

Development Management Report

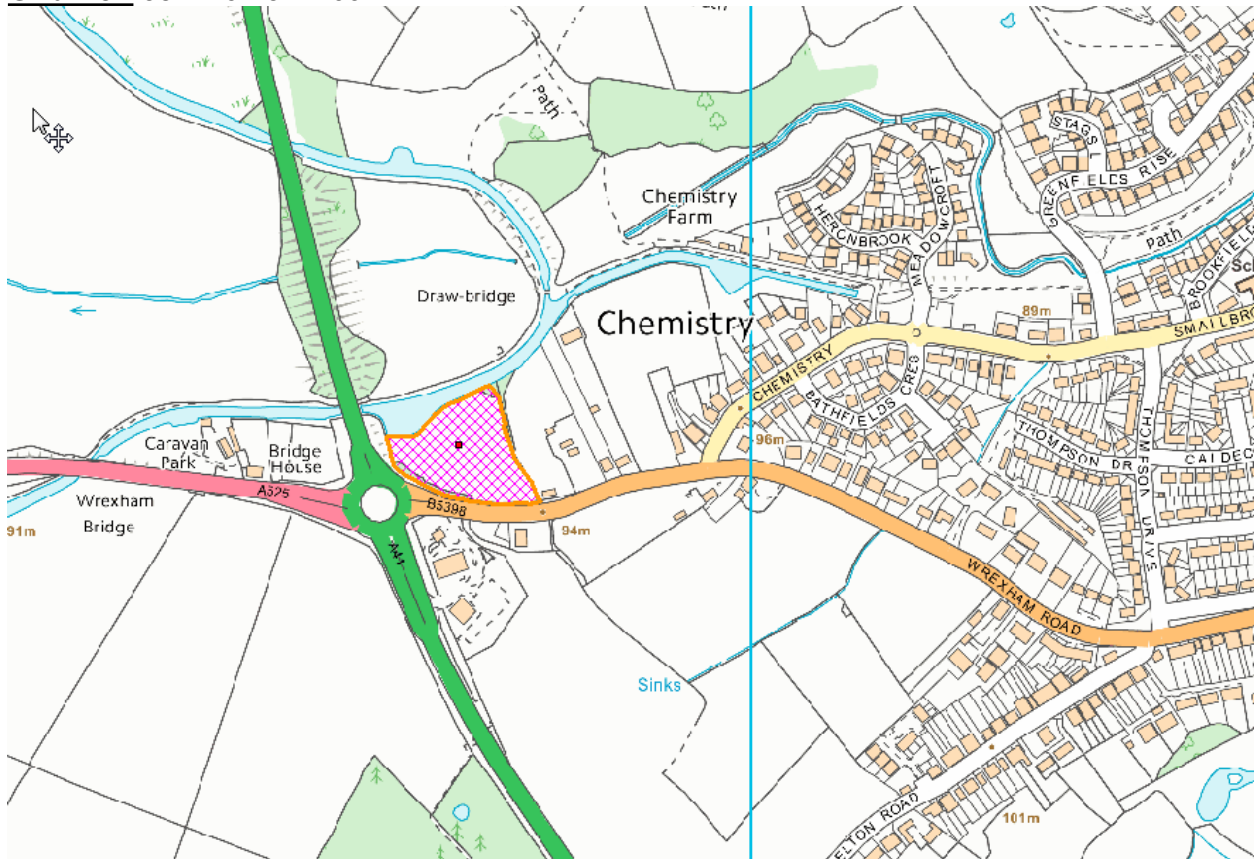
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Summary of Application

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| Application Number: 17/01152/FUL | Parish: Whitchurch Urban |
| Proposal: Erection of a new foodstore (Use Class A1), access, substation and associated car parking and landscaping | |
| Site Address: Proposed Foodstore To The North Of Wrexham Road Whitchurch Shropshire | |
| Applicant: Aldi Stores UK Limited | |
| Case Officer: Karen Townend | email: planningdmne@shropshire.gov.uk |

Grid Ref: 352726 - 341409



Recommendation:- Refuse

Recommended Reason for refusal

1. The proposed development will have an adverse impact on the vitality and viability of the town centre, albeit not a significant adverse impact, there remains an impact. The site, taking into account the proposed shopper bus, is not well connected to the town centre to encourage linked trips and use of alternative means of travel other than the private car. Furthermore, the application site lies in a historic and rural landscape context and the proposed development is considered to have an adverse impact on the significance of the setting of the non-designated heritage asset and an adverse impact on the immediate landscape.

The heritage and landscape impacts are not considered to be overcome by mitigation offered by the proposed landscaping or finish material for the building. Furthermore, these impacts, in addition to the impact on the town centre and the impact on connectivity are not considered to be outweighed by the public benefits of the development.

As such the proposal is not considered to comply with the Development Plan Core Strategy policies CS5, CS6 and CS17 or with policy MD13 of the Shropshire Site Allocations and Management of Development (SAMDev) and the National Planning Policy Framework (NPPF), specifically paragraph 135. 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.

REPORT

1.0 THE PROPOSAL

1.1 This application seeks full planning permission for the erection of a new food store, a new vehicular access, car parking, substation and landscaping. The proposed store is to have a gross internal floor space of 1,743sqm on a site of 0.9 hectares. Access is to be off Chester Road and provide for both customer and delivery vehicles and pedestrians.

1.2 The proposed building is single storey, however will appear as two storey in height along the front elevation. A mono-pitched roof slopes down, from a maximum height of 4m at the front, towards the canal which runs along the rear of the site, where the height of the building will be 2.7m. The external materials are proposed to be grey and silver cladding and timber cladding with a ribbon of high level glazing along the front and both ends. The proposed building has a footprint of approximately 17m by 32m (not including the service yard and loading bay). The gross footprint of the building (measured externally) is 1,818sqm with an internal floor area of 1,743sqm and total net sales area 1,254sqm (% of gross) with a split of 80% convenience goods and 20% comparison goods.

1.3 Convenience goods are food, beverages, newspapers and household goods whereas comparison goods are principally non-food goods such as clothes,

household appliances, furniture, ornaments etc. The definitions of convenience and comparison goods was previously best provided by annex B of Planning Policy Statement 4 (“PPS 4”) which states that convenience shopping is “the provision of everyday essential items” whereas comparison shopping is “the provision of items not obtained on a frequent basis”. Although PPS4 is no longer a material consideration this definition is still valid and useful in considering out of town food stores and the impact they have on town centres as detailed later in this report.

- 1.4 In support of the planning application the agent has submitted a Design and Access Statement, Planning and Retail Statement, Landscape and Visual Impact Appraisal, Heritage Statement, Noise Impact Assessment, Transport Assessment, Ecology Survey and Flood Risk Assessment.
- 1.5 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 2011 and as such does not require an Environmental Statement to be submitted. The application meets the criteria of Part 10(b) of Schedule 2 of the 2011 Regulations being urban development projects however taking into account the advice in the NPPF 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 application site is 2.24 acres (0.91ha) in area, currently grazing land with hedge and tree boundaries to the south and west and enclosed by the Whitchurch bypass, Wrexham Road, the canal and housing. The site occupies higher ground rising from the canal which lies to the north of the site but is lower than the bypass and roundabout to the west and southwest.
- 2.2 The site is within the bypass, however it is outside the development boundary for Whitchurch as identified in the SAMDev Plan, adopted December 2015. The development boundary for Whitchurch has been drawn around the existing and proposed development areas for the period 2006 to 2026. It therefore does not include all land within the bypass and specifically excludes the application site from the development boundary.
- 2.3 To the east of the site, on the northern side of Wrexham Road, is a small field, three detached houses and a site currently being developed for housing before the junction with Chemistry. On the southern side of Wrexham Road, opposite the site, is the A41 service area. The service area contains a MacDonaldis fast food restaurant, a petrol filling station and small shop and a Starbucks coffee shop/ drive through. Its focus is very much towards passing traffic using the by-pass. Towards Whitchurch the southern side of Wrexham Road is undeveloped up to the junction with Chemistry where a single dwelling lies adjacent to a site currently under construction for housing. Beyond this is the main built up area of the town.
- 2.3 North of the site is the canal, towpath and open fields beyond. To the west is the

bypass and on the opposite side of the bypass are fields and Whitchurch marina. The site is visible from the bypass, towpath and Wrexham Road.

3.0 REASON FOR COMMITTEE DETERMINATION OF APPLICATION

3.1 The application is considered, by the Planning Services Manager, in consultation with the Chair and Vice Chair of the Planning Committee, to be a complex application which should be determined by committee.

