foraging and commuting bats.

#### Landscaping

On the preapplication PREAPP/15/00504 the County Ecologist advised that the proposed

car parking should be pulled back so as to retain the landscape bund and green screening. Habitat creation should be proposed, such as native tree and scrub/hedge planting along the road to mirror the existing mature avenue planting to the west and east and to screen the car park. The Golf Course opposite the site lies in the Environmental Network (see Core Strategy CS17 Environmental Networks and guidance note 11 on the website below) and tree and hedge planting would help to maintain the green character of the area.

The proposed landscape scheme does not reflect this advice at all. All the species proposed are non-native and of limited value to wildlife. I would advise that the planting scheme is revised as suggested above.

I would encourage SUDS features to be incorporated into the design and opportunities to be taken to provide enhancements for wildlife such as bird boxes.

Under Regulation 61 of the Conservation of Habitats and Species Regulations (2010), the proposed works will not have a likely significant effect on any internationally designated site. An Appropriate Assessment is not required.

- 4.1.8 **Trees** – No mention has been made with regard to the existing trees on this site which are a line of established semi mature Lime trees planted approximately 10 years ago and establishing well. I assume these trees were planted as replacements for mature Lime trees on the road side lost during the development of the football stadium, possibly subject to a planning condition (not verified).

These trees should be shown on the existing layout plan and considered as a valuable established feature worthy of retention and inclusion in the proposed landscaping scheme.

- 4.1.9 **Drainage** – The site is greater than 1.0 Ha. the surface water drainage strategy in the FRA is technically acceptable.

Drainage details, plan and calculations could be conditioned if planning permission were to be granted.

- 4.1.10 **Public Protection** – Having reviewed the information provided public protection have the following points which require further thought and attention.

There is concern that on match days supporters making their way to and from the stadium to the south will cut through the car park to the proposed store. The stretch of boundary treatment of 0.5m high fencing between the proposed site and Oteley Road and the road to the stores proposed eastern boundary will not prevent this. This has the potential to place a large amount of pedestrian footfall in the car park presenting a risk of accidents between vehicles and pedestrians. A proposed solution which would remove any objection to this aspect of the development by public protection would be to have boundary treatment which presents a deterrent to this behaviour. Fencing to a height of 1.3-1.5m is recommended (the higher the better) with planting immediately inside the boundary, e.g. a continuous thorny hedge, is proposed for the applicant's consideration and comment.

In addition gating capable of being locked during peak pedestrian movement times to the stadium on the pedestrian access from the proposed site onto Oteley Road would be

required with a statement to confirm that they will be locked during the period prior to any event at the stadium (recommended 2 hours) until a period after the event is scheduled to finish (recommended one hour after an event at the stadium).

Please can the applicant consider the above and provide comment and any additional site plans as required to take into consideration this aspect.

In addition to the site boundary concerns raised above it is noted that in the 2 hour period leading up to an event at the stadium and during the 1 hour following an event there is a significant amount of footfall in the immediate locality. It is therefore not considered suitable for HGV to be delivering to the site during these times and I recommend the following condition to remove associated risks:

No deliveries to the site shall take place within the following hours: 2 hours prior to any event at the nearby stadium until one hour following the expected finish time of the event. Reason: to remove risks of accidents associated with HGV movements in an area of high pedestrian footfall.

Also reviewed the Matchday Management Plan (MMP) which proposes arrangements for ensuring safe access/egress of Lidl customers and matchday attendees at Shrewsbury Town Football Club. The proposals to provide 5 additional stewards on matchdays to manage pedestrian and vehicular movement are satisfactory. However a far better solution has been suggested to the developers which would be to provide a separate pedestrian access to the football ground from Oteley Road along the Western edge of the proposal site.

If a separate pedestrian access cannot be provided then I request that a condition is applied to any approval requiring that the arrangements detailed in the MMP are implemented in full for every match at Shrewsbury Town Football Club which is covered by the Safety Certificate issued under the Safety at Sports Grounds Act 1975. Also I would request a condition be applied requiring there no deliveries to the Lidl store in the 2 hours before a match kicks off and for 1 hour after the expected finish time .

Finally the transport assessment states that the main gates to the stadium will be relocated however no details of the proposed layout have been presented to show how the stadium can be isolated from the surrounding locality when necessary. Please can plans and details of the proposed works be submitted for comment.

Brownfield Solutions Ltd; Geo-Environmental Assessment Report SF/C3064/5700, December 2015 has been submitted in support of this planning application.

On the basis of the monitoring undertaken, the assessment and guidance, ground gas precautions will be required within any proposed construction at the site.

Brownfield Solutions have recommended that the installed membrane in any proposed development should be rated by the manufacturer as resistant to carbon dioxide. The gas membrane should be installed by a competent contractor in accordance with CIRIA C735 and the manufacturers' recommendations, this will include minimum laps, sealing any cavity and top-hat seals on the service entries. The installation of a membrane is considered a planning requirement and validation of the placement of protective measures will be required.



Therefore if this application is approved recommends a condition. Information on how to comply with conditions and what is expected of developers can be found in the Shropshire Council's Contaminated Land Strategy 2013 in Appendix 5. The following link takes you to this document:

<http://shropshire.gov.uk/committee-services/Data/Council/20130926/Agenda/18%20Contaminated%20Land%20Strategy%20-%20Appendix.pdf>

#### 4.2 **Public Comments – up to 2<sup>nd</sup> Nov**

4.2.1 160 letters of representation have been received, 36 in objection and 123 in support.

The 36 letters of objection raise the following concerns:

- Conditions imposed on the previous consent prevent the proposed development
- Loss of community sport pitch and no alternative proposed
- Club have prevented communities using the site as a pitch
- No need for another food store – Shrewsbury is already well served by supermarkets on every side of town
- May impact on delivery of existing Waitrose consent and site on Hereford Road
- Need a DIY store
- Site should be used for leisure uses such as a new swimming pool
- Should be used for more parking for the football club
- Significant house building in the area will increase the need for open space
- More appropriate sites available
- Will not be in keeping with local area
- Negative impact on visual amenity and landscape
- Too much built development is being carried out resulting in the loss of the character of Shrewsbury
- Poor access
- Increase in traffic and congestion
- Will create traffic and pedestrian access problems on match days
- Pedestrian access would be better to the west of the store rather than trying to steward the pedestrians crossing the Lidl car park
- The TA has not sufficiently assessed the traffic at peak times and has not fully considered the potential impact on the roundabout and traffic lights
- No evidence that shoppers will avoid match times – personal experiences of this not being the case in other towns
- Wait times to leave the football club by car can be up to 45 mins
- Will result in supporter parking on the store car park, shoppers parking in the football club and increase supporter parking on local roads
- TA does not take account of increase in parking approved at football club
- Relocation of club access gates and pedestrian crossing facility will increase traffic congestion on Oteley Road

4.2.2 The 123 support letters received are summarised below:

- Need a discount store on the west/ south of the town
- Would prefer a Lidl to Waitrose
- Will be convenient
- Increase choice
- Within an area designated for development
- New housing will support new store

- Will support football club financially
- More jobs
- Not obtrusive
- Good use of land
- No issue with location or parking
- Access is already controlled by traffic lights
- Will reduce carbon footprint by reducing travel, traffic and within walking distance
- Lidl can assist with traffic management on match days to overcome objectors concerns
- No impact on residential properties

4.2.3 The Local Member **Councillor Tandy** has written in objecting to the application.

As the local Councillor for the area concerned not just on Shropshire Council but also on the Town Council. I find I must oppose this planning application on the following grounds:

1. The area which is to be used for the shop and car park has a covenant on it. This was put on when the club moved from the Gay Meadow this was because the site of the gay meadow was given to the town for the use of sport and the chairman of Shrewsbury Town Football Club wanted to put housing on the site so a piece of land was found within the site of the new football ground to be used for sport and for the community this area has never been allowed to be used for the community in fact I have seen evidence that the chairman has actively stopped the community using this site.