4.0 COMMUNITY REPRESENTATIONS

4.1 Consultee Comments

4.1.1 **Whitchurch Town Council** – Object – Whilst WTC would welcome the addition of Aldi to Whitchurch the committee believe that the proposed site is unsuitable because:

- It is on a green field site outside of the SAMDev.
- It is close to a roundabout that is on a very busy that has had a high number of road traffic collisions.
- It is not on a road that is well connected to the town centre and that road already has traffic problems.
- The proposed location will have a highly detrimental effect on the town centre and existing traders.
- It does not pass the sequential test as there are other sites available within the development boundary including brownfield sites.
- The site is not well connected to the town, is not on a bus route, nor near a railway station. The site Aldi own at Waymills is on a bus route, 2 min walk from the railway station and 5-10 min walk from the town centre
- No soakaway included in the plans
- The application does not adhere to para 2.23-2 of the NPPF or para 26
- The application has concentrated on the effect on other supermarkets mainly Lidl and not made any objective assessment of the effect on the small town centre businesses

If permission is granted, WTC would like the following conditions levied on Aldi:

- That they contribute an annual sum (yet to be provided) for a minimum of 5 years, to subsidise an extra stop by the town bus at Aldi, rather than bringing an extra bus provider into the town from Newport and therefore putting a further vehicle on Wrexham Road
- As stated by George Brown of Aldi WTC to have control of £45,000 to boost tourism in the town and provide a grant scheme for community groups
- That there should be no access from/ to Aldi to the canal bank, valuable footfall should come into the town centre
- No advertising boards to be placed on the rear of the store

4.1.2 **Council Planning Policy Team** – Further to more recent information provided by Plan A (on behalf on Lidl) on 4th December 2017, it is considered necessary to revisit the conclusions of previous comments provided by Planning Policy to this proposal. In particular, this relates to the extent of forecast retail impact on the existing Lidl store on Bridgewater Street, and the implications this has for the

wider impact on the vitality of Whitchurch town centre.

Plan A continue to object strongly to the proposal by Aldi to develop a new store on the Wrexham Road site. Over the last few months there have been a number of exchanges between the applicant (JLL on behalf of Aldi) and Plan A on the matter of retail impact. It is considered this exchange has been extremely useful in allowing the Council to draw out many of the issues around retail impact, but it has meant the position of the Planning Policy Team has been subject to some degree of change as new information become known. It is important to ensure the Council has the best and most up-to-date information available to inform the planning balance.

Background

The impact on the exiting Lidl store is important to define because of its location within the defined town centre, although it should also be noted that Planning Policy does not seek to protect any particular retailer from out-of-centre development. Planning policy set out in NPPF paragraphs 26 and 27, Core Strategy policy CS15 and SAMDev Policy MD10b establish the need to protect the vitality and viability of town centres. Ensuring appropriate choice and competition should therefore not be at the expense of this overarching policy objective. For clarity, the test is whether there will likely be a **significant adverse impact** on the vitality of the town centre. This must be assessed on a case by case basis considering the nature of the town centre.

The Council should arrive at a view on retail impact with the best available information. The current performance of the Lidl store is an important factor in this assessment. In summary, the better the Lidl store is currently trading the more resilient the store will be to trade diversion resulting from the new Aldi proposal. Conversely, the less well the store is performing, the less resilient Lidl will be to the same level of trade diversion.

Initially, in the absence of any other empirical evidence on the trading performance of the Lidl store the applicant relied upon 'benchmark' data. 'Benchmark' turnover is derived from the average sqm trading performance of Lidl stores nationally (£6,995 per sqm), multiplied by the size of the store's convenience floor space (736sqm). This suggested Lidl had a convenience turnover of £5.15m. Using 'benchmark' turnover is a standard practice within Retail Impact Assessments in the absence of specific store trading data. It should be noted the applicant believed Lidl to be trading much better in reality, although no firm evidence was presented to support this claim. Therefore, applying the 'benchmark' turnover and taking account of expected trade diversion resulting from the Aldi proposal this suggested a direct impact on Lidl of -41% and -16.7% on Whitchurch Town Centre. This level of impact was expected to be significantly adverse on Lidl individually, whilst the level of impact on the wider town centre was considered high and potentially significant.

In response to this policy concern, the applicant commissioned a new Household Survey. In the absence of actual trading information on the Lidl store (which at this stage was not forthcoming from Lidl), the use of a new Household Survey was encouraged by the Council. Household Surveys are a recognised empirical mechanism to predict levels of trade performance from individual stores. . The

process involves asking a number of people from the Study Area (400 in this case) a series of questions about their shopping patterns, including which store they use for their main food shop. Using this empirical data it is possible to distribute the expected expenditure capacity of the area to specific stores, and to use this to estimate a store's turnover with more confidence. The Applicant's Household Survey was undertaken by NMES Research who have significant experience in this field. The information suggested Lidl trades at a level around twice that of the 'benchmark' position at around £10.36m. Applying this information led to a forecast impact of -25.75% on Lidl and -14.89% on the wider town centre. This information suggested the Lidl store would continue to trade effectively (above benchmark levels) even when trade diversion to the Aldi store was taken into account. In light of this new information, it was considered the level of impact on both Lidl and the wider town centre was unlikely to be significantly adverse.

Updated Policy Position

Plan A's new information provided on 4th December 2017 now provides additional information on the trading performance of Lidl. This new information includes a general response to comments made by the applicant in their 14th November letter, which provide a counter argument to a number of qualitative issues on the operation of the Lidl store, such as queue length at checkouts, congestion in aisles, car parking, supply of goods and staffing levels. These issues have been considered here but do not in themselves point to a firm conclusion on the level of trade at the Lidl store. This is because the conclusions are difficult to ratify with any degree of confidence as a trend, e.g. queue length; or may depend on the style of management applied to that particular store, e.g. supply of goods. As evidence, these issues are therefore considered to be of contextual interest only. The same conclusion equally applies to the arguments on these issues presented by the Applicant on these matters.

The other part of Plan A's additional information is the headline store trading information for the last financial year (1st March 2016 – 28th February 2017). Lidl have supplied this information to the Council to counter the results of the applicant's Household Survey, which they argue misrepresents the true trading position of the Lidl store.

Lidl consider the additional information provided is commercially sensitive and have therefore requested this not to be published. This new information indicates a large discrepancy between the actual trading position presented for the financial March 2016-February 2017 and that shown within the Applicant's Household Survey information. In their 4th December letter Plan A point to anomalies present in many household surveys which can result in accurate results, although there are no specific reasons identified by Plan A as to why the Applicant's Household Survey is, on the face of it, significantly inaccurate when it came to predicting the trading performance of Lidl.

Effectively the Council is faced with competing trading performance assumptions for the Lidl store. Both cannot be correct. The conclusions of the Household Survey do apply empirical information from the questionnaire responses, but it is accepted this method has potential to be open to errors depending on how respondents answer. This is true of any evidence-based survey. However, it

must also be acknowledged the information provided by Plan A is not ideal as this fails to provide past performance data by way of a useful comparison. Importantly it is also not open for wider scrutiny given its commercially sensitive nature. Indeed the Council have only seen the headline figures, and have not been able thus far to interrogate more detailed background information. It is considered the lack of content and context provided by Plan A does reduce the amount of weight that can be applied to this as evidence in decision making.

On balance, and consistent with previous policy advice on the matter, it is considered the actual commercial trading data provided by Plan A represents the more reliable data source available to the Council at this time to assess the likely trading performance of Lidl. However, it would be clearly be beneficial for this data to be made publically available in order to allow a greater level of scrutiny and for this to be used with a greater degree of confidence.

Plan A also provide further comment on the Impact Assessment methodology within the publicly available part of their 4th December letter. This highlights their concern over how the Applicant has factored in 'in-flow' expenditure into their assumptions. Plan A therefore paint a much bleaker picture of the current performance of the town centre as a whole. However, it is considered Plan A's argument on this issue is not robust as it is considered Whitchurch will inevitably have an element of 'in-flow' expenditure given its location on the local transport network and the presence of a number of major convenience stores . Plan A's argument is also contrary to the position expressed by the Applicant in their town centre health check which suggested the Whitchurch Town Centre is performing relatively well.

The new trading data provided by Plan A indicates that the performance of the Lidl store is marginally less than the 'benchmark' data suggested. Plan A do not transfer this data into a specific trade diversion 'impact' on the Lidl store, presumably because this would mean the commercially sensitive data could be compromised. However, in this absence of this it is considered appropriate to revert to the 'benchmark' position given the similar nature of the trading levels.

In summary therefore, the new trading data would indicate a position where there is likely to be a significant adverse impact on Lidl, which could lead to the closure of the Lidl store. This is a significant consideration. However, the impact on the wider town centre is less clear. Clearly, the Lidl store is located within the town centre, but the extent to which this store supports linked trips with the town centre is not clear aside from some observations made by the Applicant and Lidl on the matter. Unsurprisingly, the two competing stores do not agree on this matter either, although it is considered the Applicant does make some valid points about the Lidl store's orientation away from the town centre hindering the linked trip potential.

In the absence of better evidence on the issue of 'linked trips' it is considered the potential loss of the town centre Lidl store does have potential to have an adverse impact on the wider Whitchurch town centre and that this should be considered as a negative consequence of the Aldi proposal within the overall planning balance.

4.1.3 **Council Conservation** – The Conservation Team's role is to provide advice to

the planning officers on the significance of heritage assets, including the contribution made by their settings, to assess the effects that development proposals will have upon that significance, and to thereby identify whether proposals will cause harm to that significance and to what degree. It is then a matter for the decision taker, be it the planning committee or the planning officer under the Council's Scheme of Delegation, to weigh that advice appropriately when considering the overall planning balance. These comments have been submitted for consideration and represent the Historic Environment teams position with regard to the application

We consider that the canal to be a non-designated heritage asset to which the proposed development will cause harm for the reasons set out in greater detail below. As a result, Policies CS5, CS6, CS17 and MD13 of the Local Plan, together with Paragraph 135 of the NPPF, are relevant to the determination of this planning application.

The Conservation Officer has advised since the pre-application stage that the branch of the Llangollen/ Whitchurch Canal adjacent to the proposed development of the site to be a non-designated heritage asset (in relation to the definition of 'heritage assets' provided in Annex 2 of the NPPF and the further guidance provided in paragraph 039 Reference ID: 039a-039-20140306 of the NPPG). The canal is recorded in the Shropshire Historic Environment Record under record reference PRN 03414 and is understood to have originally have been constructed by the Ellesmere Canal Company under an Act of 1793. William Jessop was appointed by the Company as their engineer and Thomas Telford as their architect. We would therefore consider the canal to hold historic interest as a result of its association with these major figures in the history of civil engineering, and thereby to hold heritage significance in relation to the definition set out in Annex 2 of the NPPF. Because of this, and the fact that the canal forms part of a regional scale piece of early 19th century industrial transport infrastructure, that it should be considered to be of regional significance (whilst the section of Llangollen Canal between Pontcysyllte and Chirk Aqueducts has been inscribed as a World Heritage Site but at no point has the Team attempted to suggest that the section adjacent to the proposed development site is of equal significance).

The Team furthermore considers that the proposed development site falls within the setting of the canal as a non-designated heritage asset. Annex 2 of the Framework defines the setting of heritage assets as:-

"The surroundings in which a heritage asset is experienced. Its extent is not fixed and may change as the asset and its surroundings evolve. Elements of a setting may make a positive or negative contribution to the significance of an asset, may affect the ability to appreciate that significance or may be neutral."

Further guidance on assessing the settings of heritage assets is also provided in Historic England's 'Good Practice in Planning Advice Note 3: The Setting of Heritage Assets' (2016). I have followed the process for assessing outlined in this document in these comments.

It is acknowledged that the construction of the Whitchurch By-pass in the later 20th century and subsequent development have altered the surroundings of the canal within the vicinity of the proposed development site. Nonetheless, and as

Figure 2 on page 8 of the Design and Access Statement illustrates, the proposed development site remains an undeveloped piece of agricultural land across which users of the canal, and to a degree the by-pass too, gain distant views across it towards the later 19th century and 20th century buildings on the western margins of Whitchurch. As such, we consider the site forms part of the surroundings in which the significance of the canal is experienced and appreciated, and that the present semi-rural character to the site together with the views it affords towards the outskirts of Whitchurch, contribute positively to the significance of the asset.

In this respect, we digress from the Applicant's heritage experts JLL, who conclude in their Heritage Statement (page 12) that "The application site does not contribute to the significance of the non-designated heritage asset [the canal]." In this sense, we consider the Statement to be deficient but this is essentially a difference of opinion rather than a matter of methodological flaws.

Turning now to effects of the proposed development on the significance of the canal, the proposed new supermarket will be positioned towards the rear of the site with the rear, largely blank, elevation of the building facing the canal. As a result, the proposed development will introduce a sizable building, with a scale, massing, form and materials that reflect its commercial function, in close proximity of the canal. As illustrated by CGI-08B on page 17 of the Design and Access Statement, views across the site, towards the buildings on the outskirts of the town, will be blocked and the character of the site will also be altered, which we consider will have a negative effect on people's ability to experience and appreciate the significance of the canal. Once established, it is acknowledged that the proposed landscaping will over time act to screen it to a large degree, although as CGI-08E on page 24 of the Design and Access Statement illustrates, the building will remain visible 10 years after construction. As a consequence, of these factors we consider that the proposed development will harm the significance of the canal as a non-designated heritage asset. (It should also be noted that the Canal and Rivers Trust, as the relevant statutory consultee, reaches a similar conclusion in its letter of 18 April 2017, and have not been persuaded to change by their position by the Applicant's Heritage Rebuttal.).

In considering the degree of harm, the Framework defines two levels of harm: substantial and less than substantial (see also the 'Decision-taking: historic environment' section of NPPG and Historic England's 'Good Practice in Planning Advice Note 2: Managing Significance in Decision-Taking in the Historic Environment'). Whilst we consider the proposed development will cause harm and the effect will be major within the immediate vicinity of the site, it will be localised in its extent when considering the canal as a whole. As a consequence, we consider that the harm will be less than substantial and towards the lower end of the scale.

In finding this level of harm we are not, contrary to Mr Crean's suggestion (on behalf of the applicant) in his fourth point, seeking to suggest that the test set out in Paragraph 134 applies, since this explicitly relates to designated heritage assets. We are merely seeking to categorise the level of harm in the terms established by the Framework. Further, we advise the decision taker needs to consider this finding of harm, and weigh it against the benefits of the scheme, when undertaking the balancing in relation to Policy MD13 of the Local Plan and

Paragraph 135 of the NPPF.

From our knowledge of the case law and appeal decisions relating to setting, we are of the opinion that if less than substantial harm to the non-designated heritage asset as a consequence of development within its setting were to be used as the sole reason for refusing an application of this type it would be highly unlikely to withstand an appeal. Whilst the team does not therefore support the application because we consider it will cause harm, neither do we object outright to it for this reason. If planning permission is granted we would recommend that appropriate conditions are applied to secure the proposed landscaping scheme and appropriate use of external materials and finishes, since this will provide a degree of mitigation over time.

Previous comment:

The Heritage Assessment submitted is sufficient to address the requirements of para 128 of the NPPF and MD13 of the SAMDev, however, the statement in its summary are not concurred with. The report states that the application site *“does not contribute to the significance of the non-designated heritage asset”*. (4.24) and *“that section of the Llangollen Canal which feeds the Whitchurch Arm comprises a number of urbanising features, such as the bypass and residential development, which have altered the previously rural character of the canal. Furthermore, the changing trajectory of the canal results in short views and as such there is not a sense of an open, rural landscape”*. It is considered by the HE Team that the open land (the application site) does contribute to the significance of the canal due to the reasons which are further stated in the Historic Consultant’s report, and that the canal does have aesthetic and historic values which *“...this largely derives from the pioneering structures of engineering which form part of the World Heritage Site and its associated functional value”*. It is considered that whilst this is correct this part of the Llangollen Canal was formed the way it was due to the changing circumstances of the construction of the canal, it contains a winding hole, sandstone trail etc which are all part of the historic and aesthetic interest and value of this part of the canal, not just that it is part of a larger canal; part of which is a WHS that has very important structures in their own right, but that this section in its’ own right it has significance.

There are also other elements of the statement that are not concurred with, such as that the site is not rural due to other residential development and other C20 interventions in the area. Essentially the site and its wider context is rural open landscape intersected with roads, with residential scale development to the east only and a small amount of small scale commercial to the south (separated by Wrexham Road). This does not equate to the large scale commercial development proposed on the application site, which would be completely alien in its form, scale, massing, design and materials, and totally inappropriate in this location in such close proximity to the identified heritage asset which is the canal.

When reviewing the area around the proposed development with regard to visual impact, alongside reviewing the heritage statement photographs, it was noted that no views were taken from Chester Road, where the site, canal and swing bridge is seen in one view. Part of this view is shown in figure 4.10 of the report but this does not give any indication of the wider setting of the canal and the role the

proposed site plays in this open landscape around the canal, especially the winding hole.

From this perspective the scale of this commercial development is considered to be large and inappropriate in this rural location.

The application is considered to be inappropriate in its scale, massing, design and materials in this rural location and within the setting of heritage assets. There is insufficient justification and evidence provided which clearly shows that it will not cause harm to the heritage assets and their settings (as noted above) and therefore cannot be supported in heritage terms and with regard to the above policies referred to.

- 4.1.4 **Council Highways** – I refer to the above planning application, subsequent discussions and more recent meeting held at the Shirehall with representatives of Aldi.

From a highway aspect consider that the highway matters raised initially have been satisfactorily addressed through both discussion and the submission of revised details. It is considered that any outstanding design matters can be dealt with by planning condition and as part of the Section 278 technical submission, in the event that planning permission is granted.

The highway authority recognise that the site is located on the edge of town and therefore connectivity and accessibility issues have been raised by the Town Council, which relate to the guidance set out in the NPPF. The highway authority note those concerns however it is not considered that a highway objection on these grounds alone would be sustainable.

The highway authority therefore raise no objection to the granting of consent subject to conditions requiring engineering details of highway works and access; the submission of a travel plan and the provision of parking and turning space prior to the store opening.

Further to the above, the highway authority is supportive of the offer of Aldi to provide a 'Shopper Bus' in order to promote accessibility to the site. This would need to be incorporated within a Section 106 Agreement and I would suggest that Members are requested to defer this matter for officers to negotiate the terms of the bus provision.

- 4.1.5 **Council Ecologist** – No objections recommends conditions and informatives.

An Extended Phase 1 Habitat Survey was carried out on this site in May 2016 and updated in January 2017 (following pre-application discussions with SC Ecology). The quotes below are taken from the submitted survey report and are the opinions of the applicant's ecologist.

Habitats

Habitats on the site consist of species-poor grazed semi-improved grassland, broadleaved tree belts, ruderal vegetation, riparian marginal vegetation and mature trees.

'The construction zone of the development proposals includes most of the field of semi-improved grassland. The banks of the canal and the canal itself will be protected through an 8-10 metre easement from the development zone. Within this easement will be enhancement of the existing vegetation, including planting with a mixture of native species and the grassland will be seeded with a lowland neutral wildflower mixture. The eastern tree belt and the southern and western hedgerows will be retained and protected. These features will also be enhanced through swathes of planting adjacent to the hedgerows and tree belt, using a mixture of ornamental and native species planting.'

There should be no access, material storage or ground disturbance within the buffer zone.

'Soft landscaping should include the provision of native and non-native flowering perennial species and/or berry-bearing shrubs, to provide a pollen and nectar source for invertebrates and a food source for birds and small mammals.'