2. The stadium and footprint of the site has a safety committee I formally ask that the safety committee from Shropshire Council submit a report to the planning committee on safety of having a supermarket on the site of the ground and the implications that arise.

3. On the grounds of safety of the public what plans are in place in case of fire when fans of the football club are leaving the stadium.

4. What plans are in place to protect the shoppers from problems caused by football fans.

5. What are the opening times of the shop?

6. This application should be heard by Cllrs and I formally ask that this application to go to committee.

4.2.4 An objection has been received from **Morbaine Ltd** as promoters of the site on Hereford Road which has planning consent for a food store. The objection comments that the Hereford Road site was intended to meet the needs for further food store development, including discount store. The objection considers that the Hereford Road site is sequentially superior to the Oteley Road site, can also provide for a discount food store, is a brownfield site, is connected to the town by existing bus services and is actively being pursued by the land owner and agent. Morbaine comment that the proposed site is reliant on a bus which may or may not happen and also that the offer from Lidl for their site is still being considered. Morbaine is confident that the Hereford Road site can be developed, but that granting consent on Oteley Road would put this at risk.

4.2.5 An objection has been received from **How Planning Ltd on behalf of Waitrose**. The objection considers that the submitted retail statement is incorrect in that the Waitrose store is a local centre, as required in the SUE, not an out of centre store and as such the sequential assessment is not satisfactory. Furthermore the submitted statement does not

consider the potential impact on the planned investment of Waitrose and the objection also raises concerns about the submitted trade and turnover data and considers that the Council can not therefore fully consider the potential impact.

A further objection from How Planning Ltd also comments that the Riverside Shopping Centre should be considered as sequentially preferable and that there is no evidence that a Lidl store in the Riverside would affect the viability of the whole of the development. This objection also reiterates How Planning's opinion that the Waitrose consent is a local centre fully supported by Core Strategy and SAMDev policies and that there is no evidence that the proposed Lidl store will better meet the needs of the local area than the approved Waitrose store. As part of a local centre the Waitrose store is linked to other retail units in the local centre and also is protected by the centre first approach in National and local policy.

The objection also provides more detail regarding the potential impact on the approved Waitrose noting that the proposed Lidl, with the recently built M&S, will adversely affect the viability of Waitrose. How also consider that the date used by Lidl is out of date and question that trade diversion figures from the existing Aldi and Lidl are too high whereas the trade diversion figure from Waitrose is too low. In conclusion How Planning consider that the application fails the sequential and impact tests and should therefore be refused.

- 4.2.6 A letter has been received from the **Sutton Area Residents Association** Chairman objecting to the proposal on the following grounds:
- Land is subject to a covenant for community recreational use which has been discouraged by STFC
  - Access will be through gates of football club which is prohibited on match days and does not allow for two way traffic
  - Will result in severe traffic congestion

- 4.2.7 **CPRE** – object. The site is open grassland designated as a community pitch and we feel strongly that the area should be protected from development of an any kind. Furthermore, we understand that this field, along with the six five-a-side pitches, were covered by a covenant to ensure that they remained for recreational use. We are aware that in 2007, the Football Club offered to pay £350,000 for the right to set aside this obligation. Shrewsbury & Atcham Borough Council refused the offer.

National Planning Policy Framework policies 73 and 74 protect sports pitches from development unless an alternative site of equal or greater merit is available. No alternative has been suggested.

In their Decision Statement dated March 17th 2016 regarding alternative uses for the stadium, Shropshire Council stated at paragraph 13 "The community pitch, five-a-side pitches and changing block shall be permanently retained".

In our view that decision statement rules out the use of the community pitch for a supermarket and we hope that you will accordingly recommend refusal of the application.

- 4.2.8 **Shropshire Playing Fields Association** – **Object** to this application to build on a recently (2008) constructed sports pitch as required as part of the agreement to build a new football stadium, along with training pitch, community pitch 6 five-a-side pitches and changing facilities.

The application does not adhere to the requirements of the national planning policy framework paragraph 73/74 which clearly states that a robust and up-to-date assessment of need for open space, sport and recreation is required to determine applications of this kind.

There is no reference in the application to an open space needs assessment being used to support this application SPFA believe that until this evidence is available no decision should be made to support this application which would result in the loss of a valuable sport pitch.

Given the massive growth in residential accommodation in and around this grass pitch area since 2008, it would seem unlikely that any evidence could be produced that would suggest there is a surplus of sport pitches in this area for community use given that a similar application was refused in January 2007.

Indeed given the massive growth in recent times the evidence would clearly suggest there is now more need for this grass pitch than there was in 2007.

The government sport and physical activity strategy and Shropshire playing pitch strategy 2010 with its reference to a shortage in sport pitches for meole brace would also seem to support the rejection of this application.

- 4.2.9 Following receipt of the proposal to relocate the community pitch to the training pitch the Shropshire Playing Fields Association maintain its objection. Shropshire Playing Fields Association believe that the application does not replace the loss of one full sized community football pitch with better provision in terms of quantity. At present the picture clearly shows two green open spaces, both currently being used as grass playing fields for the purpose of football. Clearly if you build a Lidl Superstore on one of these grass pitches you have a loss of one playing field.

Considers that there is evidence of a need to retain both pitches as open space as an opportunity to grow the community use aspect of the site even more than it is doing at the moment and that to build a Lidl Superstore on this site could present a considerable risk to all elements of this opportunity as we move forward.

## **5.0 THE MAIN ISSUES**

- Policy & principle of development
- Sequential site assessment
- Impact assessment
- Layout of site, scale and design of food store
- Access, car parking and accessibility to town centre
- Impact on historic environment
- Landscaping and ecology
- Impact on neighbours amenities
- Flooding, drainage and contamination
- Other matters

## **6.0 OFFICER APPRAISAL**

### **6.1 Policy & principle of development**

- 6.1.1 Under section 38(6) of the Planning and Compulsory Purchase Act 2004, all planning

applications must be determined in accordance with the adopted development plan unless material considerations indicate otherwise. Since the adoption of the Councils Core Strategy the National Planning Policy Framework (NPPF) has been published and is a material consideration that needs to be given weight in the determination of planning applications. The NPPF advises that proposed development that accords with an up-to-date Local Plan should be approved and proposed development that conflicts should be refused unless other material considerations indicate otherwise. The NPPF constitutes guidance for local planning authorities as a material consideration to be given significant weight in determining applications.