The landscaping and planting details are shown on drawing V1303 L01 Rev F.

Bats

The mature trees on site do not contain any features suitable to support roosting bats. Bats are likely to forage and commute along the site boundaries. The lighting scheme must be sensitive to bats (and other wildlife) and follow the Bat Conservation Trust's guidance. Bat boxes should be erected on the site to enhance the roosting opportunities available.

Water voles and Otters

'No evidence of Water Vole activity was located along the canal during the 2016 survey and the 2017 survey. The banks were searched for burrows, latrines, feeding remains and footprints. The majority of the banks of the canal at the site are not considered to be suitable to support Water Vole burrows.'

'The canal offers potential foraging and commuting habitat for Otter. No field signs of Otter could be located, such as spraints or footprints, during the survey.' The 'canal and its banks are not being affected by the development proposals.'

The buffer zone will ensure that water voles and otters will be protected during the development and the landscaping and sensitive lighting plan will ensure that a dark corridor is retained.

Great crested newts

There is an ornamental pond 'within an adjacent garden to the east' which 'is surrounded by mown lawn.' The only suitable terrestrial habitats on the site are the boundary hedgerows and ruderal vegetation. These habitats will be retained and enhanced.

The following working methods should be employed to protect newts (and other wildlife) that may enter the site during the development.

- The grassland should be kept short prior to and during construction to prevent the creation of attractive habitats.

- Should any removal of long and overgrown vegetation be required, it should be removed in stages and clearance undertaken in one direction, towards remaining vegetated areas.
- Site materials should be stored off the ground, e.g. on pallets or in skips, to prevent them being used as refuges by wildlife.
- Trenches should be closed overnight or contain a ramp so that any animals that become trapped have a means of escape.
- Should a great crested newt be encountered at any time, works must cease and a suitably qualified ecologist contacted for advice.

Birds

The trees and hedgerows offer potential nesting opportunities for birds. Any removal of vegetation should take place between October and February to avoid harming nesting birds. If this is not possible then a pre-commencement check must be carried out and if active nests are present, works cannot commence until the young birds have fledged. Bird boxes should be erected on the site to enhance the nesting opportunities available.

Other species

No evidence of any other protected or priority species was observed on, or in close proximity to, the site and no additional impacts are anticipated. The buffer zone will ensure that wildlife will be protected during the development and the landscaping and sensitive lighting plan will ensure that a dark corridor is retained.

- 4.1.6 **Trees** – No objection in principle to the proposal on the grounds of trees and in particular support the buffer zone and new planting to the canal frontage at the back of the proposed store. I do however wish to raise the issue of the two mature Oak trees which are on the eastern boundary of the site and appear to be in separate ownership whilst encroaching over the site both below and above ground.

With regard to planning policy, important trees on and adjacent to the site may be considered as natural assets for the purposes of SAMDev Policy MD12 – the Natural Environment. This policy encourages development that appropriately conserves, enhances, connects, restores or recreates natural assets.

Development that will have a significant adverse effect upon a natural asset will only be permitted if it can be clearly demonstrated that there is a): no satisfactory alternative means of avoiding such impacts through re-design or relocation on an alternative site; and b): the social or economic benefits of the proposal outweigh the harm to the asset.

These trees are significant natural assets in the landscape and valuable screening to the adjacent property and give stature and maturity to the environment of the site. The proposal is to keep the trees with 10 parking bays immediately underneath them covering at least 40% of the root protection area (RPA). An arboricultural statement has been included that no dig construction will be used under arboricultural supervision to construct underneath the trees. Whilst in theory this would appear to work in practice I would raise the following concerns:

The proposed crown lift and pruning of the trees will lead to physiological stresses combined with a loss of rooting area and hard surfacing up to the base of the

trees could lead to their decline over time.

Parking under mature trees with inevitable detritus, twig/ fruit / leaf fall of this species is a risk to persons and vehicles and not desirable. My view is that these parking bays are not sustainable or compatible with the healthy retention of the trees in the long term.

I would ask that the parking is amended to leave the 2 Oak trees with the RPA's in a protected buffer zone.

- 4.1.7 **Drainage** – The proposed drainage details, plan and calculations should be conditioned if planning permission were to be granted. The proposed surface water drainage strategy in the FRA is acceptable in principle.
- 4.1.8 **Welsh Water** – We would request that if you are minded to grant Planning Consent for the above development that the condition and advisory note provided are included within the consent to ensure no detriment to existing residents or the environment and to Dwr Cymru Welsh Water's assets.
- 4.1.9 **Public Protection** – Having considered the proposed site I have no objection in principle to the proposed development.

The noise assessment, produced by Spectrum Acoustic Consultants reference RK2135/16484/Rev1, is considered suitable and robust. It predicts no increase in noise levels at nearest residential receptors and I therefore do not consider any additional mitigation is necessary over and above that already proposed. The mitigation proposed is a fence to the northeast length of the development boundary and a fence around plant to the rear of the store. It is advised that these aspects are conditioned as necessary. This could be through conditioning of plans that these features are shown on.

The Design and Access statement provided with the application references the NPPFs drive for sustainable and inclusive patterns of development through good design and that good design can reduce CO2 emissions and promote sustainable patterns of development. It goes on to state that the proposal seeks to facilitate sustainable economic growth.

With the proposed development located within a mile of Whitchurch town centre it is likely to generate many transport movements. It is advised that active travel is encouraged wherever possible. The plans indicate 8 cycle parking places. I would advise that an increase to provide 12 (10% of the total number of car parking spaces available) is encouraged to further promote sustainable travel. In addition, it is strongly advised that the inclusion of electric vehicle charging points with the ability to deliver a rapid charge to electric vehicles are included in the proposal. By providing facilities for customers to charge electric vehicles while they shop this would help deliver the strong commitment to sustainability that the applicants Design and Access Statement (DAS) is looking to achieve. For example, providing electric charging points for customers vehicles would promote the following statements within the DAQS:

- Page 31 numbered point (2): ensure all environmental matters are taken account of

- Page 31 numbered point (4): endeavour to attain a reputation for effective environmental management
- Page 31 numbered point (6): attempt to stop the release of emissions of pollutants that may cause damage to the environment
- Page 31 numbered point (10): ensure that Aldi is perceived as responsible environmentally
- Section 8.5 Sustainability Issues: help to promote the aim of delivering a project that has longevity and where practical fixtures and fittings that can be re-used
- Strengthen table 8.7 by showing additional commitment to reducing CO2 and other air pollutant emissions linked to the proposed development

According to maps of electric charging points available (Zap Map:

<https://www.zap-map.com/live/>) there are currently no electric charging points available for those who wish to take up this vehicle technology in Whitchurch. With electric vehicles making up approximately 1.5% of all new car sales in the UK, with this percentage expected to continue to rise in future, and around 90,000 electric vehicles now registered in the UK it is important to recognise this emerging trend and cater for it to ensure that any development is fit for future. The introduction of rapid electric charging points at this site would encourage those with electric vehicles to frequent the site particularly as there are currently no other opportunities in Whitchurch to charge an electric vehicle. The result of including electric charging points at the proposed development would be to; promote the

sustainability agenda given weight in the applicants own DAS, the NPPF and Shropshire Council policies, promote reductions in locally derived CO2 emissions, promote cleaner more sustainable vehicles helping to reduce air pollutants, and generate an additional reason for shoppers to use the store. This would provide a win-win scenario for the Council and the applicant and provide sustainability in terms of health, environment and economics.

In conclusion Public Protection would like to see the inclusion of rapid electric charging points to promote cleaner more sustainable transport options in the area and in the County more widely. It is suggested that the facility to charge two vehicles simultaneously on site should be included at a point when the store opens and that the applicant install the necessary underground infrastructure to allow more charging points to be brought on line as and when demand increases in future.

Providing the charging points in a prominent location on site would promote this sustainable aspect helping to fulfil the applicants for Aldi to be ever mindful of its responsibilities to the environment (p31 of the DAS) and promote LDF Adopted Core Strategies CS6 and CS8.

4.2 Public Comments

4.2.1 Following direct consultation with neighbouring properties and the posting of a site notice the Council has received 59 public comments of support and 23 public comments of objection.

The grounds for support are mainly general support for Aldi building a store in Whitchurch. Site specific support includes:

- The development will assist in improving traffic on Wrexham Road and Smallbrook Road

- Will promote Whitchurch
- Proposed buffer to canal
- Whitchurch town centre is already dying
- Change is inevitable
- Greater choice and competition
- Provides additional jobs
- Proposed community bus is also a benefit
- Close to new housing developments
- Will retain Aldi customers who currently go to other towns
- Landscaping enhancements
- Extending the 30mph zone is welcomed
- Easily accessible off the bypass
- Shopper bus is a benefit
- Could finance long stay parking in the town

The grounds for objection are as follows:

- Other sites are available within the town and on brownfield land
- New application for Builders Yard on Waymills site implies site is developable and sequentially preferable
- No need for another supermarket
- Will have a financial impact on the town centre businesses
- Potential closure of Lidl
- Lidl is not over trading
- Adverse impact on canal – heritage and tourism
- Visual impact of proposed store
- Visual impact of fence
- Increase in traffic and associated pollution
- No frequent bus service, not easy to access on foot and bicycle
- Road to town has parking difficulties
- Dangerous access and other accesses within area
- Pedestrian access is available from the canal vial the A41 bridge
- This is the canal entrance to the town
- Site is adjacent to visitor mooring
- Density of trees proposed out of context with area
- Will result in noise and light pollution
- Impact on wildlife

One letter has not expressed an opinion but raised concerns about the use of the car park when the store is closed and also the potential for trolleys being dumped in the canal.