- 6.1.2 The Shropshire Core Strategy was adopted in February 2011. Policies CS1 (Strategic Approach) and CS2 (Shrewsbury – Development Strategy) aim to encourage the continued sustainable growth of Shrewsbury as the County town. Shrewsbury is noted in CS1 as being the focus for significant retail, office, employment and residential development. CS2 goes on to provide more detail to CS1 in providing higher level policy guidelines to enable the town to achieve economic growth whilst protecting and enhancing the town's role, character and unique qualities of built and natural environment. CS2 provides for development of the retail centre role of the town and also provides for the two urban extensions. With regard to retail uses policy CS15 (Town and Rural Centres) encourages the provision of appropriate convenience and comparison retail, office and other town centre uses preferably within the identified town centres as a 'town centres first' approach, however it does acknowledge the NPPF sequential and impact tests where no town centre sites are available.
- 6.1.3 The SAMDev for Shrewsbury, policy S16, follows from the principles set in the Core Strategy policy CS2 encouraging sustainable economic growth. S16A deals specifically with the town centre and edge of centre areas and follows the town centre first approach of the NPPF and CS15. This part of the policy, amongst other things, seeks to ensure that the town centre retail offer is enhanced whilst ensuring that the independent sector is retained and developed, seeks to unlock the potential of vacant and underused buildings but also with an underlying aim of reducing the impact of traffic and congestion in the town centre. Within S16 there is one specific retail allocation, S16.1c, Riverside Shopping Centre which proposes the redevelopment of the existing shopping centre, night club and medical centre with a new shopping centre providing a department store, improved connections to Pride Hill and Darwin Centre and an active frontage onto Smithfield Road. This allocated site has planning permission but work has not yet started. S16 also includes smaller retail uses within allocated housing sites at the Flaxmill and both SUE's.
- 6.1.4 Also of relevance are policies MD10a – Managing Town Centre Development and MD10b – Town and Rural Centre Impact Assessments of the SAMDev. Policy MD10a defines Shrewsbury as a category 'C' town where there are primary and secondary frontages. In the two category 'C' towns (Shrewsbury and Oswestry) there are different levels of protection to the primary and secondary frontages and also a presumption in favour of town centre uses within the wider town centre. Policy MD10b sets local thresholds for impact assessments depending on the town. Developments located outside of the defined town centre and which have a gross floor space of over 500sqm in Shrewsbury will require an impact assessment to be undertaken and submitted with the application. Policy MD10b also advises that developments which have a significant impact on town centres, or where the impact assessment is insufficient, will not be permitted. The policies within the Core Strategy and the SAMDev are considered to be consistent with the requirements of the NPPF as detailed in the following paragraphs.

- 6.1.5 At a national level the NPPF, section 2, sets out the national policy for determining planning applications for retail and other town centre uses. It seeks to be positive and promote competitive town centres but does acknowledge that policies will be required to consider main town centre uses which cannot be accommodated in or adjacent to town centres. Paragraph 24 requires local planning authorities to apply a sequential test to planning applications for main town centre uses that are not in an existing centre and are not in accordance with an up-to-date local plan. This test is the “town centre first” approach where out of town sites should only be considered where there are no sites within or on the edge of centres and preference should be given to accessible out of town sites that are well connected to the town centre.
- 6.1.6 Paragraph 26 of the NPPF also requires out of town retail applications to be submitted with an impact assessment to show the impact of the proposal on existing, committed and planned public and private investment in the town centre; and the impact on the vitality and viability of the town centre. Where an application fails the sequential test or is likely to have a significant impact it should be refused. Where no significant adverse impacts have been identified, and where the application also satisfies the requirements of the sequential test, a decision should be taken by balancing the positive and negative impacts of the proposal and other material considerations, and also the likely cumulative effect of recent permissions. These two issues of sequential and impact assessments are highly important in determining this application.
- 6.1.7 The key issues are firstly, determining whether there are any sequentially preferable sites available and suitable, or likely to become so within a reasonable period of time; and secondly whether the proposed retail development would result in a significant adverse impact on the existing town centre. These are the two tests within the NPPF, policy CS15 and policy MD10b. The NPPF states that applications should only be refused where they fail the sequential test or are likely to have a significant impact on existing centres. PPS4, the national retail policy prior to the NPPF, removed the requirement for applicants to satisfy a test of “need” in justifying proposals for town centre uses and as such whether there is a need for the retail units proposed (including the food store) is given less weight but can still inform the conclusions reached in terms of the impact test.
- 6.1.8 In order to consider these issues the application has been submitted with Planning Statement which includes a Retail Statement. This statement includes information on the business model of Lidl. As a deep discount retailer the model has limitations to the scope for flexibility and no scope for disaggregation of the store which is something which has been agreed in a number of appeal decisions across the Country.
- 6.1.9 The Practice Guidance, which previously accompanied PPS4 and is still in force, advises that retailers should show flexibility in the design approach but also acknowledges that flexibility can prejudice the business model. The agent has advised that Lidl business model does not provide for a one-stop shop for the customer and that there would still be a need for the majority of customers to use other stores to undertake a full shopping trip. This therefore provides a restricted shopping provision when compared to the big four retailers such as Sainsbury and Waitrose. The store is more likely to compete with other deep discount stores such as the existing Lidl store on the north of the town or the existing Aldi store rather than the large food stores. However the agent does acknowledge that the proposed development does have the potential to impact on the existing retailers around Meole Brace. This is considered in detail later in the report.

## 6.2 Sequential site assessment

- 6.2.1 Policy CS15 of the Shropshire Core Strategy seeks to maintain and enhance the vitality and viability of existing town and rural centres identifying town centres as the preferred location for new retail development but acknowledging the sequential and impact assessments. Paragraph 24 of the NPPF requires developments in 'out of centre' locations to demonstrate that there are no sequentially preferable sites suitable or available to accommodate the proposed development within the town centre or on the edge of the town centre. The sequential assessment should also take into account other out of centre sites which are accessible and well connected.
- 6.2.2 Paragraph 6.2 of the Practice Guidance on Need, Impact and the Sequential Approach states that:  
"the sequential approach is intended to achieve two important policy objectives:  
- Firstly the assumptions underpinning the policy is that town centre sites (or failing that well connected edge of centre sites) are likely to be the most readily accessible locations by alternative means of transport and will be centrally placed to the catchments established centres serve, thereby reducing the need to travel,  
- The second related objective is to seek to accommodate main town centre uses in locations where customers are able to undertake linked trips in order to provide for improved consumer choice and competition. In this way, the benefits of the new development will serve to reinforce the vitality and viability of the existing centre."
- 6.2.3 The submitted sequential assessment has focused on sites in the town centre and south of the town as the existing Lidl store is in the north of the town and as such the applicant has suggested that a second store should be out of the catchment area of the first store. 15 sites have been considered. 12 of these are in the identified town centre of Shrewsbury, however 10 are too small for a proposed food store even when combining the three sites which are adjacent to each other as one space. The Riverside shopping centre, noted above, does not provide any units of a similar size required by Lidl. Although it provides multi level units these would not be suitable for a food store use and as such the Riverside has been discounted by the applicant as not suitable. Furthermore, members should note that the Council has previously accepted that the Riverside is not sequentially preferable for food store uses when considering other recent out of centre food store proposals.
- 6.2.4 The site in the centre known as The Gap site is also considered to be too small for the proposed Lidl store without constructing it as a four storey building which would then be difficult to stock and manage viably for a deep discounter. The agent also considers that the Gap site has a poor frontage and is poorly related to other retail uses and as such does not consider the site is viable or suitable.
- 6.2.5 A recent consent on Hereford Road (Morbaine site) was granted by appeal with the Inspector noting that the site was accessible with reasonable connections to the town centre. However, the agent for the current Lidl application is of the view that the Hereford Road site is not sequentially preferable to the Oteley Road site as both are out of centre and the Oteley Road site will become better connected to the town centre following the development of the SUE. Furthermore, the Hereford Road site requires significant highway works, relocation of the existing business and lacks commercial prominence which the agent considers undermines the viability of that site. Lidl had made an offer for the Hereford Road site, taking into account the constraints noted, but this has been



rejected by the land owner.