- 4.2.2 Plan A Ltd has submitted letters of objection on behalf of Lidl UK GmbH raising concerns that the site is outside the development boundary; that there are sequentially preferable sites, including the previously approved Waymills site and other sites not considered by Aldi; that the proposed store would have a significant impact on Lidl in the town centre and that the impact assessment makes some assumptions which they consider are incorrect.

Further objections were received following the submission of the household

survey data which question the data and assumptions made. The objection provides the Lidl store manager's opinion on trade, queueing, delivery numbers and other factors which Lidl consider provide evidence to show that they are trading at average if not below. Lidl have since also provided the trading figures for the store but these are stated to be commercially sensitive and therefore have not been made publically viewable.

4.2.3 An objection has been received on behalf of the land owners of the allocated site on Heath Road which suggests that their site is sequentially preferable as it is within the development boundary and allocated for development and that a food store would help to deliver the allocated site. A second objection for the same land owners also comment that the agent for the current application accepts that the site is in the countryside and does not comply with CS5. Furthermore, the development of Heath Road will enhance connectivity to the town centre to a greater degree than the current application site and that there is uncertainty around the long term shopper bus.

4.2.4 An objection has also been received promoting the allocated site on Station Road (WHIT051) which is within the development boundary, allocated and close to residential and employment areas. The use of the Station Road site could also open up access to the Network Rail land to the east of the station to be used as a car park.

4.2.5 Canal and River Trust (CRT) have also submitted an objection commenting that the proposed building, due to its height, design and proximity to the canal would be visually intrusive when viewed from the canal corridor and adversely impact on its wider landscaped character. Insufficient detail has been provided to demonstrate that the landscaping buffer would be sufficient to mitigate this harm and no assessment of the impact on the canal, as a non-designated heritage asset has been provided.

CRT consider the site and surrounding area retains a predominately rural character, the feel is of a countryside walk along the canal and although the landscape buffer could provide some screening the building would be a prominent feature and has an urban feel.

Also raised concerns about access from the store to the towpath, increased use of the towpath, canal stability, impact on ecology and drainage.

4.2.6 Whitchurch Branch of Shropshire Wildlife Trust have sent an objection on the basis that the canal and adjacent country park form an important green wedge and that the proposed store would be visually intrusive and restrict views from the canal and tow path, impacting on the wider landscape character.

The Branch also comment that the banks of the canal adjacent to the site were enhanced a few years ago to provide habitat for water voles. The proposed landscape buffer would shade the banks and alter the habitat.

Also objected on trade, congestion and visitor impact grounds.

5.0 THE MAIN ISSUES

- Policy & principle of development
- Retail sequential site assessment
- Retail impact assessment
- Layout of site, scale and design of food store
- Landscape impact
- Impact on historic environment
- Access, highway capacity, car parking and accessibility to town centre
- Impact on neighbours amenities
- Ecology
- Flooding, drainage and contamination
- Other matters
- Planning balance

6.0 OFFICER APPRAISAL

6.1 Policy & principle of development

- 6.1.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires Local Planning Authorities to determine planning applications in accordance with the development plan, unless material considerations indicate otherwise. The development plan, which provides the basis for considering this proposal, comprises the local policies set out in the adopted Shropshire Core Strategy (2011) and the Site Allocations and Management of Development DPD (SAMDev) Plan adopted in December 2015.
- 6.1.2 The Shropshire Core Strategy was adopted in March 2011. Policies CS1 (Strategic Approach) and CS3 (Market Towns and Other Key Centres) aim to support revitalisation of Shropshire's market towns, including Whitchurch, and seek to develop their roles as key centres. 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 Shropshire Site Allocations and Management of Development (SAMDev) Plan was adopted in December 2015. Policies MD1 (Scale and Distribution of Development) and MD10a (Managing Town Centre Development) & 10b (Town and Rural Centre Impact Assessments) are relevant to the principle of development. MD1 advises that sufficient land will be made available within the plan led process to provide for the housing and employment land delivery required in Shropshire. This is done through defining development boundaries and allocating sites for development whilst continuing to support the principle of sustainable development. MD10a and 10b support retail development in the town centre, reinforcing the town centre first approach of CS15 and the NPPF. MD10b sets local thresholds for impact assessments. The proposed development exceeds the threshold for Whitchurch and as such an impact assessment was required.
- 6.1.4 The site is not allocated for any form of development within the SAMDev Plan and is outside the development boundary for Whitchurch. As such policy CS5 (Countryside and Greenbelt) is also relevant. This policy seek to control development beyond the development boundaries and identified settlements to

ensure that any such development is appropriate for the countryside. Although the site is located outside of the settlement boundary this not an automatic reason for refusal. The proposed development is considered by officers to be clearly not compliant with the development plan due to its location outside the development boundary and the proposal is for a form of development which is not supported by CS5. Furthermore, there are sites allocated for employment development and the proposed site is not one of the allocated sites. The consideration of the proposal therefore relies on whether there are any material considerations which would weigh in favour of approving the development.

- 6.1.5 At a national level the NPPF, section 2, sets out the national planning framework 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 assess:
“the impact of the proposal on existing, committed and planned public and private investment in a centre or centres in the catchment area of the proposal; and the impact of the proposal on town centre vitality and viability, including local consumer choice and trade in the town centre and wider area, up to five years from the time the application is made.”
- 6.1.7 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 and the consideration of the planning balance are the key to determining this application.
- 6.1.8 The first issue is 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 and policy CS15. 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 food store is given less weight but can still inform the conclusions reached in terms of the impact test.

6.1.9 In order to consider these issues the application has been submitted with Planning Statement which includes a Retail Statement as it is accepted that the proposal constitutes an out of centre retail development. Other relevant policies of the Core Strategy and SAMDev are considered later in this report.

6.2 **Retail 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 and acknowledging the need for 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. The new National Planning Practice Guidance, which replaced the PPS4 guidance, advises that retailers should show flexibility in the design approach but also acknowledges that flexibility can prejudice the business model. Aldi's business model does not provide a "one-stop shop" with a smaller range of goods than other large supermarket chains and no in store facilities such as pharmacy or sales of newspapers and stamps.

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 Paragraph 27 of the NPPF indicates that, where an application fails to satisfy the sequential test or is likely to have a significant adverse impact on one or more of the factors referred to in paragraph 26 (as detailed in 6.1.6 above), it should be refused. However, this paragraph does not extinguish the requirement to consider all material considerations in assessing the planning balance.

6.2.4 The application has been submitted with a sequential assessment which advises that Aldi require a 0.7ha regular shaped site which is prominent on a highway. Aldi look for sites with visibility from a highway as a lack of visibility is considered to impact on viability of the store. As such the sequential assessment has considered sites over 0.4ha and buildings of over 1,000sqm.

6.2.5 Five sites have been considered two of which are within the town centre. The Wood Yard was considered but the applicant suggests that the site is too small, not actively marketed and does not have a main road frontage. The Swimming Pool is not available and is also too small. The assessment suggests that there are no sites on the edge of centre and as such the other sites are all out of centre.

Waymills, the site which was previously granted consent for a new Aldi store, is now considered by Aldi to be in a poor location behind Homebase, with no highway visibility, isolated from residential areas and contaminated, with the cost of the remediation making the site unviable. A site on Heath Road/ Prees Road is also considered by the applicant to be detached from residential areas, allocated for employment uses and with high infrastructure costs.

- 6.2.6 The applicant's retail statement therefore concludes that the Heath Road/ Prees Road site is sequentially the same as the application site. The two sites in the centre are too small and not available and there are no other sites which are sequentially preferable to the application site.
- 6.2.7 As noted in section 4 above objections have been received from the Town Council, local residents, land promoters for alternative sites, and an agent on behalf of Lidl, who currently operate from a site in the town centre. The Town Council and local resident's objections are general in that they consider there are sequentially preferable sites, the objections on behalf of land promoters and Lidl specify sites which they consider are sequentially preferable. Lidl have questioned the justification for discounting the Waymills site and commented on other Aldi sites where a road frontage is not available and that Aldi should have been aware of the contamination issues.
- 6.2.8 The recent planning application for development of a builder's yard on the Waymills site has also been raised by objectors who consider that this recent application shows that the Waymills site is developable. The Town Council and a local resident have also questioned the Wood Yard advising that they understand the site would be available and would be big enough for the store and deliveries though the existing car park would need to be used.
- 6.2.9 The land promoters for alternative sites have suggested that two sites which are allocated for development in the SAMDev plan, the land on Heath Road and the land on Station Road are both sequentially preferable. The objectors consider that these sites are sequentially preferable as they are allocated and therefore within the development boundary. Furthermore, the objectors suggest that an Aldi on either of the allocated sites would open up development of the wider sites.
- 6.2.10 The Council's Planning Policy Officer, who specialises in retail planning matters has provided advice on this matter. The remit of the sequential assessment is to focus development in the town centres or on sites which achieve connectivity with the town centre. A site which is closer to the town centre, but still out of centre, may not be sequentially preferable if it is not achieving connectivity with the town centre and vice versa. Furthermore, the allocation of a site does not automatically make it sequentially preferable if an unallocated site provides better connectivity.
- 6.2.11 Officers accept that there are no sites within the town centre or edge of centre which are available, suitable and viable for the proposed development. The two sites considered, the Wood Yard and Swimming Pool site, are both too small for the proposed development, furthermore the developer would not be able to rely on a car park that they have no control over in regard to the Wood Yard. Officers are not aware of any other sites within the identified town centre.