- 6.2.6 The retail statement also notes that there are empty units on Meole Brace retail park but these are too small for the proposed user and have therefore been discounted as not suitable. The land either side of the access road to Meole Brace park and ride is outside the Shrewsbury development boundary and as such considered as out of town therefore the Oteley Road site is sequentially preferable as an out of centre site. (Sequentially sites should be considered in the following order: “in centre”, “edge of centre”, “out of centre”, “out of town”).
- 6.2.7 The existing consent adjacent to the recently completed Percy Thrower garden centre is also acknowledged but it not an available site to the applicant as it controlled by Waitrose as the future operator of the site. This site, although consented, is also considered to be out of centre and not any better connected to the town centre than the application site. As such the agent suggests that it is not sequentially superior.
- 6.2.8 Overall the agent concludes that there are no in-centre or edge of centre sites available, suitable and viable and that there are no alternative out of centre sites which would be more appropriate for the proposed development. An objection has been received from the agents for both the Morbaine site and Waitrose who both consider their sites are sequentially preferable, both already have consent and both would be at risk if the proposed Lidl store was approved. The Waitrose objection suggests that their consent is for a “local centre” (as required by the SUE policy to serve the housing development). Local residents have also commented that there is no need for another food store. However, there has also been support for the proposal on the basis that this would provide a discount store on the west/ south of the town and increase choice and convenience.
- 6.2.9 The Council Policy Officer’s comments are provided in full under section 4 above, in conclusion the Policy Officer agrees with the applicant’s agent in that, taking into account all available information, it is considered that the applicants have met the requirements of the sequential test. The Policy Officer advises that the Riverside site is sequentially preferable but is intended to provide comparison goods floor space rather than for a new food store and as such it is reasonable to discount the Riverside as not suitable. The Policy Officer also comments on the Morbaine site which he considers is sequentially equal to the current application site due to the distance of both sites from the town centre.
- 6.2.10 Paragraph 27 of the NPPF indicates that, where an application fails to satisfy the sequential test and the impact test (considered below), it should be refused, however this paragraph does not extinguish the requirement to take into account all other material considerations in assessing the planning balance. It is officers opinion that the applicant has undertaken an appropriate sequential assessment and that there are no sequentially preferable sites and as such the application is considered to comply with the sequential test.
- 6.3 **Impact assessment**
- 6.3.1 Paragraph 26 of the NPPF requires out of centre developments to also assess the impact on existing, committed and planned investment and the impact on the vitality and viability of the town centre and wider area, up to five years from the time the application is made. Only where the impact is significant should this be used as a reason to refuse. Shrewsbury is currently served by four large food stores and three deep discount stores all in out of centre locations. The town centre has small convenience stores but is

predominately comparison shops with a good level of independent and specialist retailers. As noted before Shrewsbury also has significant future housing growth planned, some of which is already under construction, and this will also increase the expenditure capacity of the catchment area.

- 6.3.2 The Practice Guidance on Need, Impact and the Sequential Approach also comments on impact recognising that new retail developments will have an impact but this is not always a bad thing as new development often enhances choice, competition and innovation. The NPPF seeks to prevent significant adverse impact which would undermine the vitality and viability of the town centre and not to prevent competition or increases in choice.
- 6.3.3 As detailed in section 6.1 above policy MD10b of the SAMDev sets a local threshold for impact assessments of 500sqm for out of centre uses in Shrewsbury. The Planning and Retail Assessment includes this impact assessment. In summary the agent considers that the proposed Lidl food store will have no impact on committed and planned investment in the town centre as the development proposals in the centre are mainly intended to be for non-food uses. The agent also considers that the development is highly unlikely to have a significant impact on the vitality and viability of the existing town centre retailers as the town centre is in a relatively good state of health. Furthermore, it is the agent's view that the deep discount business model is not an important part of the existing town centre retail offer and therefore an out of centre store is not likely to draw significant levels of shoppers away from the town centre, cause any existing stores to cease trading or reduce pedestrian flow in the centre. The agent also comments that the town centre is operating successfully with other existing out of centre food store retailers, including deep discount retailers, and that they do not consider that a further out of centre store will tip the balance. The impact assessment concludes that the proposal is highly unlikely to bring about significant adverse impact on the town centre for the reasons given above.
- 6.3.4 Objections have also been received on this matter. Principally the objection on behalf of Waitrose which questions whether the application correctly considers the impact on the approved Waitrose. The objection notes that Waitrose is a committed investment and therefore the impact should be considered. The objection raises concern that the combined impact of the recently opened Marks and Spencer Food store at Meole Brace Retail Park and the proposed Lidl would impact on the potential turnover of the proposed Waitrose scheme to an extent to make it unviable, and on that basis the impact on the Waitrose scheme as a defined Local Centre would be significantly adverse.
- 6.3.5 The Council Policy advice comments on this objection and advises that the approved Waitrose, with a floor space of 2,741sqm, will provide a local centre role but will also have a much wider catchment than a local centre. The Waitrose planning application was considered as an out of centre retail food store rather than as a local centre and was accepted as being more than a local centre due to its size and catchment. As such it is officers opinion that the objection on behalf of Waitrose regarding the impact on the local centre is not one which can be given significant weight, it is an objection from one out of centre food store against a competitor out of centre food store.
- 6.3.6 An addendum to the retail statement was also submitted following the objections received. The addendum amended the sales impact figures, included the 'no development' scenario and cumulative impact assessment. The conclusion of the addendum is that there is no greater impact on the town centre than was concluded on the original assessment.

- 6.3.7 As part of the addendum the agent has also commented on the objection from Waitrose. It is the agent's opinion that the impact on Waitrose will be from cumulative issues (impact from other existing, recently built and consented stores) not from Lidl alone. The agent considers that the greatest impact on the approved Waitrose would be from the recently built M&S food store and that the Lidl impact will be marginal. Furthermore, the agent comments that the building of the new Waitrose store was put on hold before the proposals for Lidl became public.
- 6.3.8 A further objection was thereafter received from Waitrose. This retained their objection to the impact on the approved store as a local centre. The objection acknowledges that the Waitrose store will operate as more than a local centre but considers that it will also serve as the local centre and that the impact will be significant. The objection also raises concern about the impact on the existing Aldi and Lidl stores and considers that the existing Lidl on Harlescott Lane would be likely to close.
- 6.3.9 These latest objections are not considered to raise any new issues. Officers remain of the opinion that the Waitrose store would be more than a local centre store and as such should be considered as a out of town retail unit. Waitrose have threatened to pull out of developing the site. This is a business decision for Waitrose to make and not one which should influence the current planning application. If Waitrose were to pull out of the site there is no evidence to show that the local centre would not be built, the site could be taken on by another retailer or a smaller unit provided. As such officers remain supportive of the principle of the proposed Lidl food store on the application site subject to a condition restricting the operation of the food store to a discount operator on the basis that the impact is unlikely to be significantly adverse and as such can be supported in accordance with the NPPF, Core Strategy and SAMDev.
- 6.4 **Loss of community sports pitch**
- 6.4.1 Significant local objection has been received, including from Councillor Tandy, on the grounds that the application site is restricted by a legal agreement linked to the planning permission for the new stadium for the football club and also by a covenant. The restriction states that the land which is the subject of this planning application should be used as a community sports pitch. The Case Officer can confirm that there is a section 106 legal agreement attached to the consent for the football stadium securing such use.
- 6.4.2 Objectors have also noted that there was a previous request from the club to remove the requirement to provide the community pitch and that this was declined by the Council. This is also correct, in 2007 the club requested to be relieved from their obligation and offered to pay £350,000 in lieu of the community facility which was denied on the grounds that there was still evidence of a need for the community pitch to be provided.
- 6.4.3 Initially Lidl submitted a statement suggesting that the site has never been marked out as a sports pitch and never used for any sport or recreation purposes. It has been used for over-flow parking and the siting of a marquee during the Shrewsbury Town versus Chelsea match. Lidl, on the advice of the club, state that the club have allowed the community the use of the main pitch in the stadium. However, objectors have commented that the site has not been used as the club have not allowed its use and have denied interested clubs access to the site.
- 6.4.4 Notwithstanding whether it has or has not been used and whether the club have allowed its use or not it is officers opinion that the current situation is that the application site is

restricted by S106 to be used as a community pitch and as such the proposal for erection of a food store on this site would result in the loss of sports pitch. Both Sport England and Shropshire Playing Fields Association have objected and their comments are detailed in full under section 4 above. Both have quoted the relevant policy and the continued, and growing, requirement for open space.

- 6.4.5 The matter was therefore raised with Lidl and officers advised that without equivalent or better replacement facilities the application would not comply with the relevant policies and would be recommended for refusal. It is this matter that has resulted in the delay in the determination of the application as Lidl sought to overcome this objection and held further discussions with the club.
- 6.4.6 An alternative has now been proposed. The alternative is to relocate the community pitch onto the existing club training pitch which lies to the south of the stadium, adjacent to the Shrewsbury Town in the Community (hereafter STC) building. The pitch would be rented at a peppercorn rent to the STC to operate as a community pitch and therefore divorce it from the club. The applicant also notes that the STC are applying for funding to upgrade the pitch to a 4G pitch which would enable all year round use. The existing training pitch is accessible off the existing club car park, as noted above is adjacent to the STC building which has facilities and services and is well drained and maintained. STC already provide various sporting activities and it is the applicant's opinion that this proposal will provide improved facilities managed by a charitable organisation.
- 6.4.7 The football club have confirmed that the training pitch is no longer required by the club as training occurs off-site on land which is privately owned and was not operated as a sports pitch before being used by the football club. No comments have been received from either Sport England or the Shropshire Playing Fields Association to the alternative now proposed and as such it is officers recommendation that members balance the loss of one pitch with the provision of another and the benefits gained from the proposed food store/ It is officers opinion that the loss of the training pitch to provide the community pitch is not a net loss of sports facilities as the community pitch is retained and relocated and the training pitch is provided for off-site without loss of an existing pitch.
- 6.4.8 A deed of variation will be required by the football club to amend the previous S106 agreement to identify the new site of the community pitch and the training pitch. The work on this has commenced, along with a planning application to relocate the community pitch. However, until such time as the S106 is varied the owner of the application site is responsible for ensuring compliance with the current S106. As such if the football club sell the application site to Lidl before completing the deed of variation Lidl become liable for the provision of the community pitch and could not build a food store on the site until the deed of variation is completed. Once the deed is completed the club will be legally bound to provide the existing training pitch as the community pitch.
- 6.4.9 Objections have been received to the request for the deed of variation and to the application to amend the plans approving the position of the community pitch. These objections are dealt with in the report relating to those applications and officers consider that none of the objections raise significant or demonstrable impacts. The proposal will continue to provide a community pitch as required by the conditions and S106 on the original consent and as such there is no net loss of community sports facilities.
- 6.4.10 Local objectors have also commented that the proposed site, if no longer required for

community sports pitch, should be used for other leisure uses such as for a swimming pool or for additional car parking for the stadium. Although these comments are noted the application is as submitted and proposes a food store. The community pitch is still required and will be relocated. As such, providing the alternative sports pitch is provided, there is no policy requirement to resist the proposal or to provide either a swimming pool or additional car parking.

- 6.4.11 The other issue in relation to this matter is raised by Shrewsbury Playing Fields Association and local residents. The concern is that there is a growing need for sports provision both through the evidence submitted by STC the power league pitches adjacent and also as a result of the increase in housing development to be provided in the town. The growing need for sports provision is accepted and acknowledged by officers, however the need for open space and sports for new housing is dealt with through the plan-led policy process as required by paragraph 73 of the NPPF and furthermore each development is required to provide sufficient open space to accommodate the growth of the town as required by SAMDev policy MD2. The Football Club are only required to provide a community pitch and training pitch in the completed S106 agreement and the deed of variation proposed will provide for this. It would be unreasonable to require the Football Club to have to provide more than was originally required when they moved to this site.

6.5 **Layout, scale and design**

- 6.5.1 Policy CS6 'Sustainable Design and Development Principles' of the Shropshire Core Strategy requires development to protect and conserve the built environment and be appropriate in scale, density, pattern and design taking into account the local context and character. The development should also safeguard residential and local amenity, ensure sustainable design and construction principles are incorporated within the new development.
- 6.5.2 Objections have been received commenting that the development will not be in keeping with the local area and will have a negative impact on visual amenity and landscape. However, support has also been received commenting that the site is in an area designated for development and that the proposal will not be obtrusive.
- 6.5.3 The proposed building is rectangular in shape and two storey in height with staff facilities at first floor above the sales floor, warehouse and customer facilities. The gross internal floor area is 2,267sqm. A mono-pitched roof is proposed over the store and a single storey flat roofed section is proposed over the delivery area. The layout of the site shows the building at the rear of the site, adjacent to the car park for the football club, with the store parking between the store and Oteley Road.
- 6.5.4 The existing access to the site is to be altered to enable delivery vehicles to turn around the mini roundabout and for clearer identification of the football club from the food store. The store service yard is on the western side of the building which will mean that delivery vehicles have to drive across the store car park. 142 parking spaces are proposed of which 9 are to be disabled and 8 are to be parent and child spaces. Cycle parking is also proposed.
- 6.5.5 The submitted Design and Access Statement details the proposed materials as grey and white cladding with large sections of the east elevation and the corner of the north elevation glazed. The agent considers that the materials will be simple but coherent. The

agent also suggests that the proposed elevations provide activity and interest with the store positioned at the rear of the site and the shop frontage facing towards Oteley Road with the car parking in between. An amended design submitted during the consideration of the application included the addition of a section of high level windows along the north elevation (facing over the car park and towards Oteley Road) which will add some interest to this elevation.

- 6.5.6 Sustainable and energy efficient measures are also proposed as part of the building with opportunities to use recycled materials, efficient lighting, WC's and taps, low energy refrigeration units and through sustainable surface water management and recycling of grey water. The application form also notes that waste is to be stored inside the store and will be taken away by delivery vehicles.
- 6.5.7 There is an existing bund with landscaping along Oteley Road and the access road to the football club. The proposal is to remove the bund and landscaping and to provide new landscaping between the car park and roads and between the store and the adjacent power league pitches. Cross section plans have been submitted which show that the ground level of the existing site will be raised less than 1 metre and also shows the removal of the bund. The cross section plan shows that the site will still be higher than Oteley Road, levelled across the site and then gently sloping down to Oteley Road. The new landscaping is to be planted on the slope.
- 6.5.8 The design of the proposed building is simple but fit for purpose. The internal use of the store restricts the opportunities for adding windows or detail to the external elevations without them being "stuck on". The design as amended provides functional features to the external elevations of the building and setting the building at the rear of the site will reduce the visual dominance of the building. The loss of the existing bund is unfortunate but is necessary to provide sufficient parking and the layout shows areas of landscaping between the car park and the road. The new planting will break up the views of the car parking and over time the wider area is to be developed which will also alter the character of the site and area.
- 6.5.9 Officers therefore consider that the amended scheme is appropriate and acceptable for the site and the wider area and will result in a scheme which is not visually intrusive or harmful to the character or amenity of the area and as such complies with the policies of the Core Strategy and SAMDev.
- 6.6 **Access, car parking and accessibility to town centre**
- 6.6.1 Paragraph 32 of the NPPF advises that developments that generate significant amounts of traffic should be supported by a Transport Statement and promote sustainable modes of travel, safe accesses and improvements to existing transport networks. Core Strategy Policy CS6 states that proposals likely to generate significant levels of traffic should be located in accessible locations where opportunities for walking, cycling and use of public transport can be maximised and the need for car based travel can be reduced. It is acknowledged that as a food store catering for major food shopping trips many customers will travel by car; however the site should also provide the opportunity for other means of travel such as by public transport, bicycle or walking and, as an out of centre food store, provide opportunities for creating linked trips to the town centre.
- 6.6.2 The NPPF states that when considering out-of-centre locations for retail development "preference should be given to accessible sites that are well connected to the town