- 6.2.12 Both allocated sites and the Waymills site are all out of centre sites and therefore not sequentially preferable in terms of location (they are neither in centre or edge of centre). The sequential test thereafter requires consideration of connectivity with the town centre. The Policy Officer's advice is that none of the sites quoted by objectors, including Waymills, provide any greater opportunities for connectivity and as such none are sequentially preferable. However, neither is the application site sequentially preferable to the allocated sites or Waymills, even taking into account the proposed shopper bus. As such the conclusion reached by officers is that the application site is sequentially equal to Waymills and the allocated sites.
- 6.2.13 The Waymills site presumably was considered by Aldi to be acceptable at the time of the previous application and subsequent appeal. The issues of contamination and highway visibility have not changed. Aldi have presumably changed their opinion of the Waymills site for business reasons rather than anything changing on the Waymills site. Furthermore, a new potential occupier also considers the site is a developable site, given the recent application for the use of this site. The Waymills site is within the development boundary and brownfield land, however it is not within or on the edge of the centre and therefore not strictly a sequentially preferable site in retail planning terms. There would have been other planning benefits of developing Aldi on Waymills. The allocated sites may also have other benefits which could be taken into account in the overall planning balance, such as opening up opportunities for further development or providing access along with being plan led development.
- 6.2.14 However, other material considerations and these benefits are not part of the sequential site assessment. The Council cannot refuse this application on the basis of either Waymills or the allocated sites being sequentially preferable. Considering the compliance with the sequential test in the NPPF and CS15 the proposed development is considered to comply as there are no sequentially preferable sites in either location or connectivity terms.
- 6.2.15 It should also be acknowledged, as noted by the Policy Officer, that other out of centre sites, which could include the allocated sites and Waymills, would also be capable of passing the sequential test.
- 6.3 **Retail 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. 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. Paragraph 27 confirms that where an application is likely to have significant adverse impact on one or more of these factors (set out in NPPF para 26), it should be refused.
- 6.3.2 The application has been submitted with a retail statement which includes an impact assessment. Further work has also been carried out by the applicant's agent in regard to this matter following comments from local residents, land

promoters, Lidl and the Council Policy Officer. The concerns relate to the impact on the existing Lidl store and to the overall impact on the town centre. The Town Council also raised concerns that the impact assessment did not assess the potential impact on small retailers in the town centre.

- 6.3.3 Whitchurch is currently served by Tesco, Lidl and Iceland in the town centre and Sainsbury and a small convenience Co-op out of the town centre. The applicant's retail statement comments that Lidl is the only deep discounter in town and is trading well (a point disputed by Lidl) but doesn't provide sufficient choice or range for the catchment. As such Aldi suggests that there is a need for a further store. The NPPG advises that new retail development is most likely to have an impact on similar retailers; supermarkets generally have an impact on supermarkets. There may be an impact on smaller stores and other shops in the town centre, as noted by the Town Council, however this has been considered as part of the overall impact assessment.
- 6.3.4 The scheme proposes an 80%/ 20% split between convenience and comparison goods. The retail statement suggests that the proposed store is intended to serve Whitchurch and the surrounding area. Wem is 13km and Ellesmere 16km away from the site, Nantwich 15km, Crewe 22km and Wrexham 22km. The retail statement suggests that the site has a large catchment area where Whitchurch is closer to a large rural hinterland than any other town.
- 6.3.5 The retail statement suggests that Whitchurch is healthy with 18 convenience stores and 47 comparison stores (and 13 vacant). 18% of the stores are national chains and 82% independent retailers and the town centre also has services, restaurants and beverage venues. The historic town centre also serves as a tourism attraction and is accessible by bus and train whilst also providing good levels of parking.
- 6.3.6 To consider the impact on the town centre of an out of centre Aldi store the applicant had originally relied on the Sainsbury impact assessment. This took account of the previous Aldi approval at Waymills and concluded that a new food store, at that time Sainsbury, would not have an adverse impact on the town centre. The Sainsbury application was concluded to not have a significant impact and in forming that conclusion the applicant had to assume that the Aldi at Waymills would be built. The Sainsbury impact was a cumulative impact. As such some form of trade diversion to an Aldi store was considered to be acceptable previously. The retail report submitted with the application suggests that the retail income for the previously approved Aldi has gone to Lidl due to the increasing market share for deep discount stores. Given this assumption the retail impact assessment submitted with the original application suggested a -37.79% trade diversion from Lidl but commented that Lidl is trading well above benchmark and will still be above benchmark after the development of Aldi (a point strongly refuted by Lidl).
- 6.3.7 The report also suggested that Tesco and Iceland are overtrading and that the impact on each of these stores will be -10.8% and -8.69% respectively. The impact on the independent stores was predicted to be -9.91% and as such the overall impact on the town centre as a whole would be -16.09%. It is therefore the opinion of the applicant that the town centre will remain vital and vibrant.

- 6.3.8 An addendum to the impact assessment was submitted following receipt of comments. The addendum re-assessed the impact on the basis of Lidl trading at published benchmark, rather than the previously assumed figures from the Sainsbury impact assessment. The addendum concluded that the impact on Lidl would be -41.44%, Tesco would be affected by -11.61% and Iceland would be affected by -10.85%. The overall town centre impact in the addendum report was shown as -16.7%. The agent continued to assert that all of the town centre supermarkets are overtrading with Lidl trading much better than benchmark (benchmark being £5.15m). However, Lidl continued to object advising that the store was not overtrading and was below benchmark. Neither retailer was, at that time, providing hard evidence to substantiate their claims. Aldi were advised to undertake a household survey and Lidl were asked to provide trading figures for the Whitchurch store.
- 6.3.9 The Council Policy Officer's initial advice was that, based on the addendum report, the impact of -41.44% on Lidl was considered to be significant and as the existing Lidl is within the defined town centre its loss to the town would have an adverse impact on the overall town centre. Furthermore, the overall impact on the town centre of -16.7% was also considered to be high and potentially significant. However, there is no set level of impact which is defined as significant; it is not a case of an impact over a certain level is significant. The significance of the impact depends on the health of the town and, in the case of Whitchurch, how Lidl functions. Does the existing Lidl function as part of the town centre? Are there linked trips etc? On the basis of the original impact assessment and the addendum these questions remained unanswered and the impact was therefore not able to be clearly understood.
- 6.3.10 The applicant's agent therefore commissioned a household survey to provide information on shopping patterns. The work was carried out by a reputable, independent, survey company (NMES) and provided information on where people do 'main' and 'top up' shopping and also provided this in percentage format. The agent has then applied expenditure capacity assumptions to show potential turnover levels in 2020. As such there is still an element of uncertainty in the levels of turnover but these assumptions are supported by evidence from the household survey. The new household survey information shows Lidl trading well above benchmark and therefore in a better position to withstand trade draw from the proposed Aldi. The revised impact on Lidl, following the household survey, is -25.75% and the overall impact on the town centre is -14.89%. As such the applicant's agent has concluded that all of the town centre stores will continue to trade above benchmark after the development of the Aldi.
- 6.3.11 Based on the household survey information the Council's Policy Officer concluded that the level of impact on Lidl would be high but the store would continue to trade above benchmark and therefore would be unlikely to close. As such, although there may be some loss of linked trips, the level of the impact on the vitality and viability of the whole of the town centre would not be significantly adverse.
- 6.3.12 Lidl has written further objection letters continuing to raise concerns about the retail impact assessment submitted on the basis that Lidl will cease trading if Aldi is approved. They have questioned the household survey results. The survey

results appeared to show that the Whitchurch Lidl attracts two and a half times more customers than the average Lidl store and if this were true the store would be busy every day of the week and have a high volume of goods turnover, especially given that the Whitchurch Lidl is a very small and, in its view, a compromised store.

- 6.3.13 Lidl has confirmed to officers that there are not many Lidl stores of the same size as Whitchurch as most built at the same time have been extended or rebuilt to larger stores. Any expansion of the Whitchurch store is constrained by the size of the site and the presence of badgers nearby. Lidl provided the Store Manager's comments on queues being limited, car park occupancy not reaching capacity, staffing and delivery levels being low for a store of this size and also information on deliveries at another store which Lidl accepts over trades and is of a similar size. The Whitchurch store has one delivery per day whereas the other store has 11 per week. Lidl has also provided information on weekly transactions advising that the Whitchurch store had 25% less transactions than other stores in the region.
- 6.3.14 Aldi has responded questioning a number of the claims made by Lidl and including photographs of the store with more than two tills open and evidence of more than one delivery per day. Aldi consider that its evidence supports the household survey that shows Lidl is overtrading.
- 6.3.15 Following this objection Lidl has provided officers with further information which comments on the household survey, noting that Aldi have not proven the results of the household survey with additional survey information, comments on the reply from Aldi regarding queues, congestion, car parking and deliveries and also including the Lidl store trading figures for one 12 month period. However, the figure is stated to be commercially sensitive and therefore not publically available. The figure does appear to show that the Whitchurch store is already performing less than 90% of its average sales density (measured in £/sq m) which confirms that, contrary to previous indications and information submitted by the applicant, the existing Lidl store is under-trading.
- 6.3.16 The Council Policy Officer has reconsidered all of the information from Aldi and Lidl and his latest advice is provided in section 4 above. In summary the Policy Officer has advised that the current performance of Lidl is an important factor in the assessment of the impact on the wider town centre. However, the information from both retailers regarding the qualitative issues and operation of the Lidl store is of contextual interest only. The single trading figure from Lidl does indicate a large discrepancy between the applicant's household survey information and Lidl's trading position, both cannot be correct. The Policy Officer has advised that, in the absence of background data and on the basis that the trading figure is sensitive information, members should consider the impact on Lidl based on benchmark trading figures.
- 6.3.17 On benchmark trading figures (£5.15m) the impact on Lidl would likely to be significant and could lead to the closure of the Lidl store. However, the NPPF requires Council's to consider the retail impact of a new retail development on the vitality and viability of the whole of the town centre, not just on one store. Although there will be like for like trade diversion and therefore the impact is likely

to be greatest on Lidl this does not mean that the overall impact on the town centre is significantly adverse. Officers accept that the Lidl store is within the town centre, however it is also officer's opinion that Lidl does not function as a key part of the town centre. It is not an anchor store, there may be some linked trips (the evidence is lacking in detail), but the store backs onto the town centre.

6.3.18 As noted in the Policy Officer's advice the loss of the town centre Lidl store, which may result from the construction of an Aldi on the application site, has the potential to have an adverse impact on the town centre. This is a negative impact which members will need to consider as part of the planning balance. Without mitigation the impact should be given significant weight.

6.3.19 During the determination of the application, on the basis that officers were advising the applicant that they had concerns about the impact of the development on the town centre, a town centre mitigation proposal was put forward. The mitigation provides the recently completed store in Newport, Shropshire, as an example. At Newport Aldi has provided a financial contribution of £10,000 to Newport Town Team to be used for information boards, communications and business development and marketing; a financial contribution of £5,000 given to Newport Council for community groups; and a free shopper bus on Tuesday and Thursday which takes people from the town centre to the store and back again to encourage linked trips.

6.3.20 The mitigation proposed for Whitchurch is for the provision of a bus operated as a members club with free membership to residents within 5 minutes of the store funded by Aldi for 3 years. The bus would operate 2 days a week (possibly Wednesday and Friday), twice per day and would either pick up on request or on a regular route. Shoppers would have an hour at the store. Two routes have been suggested which cover the whole of Whitchurch and both routes do stop on the edge of the town centre. This mitigation could be given some weight in balancing against the harm identified to the town centre. However, firstly it is not clear what happens to the bus service at the end of the three year period paid for by Aldi, and secondly it is officers' opinion that the bus will provide more customers for Aldi rather than link the town centre to Aldi. The opportunities for linked trips are increased by the provision of the bus but so are the opportunities to shop at Aldi rather than in the town centre. Officers therefore consider that this mitigation will be neutral and will not outweigh the impact on the town centre.

6.3.21 Overall, as noted above the potential closure of the Lidl store will likely have a negative impact on the vitality and viability it will also have some impact on the town centre, which is an adverse impact and therefore a harm. For the reasons given in this section the impact is not considered to be significantly adverse. However, it remains an adverse impact which should be taken into account in the overall planning balance.

6.4 **Layout of site, scale and design of food store**

6.4.1 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. Policy MD2 of the SAMDev requires development to contribute to and respect locally distinctive or valued character and existing amenity by, amongst other things, responding to local patterns, form and layout; reflecting local architecture; protecting, conserving and enhancing historic context and enhancing natural assets.

- 6.4.2 Access to the site is off Wrexham Road in the corner of the site furthest from the roundabout on the A41. Highway safety of this access is considered later in the report. For this part of the report the consideration is whether the layout is suitable in planning terms. The access is proposed in the position of the existing field gate. It will need to be widened to provide for simultaneous entrance and exit and this will involve removal of additional hedge. Within the site the proposal is laid out with the store backing onto the canal, with a 8-10m buffer between the building and the canal. The primary elevation of the store faces towards the A41 roundabout with a secondary side elevation facing towards the car park, which is situated between the store and Wrexham Road.
- 6.4.3 Officers have enquired about alternative layouts, for example turning the building 90 degrees to sit with a shorter elevating against the canal. However, the agent has advised that this would not provide sufficient manoeuvring space for customers or delivery vehicles. The design has a glazed gable end elevation facing towards the A41 and the small section of car park at the side of the building with the service yard to the opposite end and a landscaped buffer between the store and the canal.
- 6.4.4 The building is proposed to have an external footprint of 1,818sqm and an internal floor space of 1,743sqm of which 1,254sqm is sales area. Within the D&A the agent suggests that the design is good as it introduces a modern addition to the local vernacular. The material finish is modern and the design includes large sections of glazing, timber cladding and a mono pitched roof. The submitted D&A also provides full detailed elevations and visuals of the development from the roundabout, Wrexham Road and the canal both on completion of the development and 10 years after completion.
- 6.4.5 The submitted elevation drawings show that the car park and building will be built on lower ground level than the roundabout with existing and proposed trees and post and rail fencing providing the boundary. However the building will be higher than the canal. The existing ground level is already higher than the canal level and the ground level will need to be increased to build the store at a single level.
- 6.4.6 During the consideration of the application, the applicant has altered the finish cladding materials for the elevating facing towards the canal in an attempt to address its impact when viewed from the canal. The amendment provides this elevation with timber cladding and high level ribbon glazing. The timber cladding wraps around the one end, facing the roundabout, with the rest of this elevation being the glazed gable end with silver coloured cladding above. The long side elevation facing over the car park is to be clad with a mix of grey, silver and timber cladding with high level ribbon glazing. The materials are considered to be appropriate for the development proposed and will provide a mix of materials and interest. The ribbon glazing adds movement and shadow whilst also allowing natural light into the building. The roof is clad with grey cladding and solar panels.

6.4.7 The layout of the site and design and materials proposed for the building are considered to be acceptable for the proposed use. However, this does not mean that they are wholly appropriate. The implications of developing this site for the proposed use are considered below. The proposed development has the potential to have an impact on landscape and heritage as will be considered in the following two sections.

6.5 **Landscape impact**

6.5.1 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 the wider landscape. A protected species survey, tree survey and Landscape and Visual Assessment (LVA) have all been undertaken and submitted with the application and considered by the relevant consultees. Local objectors have both supported the proposal for additional landscaping and objected to the potential impact on landscaping and ecology.

6.5.2 Council Officers have sought external landscaping advice and in addition Canal and River Trust (CRT) and Whitchurch Branch of Shropshire Wildlife Trust (SWT) have also written commenting on landscape impact matters. Both of these latter two parties' comments are summarised in section 4.2 above. CRT have raised concerns that the building will be visually intrusive from the canal corridor which, they consider, retains a predominately rural character and the feeling of a countryside walk along the towpath. The Whitchurch branch of SWT's concerns are also visual and landscape impact on what they consider is a green wedge.

6.5.3 The proposed scheme includes an 8m to 10m buffer along the boundary with the canal which is to be planted with trees and shrubs to create a landscape belt between the store and the canal. In addition the application accepts that the lighting scheme will have to be sensitively designed to maintain bat corridors and also that bat and bird boxes should be provided. Care is also recommended during the construction works to ensure that no protected species is affected by the development work. This issue is considered in greater detail later in the report.

6.5.4 A Landscape and Visual Assessment (LVA) has been submitted with the application. This has considered the impact of the proposed development on the landscape and also details landscaping for the site. The development proposes the removal of some trees to open up views but maintains the boundary hedges. The LVA acknowledges that the site is countryside for planning purposes (outside the development boundary) and details the site and surroundings including noting the regional and local landscape assessments. The susceptibility to change is considered by the applicant's consultant to be low to medium and the magnitude of change low. The site is on the edge of the settlement and the LVA concludes that the impact on the landscape character is low to negligible.

6.5.5 The assessment suggests a small loss of visual amenity from adjacent properties, a larger visual change to the dwelling opposite and the canal towpath but that the impact can be mitigated by layout, materials and landscaping. The LVA suggests

that the development will be associated with the road, service station and settlement rather than the countryside. It is accepted, within the assessment, that the impact on the immediate landscape will be adverse during construction and for the first few years until the site matures and becomes more integrated.

6.5.6 The LVA has been assessed on behalf of the Council by an external Landscape expert who critically analysed the submitted document and raised some concerns about the content of the assessment and the conclusions reached. The LVA includes details of planting and bunds which are not shown in the application; no zone of theoretical visibility has been provided and as there is higher land to the north there is a risk that visual receptors may have been missed; the assessment does not state whether the effects on the landscape are adverse or beneficial; no impact on heritage assets have been considered and there are assets within potential influencing distance; insufficient assessment has been carried out on the impact of the development on other residential properties other than the 1 immediate neighbour; views from vehicles on the A41 as they cross the canal should be included; the proposed fence on the east boundary may result in loss or damage to the existing hedge. The most significant criticism is that magnitude of change from viewpoint 7 is considered to be medium rather than low and therefore the significance of the effect should be moderate-substantial.

6.5.7 The applicant's landscape consultant has responded to the critical analysis commenting that the submitted LVA is in accordance with the guidelines; that a ZTV is not required and that any missed views are beyond 0.5km and therefore not likely to be affected; that heritage assets have been considered in the heritage impact assessment; that no further road views are necessary and that the difference in scale of impact is a professional opinion. Furthermore, the applicant has commented that the viewpoints were agreed with the Council at the pre-application stage. However, the response does clarify that the impacts noted in the LVA are adverse impacts, not beneficial impacts.