centre". Therefore, in assessing the relative merits of the site it is also necessary to look at accessibility and connection to the town centre. This can include the potential for linked trips through a range of potential sustainable transport modes, not just by foot. The policy is not a simple presumption in favour of the site which is closest to the town centre or even to the most accessible site but enables local authorities to give weight to sites which are accessible and well connected.

- 6.6.3 There are three issues to be considered: the technical acceptability of the access and parking arrangements within the site; the capacity of the local highway network, junctions and traffic movements; and the accessibility of the site by means other than the private car. Concerns have also been raised by many objectors, including Shrewsbury Town Council and the Sutton Area Residents Association, about the impact on the traffic movements and car parking during football matches and this is accepted as a site specific issue which needs to be considered. The majority of the other related objections will be dealt with in this section; the objections include concern about the capacity of the existing access junction, additional traffic, congestion and pedestrian safety. Within the objection from Morbaine the accessibility of the site has also been questioned. However some local residents have also suggested that the proposed store will reduce the need to travel to the existing store on the north of the town and that this site will allow for shorter journeys and access on foot, that the access is good and that the food store operator can assist with management of the car parking on match days.
- 6.6.4 Access to site and parking. The application site is within the Shrewsbury development boundary, within the A5 bypass and also within the wider Sustainable Urban Extension (SUE). Access is existing and from a traffic light junction on Oteley Road, the B4380, which is currently subject to a 40mph at this point but controlled by the traffic lights. The access currently serves the football club and as such is an existing access with significant capacity which for the majority of the time is not well used. However, it is accepted that at times, especially during matches and events, this junction is well used and the impact of the proposed food store needs to take into account the existing situation both during a match/ event and at other times.
- 6.6.5 The proposal is to provide a fourth arm off the mini roundabout which is within the STFC site. This will result in the loss of 2 coach parking spaces, relocation of the existing pedestrian access, relocation of the STFC gates and provision of additional signage. Amended details were submitted during the consideration of the application which showed the servicing arrangements for the store including swept path analysis to show that HGV movements can be accommodated without having to overrun the car parking spaces. However, as discussed below, the applicant is also requesting out of hours deliveries to reduce the potential for conflict and this would be in line with the recommendation from the Council Highway Officer.
- 6.6.6 The Highway Officer also questioned the layout of the roundabout works and whether this would impact on the future access to the SUE. The agent has responded to this query and commented that the access proposals for the Lidl store would not affect the SUE proposed access arrangements as shown in the '*Lands Improvement Oteley Road South Transport Assessment, September 2014*'. The comments of the Council Highway Officer on this issue are awaited and the recommendation to committee reflects this as an outstanding issue. However, it should also be noted that the road to the football club off Oteley Road is not currently an adopted highway, it will need to be adopted to enable the development of the SUE but the Highway Officer is not advising that the SUE could not be

developed and that a solution to her concern could not be found at that time.

- 6.6.7 As noted above the proposal includes 142 parking spaces within the site. 9 of these will be disabled spaces and there will also be cycle parking for customers and staff. Lidl will allow 90 minutes free parking which the agent considers is sufficient for the food store but also will minimise the risk of football supporter parking on site. Lidl have confirmed that they will employ parking attendants to restrict the use of the car park for customers only and to direct traffic and pedestrians using the car park/ crossing the car park.
- 6.6.8 The current planning policies do not include any parking standards. Parking has to be provided at a level which is appropriate for the development, however there are no set minimums or maximums. The previous Shrewsbury and Atcham Borough Council policies did include parking standards. For this form of development the parking requirement would be 1 space per 20sqm which would therefore require 123 spaces and as such the scheme proposes more spaces than would previously be required and as such a refusal on lack of parking would be difficult to sustain.
- 6.6.9 Highway network, junctions and traffic. A Traffic Assessment (TA) has been submitted with the application. The TA advises that database information has been used to predict potential traffic movements but also that the applicant's highway consultant's own experience is that many of the traffic movements associated with food stores is already on the network. Traffic counts of existing movements on Oteley Road and the access road to the stadium were carried out. The submitted assessment suggests that the existing access junction operates well within capacity with the highest demand on match days and the Council Highway Officer has agreed with this conclusion.
- 6.6.10 It is accepted that traffic increases on match days, especially in the peak times before and after a match, but it was noted that the match day traffic does not affect flow on Oteley Road. The applicant's consultant considers that the potential traffic from Lidl will not generate more movements than the traffic on match days and it is likely that food store traffic will reduce during the match day peak times as shoppers are likely to avoid these peak times. The agent has provided evidence from another store located near a football club which shows that the customer numbers reduce before the match. This is considered in detail later in the report.
- 6.6.11 Oteley Road is currently 40mph with a signal controlled junction serving the football club and application site. Crossing points are available to the junction and there are footways on both sides of the road. The TA notes the allocation of the urban extension, the outline consent and that it proposes a number of accesses both vehicular and pedestrian but the TA does not detail the proposed access through the STFC site. The TA also comments on accident data records noting that most accidents were recorded at the Meole Brace roundabout and that only 1 out of 17 accidents is logged as serious with all others being slight.
- 6.6.12 The Highway Officer has requested additional information and this has been received from the agent. Further comments from the Highway Officer have not yet been received but the case officer has spoken to the Highway Officer who has advised that she no longer has an objection to the proposal but will be recommending conditions. It is hoped that the updated response will be received by the committee date and that members can therefore be assured that the proposal will not adversely affect the highway network.



- 6.6.13 The application form advises that the store open hours are proposed to be Monday to Friday 7am to 10pm, Saturday 7am to 10pm and Sunday 10am to 5pm. Customer traffic will be limited to around these hours. The agent has requested 24 hour delivery times and this would mean that staff movements could be 24 hours a day. The agent has stated that there would be no more than 3 deliveries per day. The impact on amenities of this proposal is considered later in the report. However, it is considered to be beneficial to the customer traffic flow and football matches to have deliveries out of store opening hours and that the number of deliveries would not be noticeable on the highway network.
- 6.6.14 Accessibility. Within the submitted TA the agent details the nearest bus stop as 650m north west of the site on Hereford Road. The TA also notes that there are good footpaths in the local area and cycle lanes on Oteley Road and that cycle parking can be provided on site. A draft Travel Plan has also been provided and advises that a full working travel plan will be required once the store is open. The draft TP sets the aims to minimise single occupancy car trips and encourage the use of public transport, walking and cycling.
- 6.6.15 The existing fence, and the bund on which it sits, is intended to be removed to flatten the edge of the site so that the site is not enclosed by a bund or fence. This is mainly intended to open up the views of the site from Oteley Road however it will also create opportunities for pedestrian routes across the site from the footpath on Oteley Road to the food store and also across to the entrance to the football club. Cycle parking is proposed within the car park for customer use, staff cycle parking is within the building. It is likely that most customer movements would be by car but the improvements to pedestrian linkages are beneficial and Lidl are also offering a financial contribution towards the provision of a new bus stop closer to the application site to be paid to the Council on the opening of the store and to be spent by the Council once the bus service for the SUE has been defined and the route established. This would also improve accessibility of the store.
- 6.6.16 The plan also shows the repositioning of the pedestrian zebra crossing from across the entrance of the football club to being across the road into the site. The Highway Officer has raised concerns about this noting that the crossing would be across 4 lanes of traffic with no refuge and that it could cause traffic queuing, especially once the SUE has been developed. The agent has commented that the stewards employed to manage the car park could manage the crossing but this does not appear to respond to the issue. It is officers opinion that this crossing should be deleted from the scheme as there is formal crossing available at the traffic lights on Oteley Road which would be safer than a zebra crossing. This can be dealt with by an appropriately worded condition.
- 6.6.17 A draft Travel Plan (TP) has been written for the application. This acknowledges that the site is on the edge of the SUE which will provide a large scale, mixed use, development and also alter the character and use of Oteley Road including providing more crossing points and better cycle links. The TP notes that currently the nearest bus stop to the site is 650m northwest on Hereford Road, though this may changed with the development of the SUE, and that the journey time to the town centre is approximately 15 minutes. The TP recommends the nomination of a Travel Plan Co-ordinator within the staff, encouraging staff car sharing and use of public transport through keeping notice boards up to date and newsletters.
- 6.6.18 The Highway Officer has provided detailed comment on the TP but has also accepted that this document is a draft and that a fully worked up TP will need to be provided by the applicant prior to the store opening for trade. This can be conditioned and the issues

raised by the Highway Officer dealt with as part of the revisions to the TP for the final version.

- 6.6.19 Impact on football club parking and traffic. Concern has been raised locally, and was also raised by Council Officers, that the food store traffic will conflict with match day traffic. The submitted TA comments that the STFC has capacity for 9,875 people on match days and that the parking is currently limited to 670 cars which is enforced by stewards. Planning consent has been granted to increase this to 1,000 cars. There is also space for 26 coaches and local highway parking restrictions enforced on match days.
- 6.6.20 On match days the traffic in the immediate area can be substantial and the football club also manage the vehicle movements on and off site. The concern of officers was that food store traffic would not want to be restricted by match day controls. The agent's response to this concern was that, in their opinion, the food store customers would learn to avoid the times in the run up to a match and at the end of a match. However, they have also agreed with the football club to employ attendants on match days to discourage supporter parking.
- 6.6.21 A plan and detailed proposal has been submitted which shows that the management of the Lidl store car park will work in conjunction with the management of the football club car park on match day. It is intended that additional stewards will be employed to deter pedestrians crossing the Lidl car park, prevent match day parking on Lidl car park and prevent customers/ delivery vehicles leaving the store until the pedestrians have left the match. The car park is proposed to be restricted to 90 minutes and this should also deter football fan parking .
- 6.6.22 The football club have also provided additional comments in support of the application and commented on the existing facilities available for supporters. The club comment that the town centre service and park and ride are not being used as frequently as previously and that the Shirehall park and ride is becoming the more frequently used site. The club are retaining the facilities but only for high profile matches. They are putting more resources into encouraging supporters to walk, cycle and use public transport by advertising bus timetables.
- 6.6.23 The assumption that Lidl customers will avoid match times does rely on customers firstly knowing when a match is due and secondly choosing to stay away at peak match times. However, officers note that the football club clearly advertise on Oteley Road the date and time of the next match and that customers are likely to stay away at peak times as a conscientious decision not to risk getting stuck in traffic with bags of shopping in the car. It is therefore considered by officers reasonable to assume that customer traffic will reduce at match traffic peak times and therefore that there is sufficient capacity on the road network for the food store and that the risk of impact on the football club parking is reduced.
- 6.6.24 Conclusion. Overall it is considered that, subject to the deletion of the zebra crossing, a satisfactory access can be provided to the development proposed and that sufficient parking, turning and manoeuvrability space is available within the site for both cars and delivery vehicles. The principle of car park management and a travel plan are recommended and the details of both of these matters would need to be submitted for written approval prior to the first opening of the store to ensure that the site is appropriately managed and does not adversely affect the highway network. Furthermore the site is considered to be in an appropriate location to promote sustainable means of

transport, especially for staff but also for some of the customer movements. As such officers consider that it is concluded that there are no highway grounds on which to refuse the application and it is considered to comply with the relevant parts of the NPPF and the local policies.

## **6.7 Landscaping and ecology**

6.7.1 The NPPF and policy CS17 of the Shropshire Core Strategy require consideration to be given to the impact of the proposed development on the natural environment. This particularly relates to the impact on statutorily protected species and habitats and existing trees and landscaping. The application form submitted has answered 'no' to the question of any trees or hedges on the site or adjacent to the site that could influence the development or might be important as part of the local landscape character. This does not show an understanding or detail of the existing landscaped bund which borders two of the sides of the application site. The bund is planted with trees, a hedge and low level planting and the Council Tree Officer has raised concerns about the loss of the row of lime trees planted approximately 10 years ago and establishing well. These trees were replacements of trees which were TPO'd and therefore should be replaced or should be shown on the existing layout plan and considered as a valuable established feature worthy of retention and inclusion in the proposed landscaping scheme.

6.7.2 A proposed landscaping plan has been submitted showing new planting around the application site providing a mix of grassed area, low level shrubs and 36 new trees. The agent has advised that the existing Lime trees are to be removed as they would not survive the removal of the bund and the bund need to be removed to provide sufficient parking spaces and pedestrian access to Oteley Road. The Tree Officer has recommended that, rather than attempt to submit revised landscaping plans before a decision is made that a condition can be imposed to require the landscaping details to be submitted for approval prior to commencement of the development on site. The condition can include the requirement to replace the Lime trees to ensure that the feature is retained in the long term.

6.7.3 The Council Ecologist has recommended conditions and informatives. Additional survey work may be required to consider the impact on great crested newts which can also be dealt with by condition as the work could commence before February 2017. Furthermore the Council Ecologist has recommended that the landscaping be provided with native species. This could also be dealt with under the condition proposed by the Tree Officer. Overall it is considered that the development of the site can be undertaken without significant impact on ecology and that the impact on landscaping can be mitigated by condition to require a more appropriate, native, landscaping scheme and the replacement of the existing Lime trees. As such the proposal can comply with the requirements of CS17 of the Core Strategy.

## **6.8 Impact on residential amenity**

6.8.1 Policy CS6 'Sustainable Design and Development Principles' of the Shropshire Core Strategy indicates that development should safeguard the residential and local amenity. NPPF paragraph 109 also seeks to ensure existing development is not put at risk of unacceptable noise or pollution whilst paragraph 123 recognises that development will often create some noise but seeks to avoid significant adverse impacts on health and quality of life.

6.8.2 A Statement of Community Involvement was submitted with the application which details

the community consultation that the applicant undertook prior to submitting the application. The SCI notes that the feedback was mainly in favour of the proposal on the basis that it was for a discount food store on the south side of the town and would provide competition to other stores. However, concerns were raised about match day traffic, store traffic, access, the loss of the community sports pitch and impact on other food stores.

- 6.8.3 Objections to the current application have raised the same issues and the main concern of local residents relates to traffic and pedestrian safety. These matters have been considered in section 6.6 above. No objections have been received on matters of noise, privacy or light. Councillor Tandy has questioned what the proposed store opening hours are but has not raised any objection to the proposed hours.
- 6.8.4 The application form advises that the store open hours are proposed to be Monday to Friday 7am to 10pm, Saturday 7am to 10pm and Sunday 10am to 5pm. The latest information regarding car park management requests that deliveries to the store are permitted to be carried out outside of store opening hours. This will mean that deliveries are between 10pm and 7am. Officers have noted that the consent for Percy Throwers/ Waitrose includes a condition preventing deliveries during these hours and as such the Lidl proposal would be different to the Waitrose consent. However, the outline consent for the SUE advises that deliveries to the employment land, to the south of the proposed Lidl store, should use the access serving the football club between 10pm and 7am.
- 6.8.5 Therefore the SUE consent permits delivery vehicles to use the access which would be used by Lidl over night. The nearest neighbouring resident to the proposed Lidl store is Rallywood on Oteley Road which is over 100m from the proposed site and on the same side of Oteley Road. There are no residential properties directly opposite the Lidl store entrance. Waitrose site is closer to the nearest residential dwelling, the new dwellings being constructed opposite, and Waitrose is also accessed off a junction which is directly opposite housing development. As such officers consider that the sites and potential impacts are not the same and that the distance from the Lidl store to the nearest neighbour is considered to be sufficient to ensure that there is no impact from the proposed use on this dwelling or any other dwelling in the wider area. This presumably was the same conclusion reached in proposing the condition on the SUE consent.
- 6.8.6 In conclusion it is officers opinion that the development of the site as proposed will not result in a significant adverse impact on the amenities of the neighbouring residents or the residents of the wider area and therefore complies with the relevant parts of Core Strategy policy CS6.
- 6.9 **Flooding, drainage and contamination**
- 6.9.1 Policy CS18 'Sustainable Water Management' of the Shropshire Core Strategy indicates that development should integrate measures of sustainable water management to reduce flood risk and avoid an adverse impact on water quality and quantity. Policy CS6 'Sustainable Design and Development Principles' also requires all developments to consider ground conditions including potential contamination.
- 6.9.2 A Flood Risk Assessment (FRA) has been carried out and submitted with the application. The FRA notes that the site is in flood zone 1, the lowest probability of flooding and sequentially preferable zone to build in. However, the FRA also accepts that the proposed development of the site will significantly increase the impermeable area as the site will go from grassed recreation land to hard standing and building. The FRA notes that the site is

currently 10% impermeable and post development it will be 70% impermeable. The proposal is for surface water to be dealt with by sustainable urban drainage (SUDs) with attenuation to ensure that the run off does not exceed the existing rate of run off and therefore does not increase flood risk.

- 6.9.3 Foul drainage from the proposed development is indicated to be sent to the existing mains drainage system in the area. Severn Trent Water have confirmed to the applicant that there is capacity to accommodate the flow from this development.
- 6.9.4 The Council Drainage Engineer has confirmed that the surface water drainage strategy in the flood risk assessment is technically acceptable and has recommended that the drainage details be conditioned so that the full details are submitted for approval by the Engineer before work commences on site.
- 6.9.5 A contamination report has been submitted with the application which concludes that there is no contaminate or asbestos but that the site would need further gas monitoring during the construction of the proposed store. Gas monitoring was also undertaken and a report submitted which advises that ground gas precautions will be required within any proposed construction at the site. The Council Public Protection Officer has advised that the report is acceptable and that if this application is approved they recommend a condition.
- 6.10 **Other matters**
- 6.10.1 The Planning and Retail Statement also comments on the level of job creation that would result in the construction of a new food store. The statement suggests in the region of 25-40 full time and part time jobs will be created. The suggestion from the Economic Development Officer that a condition is included to ensure the employment of local people and to engage Job Centre Plus is not considered to be reasonable. An informative is considered to be appropriate but such a condition would not meet the tests in legislation and would not be enforceable. Given the conclusion on the impact assessment under section 6.3 above it is considered unlikely that the proposed development will result in significant job losses elsewhere and as such the indicative job creation of this store should be given substantial weight in the planning balance.

## **7.0 CONCLUSION**

- 7.1 The proposed development has been assessed in accordance with section 38(6) of the Planning and Compulsory Purchase Act 2004, namely that any determination must be made in accordance with the development plan unless material considerations indicate otherwise. In particular, the proposed development has been assessed against locally adopted policies and the National Planning Policy Framework in relation to retail development. This assessment concludes that approval of a food store on the application site would not have a significant adverse impact on the vitality and viability of Shrewsbury town centre and that there are no sequentially preferable sites.
- 7.2 Furthermore it is considered that the layout, scale and design of the site, as amended, is appropriate for the end uses and the context of the surrounding site; the level of parking and service delivery space is acceptable and accords with adopted policy; that the development will not have an unacceptable detrimental impact on the amenities of the neighbouring properties, ecology, flood risk or drainage.
- 7.3 Accordingly the proposal is considered to comply with the Development Plan Core Strategy policies CS2, CS6, CS7, CS17 and CS18 and with the requirements and aims of

policy CS15 in seeking to protect the vitality and viability of Shrewsbury Town Centre. The scheme is also in accordance with policies MD1, MD2, MD10a, MD10b and S16 of the Shropshire Site Allocations and Management of Development (SAMDev) and the National Planning Policy Framework (NPPF), specifically paragraphs 23 to 27. In arriving at this decision the Council has used its best endeavours to work with the applicant in a positive and proactive manner to secure an appropriate outcome as required in the National Planning Policy Framework paragraph 187.

## **8.0 RISK ASSESSMENT AND OPPORTUNITIES APPRAISAL**

### **8.1 Risk Management**

There are two principal risks associated with this recommendation as follows:

As with any planning decision the applicant has a right of appeal if they disagree with the decision and/or the imposition of conditions. Costs can be awarded irrespective of the mechanism for hearing the appeal - written representations, a hearing or inquiry.

The decision is challenged by way of a Judicial Review by a third party. The courts become involved when there is a misinterpretation or misapplication of policy or some breach of the rules of procedure or the principles of natural justice. However their role is to review the way the authorities reach decisions, rather than to make a decision on the planning issues themselves, although they will interfere where the decision is so unreasonable as to be irrational or perverse. Therefore they are concerned with the legality of the decision, not its planning merits. A challenge by way of Judicial Review must be a) promptly and b) in any event not later than six weeks after the grounds to make the claim first arose.

Both of these risks need to be balanced against the risk of not proceeding to determine the application. In this scenario there is also a right of appeal against non-determination for application for which costs can also be awarded.

### **8.2 Human Rights**

Article 8 give the right to respect for private and family life and First Protocol Article 1 allows for the peaceful enjoyment of possessions. These have to be balanced against the rights and freedoms of others and the orderly development of the County in the interests of the Community.

First Protocol Article 1 requires that the desires of landowners must be balanced against the impact on residents.

This legislation has been taken into account in arriving at the above recommendation.

### **8.3 Equalities**

The concern of planning law is to regulate the use of land in the interests of the public at large, rather than those of any particular group. Equality will be one of a number of 'relevant considerations' that need to be weighed in planning committee members' minds under section 70(2) of the Town and Country Planning Act 1970.

## **9.0 FINANCIAL IMPLICATIONS**

9.1 There are likely financial implications of the decision and/or imposition of conditions if challenged by a planning appeal or judicial review. The costs of defending any decision will be met by the authority and will vary dependant on the scale and nature of the

proposal. Local financial considerations are capable of being taken into account when determining this planning application – in so far as they are material to the application. The weight given to this issue is a matter for the decision maker.