6.5.8 The Council's landscape consultant does not concur with the applicant's assessment of landscape impact or its conclusions. The Council's consultant considers that some of the visual effects will be greater than the applicant's consultant. The Council Consultant's concludes:
"In summary, we still have concerns that adverse visual effects have not been fully explored and that the potential adverse effects on the distinctive and valued character of the local landscape, particularly the setting of the Llangollen and Whitchurch Canals and Greenfield Nature Reserve may be objectionable. The site is an open, rural, canal-side pasture located outside of the Development Plan boundary for Whitchurch and therefore a more strict approach to assessing landscape and visual effects is required by Core Strategy Policy CS6 and SAMDev Development Management Policy MD12. However well landscaped, the proposed store is a large commercial building that 'turns its back' on the canal corridor and would probably be objectionable to local people and visitors to the canals, towpath, footpath network leading out of Whitchurch and the nature reserve."

6.5.9 The applicant's landscape consultant has since updated the LVA to include views from the new residential development under construction on Wrexham Road. The applicant's consultant's conclusion remains one that the development of this site

will bring some adverse effects but that these are to a very local area and can be mitigated by the proposed landscaping.

- 6.5.10 This is, as noted above, an opinion and not one shared by officers. The site is currently a grassed field, it is accepted that it is adjacent to the bypass and service station, however it is also adjacent to the canal and other open fields. The setting of the site includes sections of the Llangollen and Whitchurch canals, including the junction of the two, a towpath, bridge and winding hole. It is officer's opinion, taking into account the advice of the external consultant, that the area is locally distinctive and valued. It is open countryside for planning purposes (being outside the development boundary) but also does have the character context of a junction of the canal informed by fields and vegetation rather than buildings. The canal is clearly a well-used tourist route and also a walking route for local residents. Officers consider that the proposed store, even with the landscaping proposed, would introduce a substantial commercial building to this otherwise rural context that would have a negative impact on the immediate landscape around the site and specifically on the canal and towpath.
- 6.5.11 It is accepted that this is not a significant impact on a wider landscape or a defined valued landscape in the terms of paragraph 109 of the NPPF (which seek to protect and enhance valued landscapes). However, paragraph 109 is not the only protection the NPPF affords to landscape and the countryside. One of the core principles of the NPPF is recognising the intrinsic character and beauty of the countryside. The National Planning Practice Guidance confirms that landscape includes designated landscapes and also the wider countryside. It is officer's opinion that the proposed development will result in some harm to the immediate landscape and this harm needs to be taken into account in the overall planning balance and officers consider that this harm should be attributed moderate weight.
- 6.6 **Impact on historic environment**
- 6.6.1 The site is not close to listed buildings or conservation areas, however the Council has considered the canal as a non-designated heritage asset and the applicant's agent was advised of this at the pre-application stage. The application therefore needs to be considered against policies CS5, CS6, CS17 and MD13 of the local plan and paragraph 135 of the NPPF (relevant to non-designated heritage assets). Paragraph 135 of the NPPF advises that *"The effect of an application on the significance of a non-designated heritage asset should be taken into account in determining the application. In weighing applications that affect directly or indirectly non designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset."*
- 6.6.2 The local policies seek to protect, conserve, enhance and restore Shropshire's heritage assets and, as detailed in MD13, this includes both designated and non-designated assets. MD13 also advises that proposals which are likely to have an adverse effect on the significance of a non-designated heritage asset, including its setting, will only be permitted if it can be clearly demonstrated that the public benefits of the proposal outweigh the adverse effect. Policy MD13 is considered by officers to be in line with the requirements of paragraph 135 of the NPPF but also sets greater local protection of non-designated assets. The harm has to be identified and thereafter taken into account as part of the overall planning balance.

This section of the report will advise on the harm. The planning balance is undertaken later in the report.

- 6.6.3 A heritage statement was been submitted with the application which confirms that there are no designated heritage assets or conservation areas near the application site but accepts that the canal is a non-designated heritage asset. The statement goes on to detail the historic development of Whitchurch from a Roman fort spreading along the Wroxeter to Chester road, Medieval market town based on livestock and cheese and after WW2 the development spread towards Chemistry, which was previously a separate village. The bypass was constructed in 1992 and the heritage statement considers that this has altered the historic character of the application site.
- 6.6.4 With regard to the canal the heritage statement advises that the wider canal network links Ellesmere to Llangollen, a section of the canal 26 miles west of the application site is a World Heritage Site and there are listed structures along the canal. The branch into Whitchurch was completed around 1811 and ended at Castle Well in the town. This canal branch was never a through route and was later abandoned in 1944 with much of it being filled in. It is acknowledged within the heritage statement that Whitchurch Waterways Trust are attempting to restore the canal and that they have planning permission to open up a section to Chemistry bridge. The statement also comments that Chemistry bridge is the only surviving bridge on the Whitchurch branch but there is no inter-visibility between the bridge and the application site. It is the applicant's opinion that the canal adjacent to the application site does not contain any physical structures and therefore makes little contribution to the overall significance of the canal.
- 6.6.5 In conclusion the applicant's heritage statement suggests that the significance of the whole of the canal is derived from its historic value as a C19 canal system, it is also part of the industrial revolution and the association with William Jessop and Thomas Telford is noted. However, the agent considers that the character of the site, and the part of the canal along the edge of the site, has been altered by the bypass, service station and housing development and therefore the feeling is of entering/ exiting the town. The statement comments that, in the opinion of the applicant's consultant, this part of the canal has a minor contribution towards the significance of the canal as a whole.
- 6.6.6 However, this view is not shared by officers and technical consultees. It is accepted that this section of the canal is part of the wider canal network and a section of the Llangollen canal. However, the canal at this point is not simply a linear water feature. Adjacent to the site is a winding hole, it is close to the junction of the Llangollen canal with the Whitchurch arm and the site is visible from the pedestrian bridge over the canal at the junction and from the canal tow path. The section of canal adjacent to the site does have features which distinguish it from other parts of the wider canal network. The application site is on the edge of Whitchurch and currently provides a gradual change between the more open countryside beyond the bypass and the built up area of the town. The proposed development will create a harder edge to this site.
- 6.6.7 It is acknowledged that the construction of the Whitchurch by-pass in the later 20th century and subsequent development have altered the surroundings of the

canal within the vicinity of the proposed development site. Nonetheless, and as Figure 2 on page 8 of the Design and Access Statement illustrates, the proposed development site remains an undeveloped piece of agricultural land across which users of the canal, and to a degree the by-pass too, gain distant views across it towards the later 19th century and 20th century buildings on the western margins of Whitchurch. As such, it is considered that the site forms part of the surroundings in which the significance of the canal is experienced and appreciated, and that the present semi-rural character to the site together with the views it affords towards the outskirts of Whitchurch, contribute positively to the significance of the asset. The Council's Conservation Officer raised concerns that the development of this site would have an impact on the non-designated heritage asset.

- 6.6.8 Aldi submitted a 'heritage rebuttal' and a 'Position statement on the non-designated heritage asset' to seek to respond to the Conservation Officer's concerns. The rebuttal details how the applicant's consultant has undertaken the heritage assessment using the NPPF and Historic England guidance. The consultant considers that the canal should be considered as a whole rather than in small component parts but also acknowledges that the character of the canal will vary along its length. It is the consultant's opinion that the application site does not have a relationship with the canal other than sitting alongside it. One of the key issues from the consultant is that they acknowledge that the application site does form part of the setting of the canal but it does not contribute to the significance of the canal as a heritage asset.
- 6.6.9 Within the rebuttal the applicant's consultant has commented that setting is not a heritage asset itself, the importance of setting lies in what it contributes to the significance of the asset. However, the consultant has also confirmed that significance of setting can also include the way in which the asset is experienced.
- 6.6.10 The position statement advises that the applicant has considered the significance of the heritage asset as part of the wider context of the canal as an infrastructure route for industry and development rather than pleasurable amenity. The applicant's consultant considers that the degree of change/urbanisation within the vicinity of the application site has meant that the site no longer contributes to the significance of the canal.
- 6.6.11 This is a matter of opinion and, as detailed in the consultee comments section above, is not shared by the Council's Conservation team. The Council Conservation team consider that the site does still contribute towards the significance of the canal and that the impact on the non-designated heritage asset is less than substantial. This part of the canal is part of the wider canal route which is now mainly used for tourism and does have aesthetic and historic value.
- 6.6.12 Aldi has also sought legal advice on this matter and provided it to the Council. The advice is that a proposal which causes harm to a non-designated heritage asset must be the subject of a balanced judgement. It then goes on to criticise the Conservation Officer for not having carried out the planning balance. However, this is not the role of the Conservation Officer. The planning balance is a matter for the decision maker. The Conservation Officer's role is to provide advice on the harm to the significance of the setting of the non-designated heritage asset (the

canal). This has been provided by the conservation officer who has advised that the harm is less than substantial. Aldi's legal advice suggests that this is using the test in paragraph 134 of the NPPF which doesn't apply to non-designated assets. This is not the case. The Conservation Officer has not sought to rely on 134, what has been provided is a definition of the level of harm which the officer considers is reached.

6.6.13 In conclusion it is officer's opinion that the development of this site for a food store in the form and layout as proposed will have less than substantial harm on the significance of the setting of the non-designated heritage asset. This in itself is not considered to be sufficient grounds to refuse the current planning application, however, as noted by the Aldi legal advice, needs to be considered as part of the overall planning balance. The impact, albeit less than substantial as a direct impact on the non-designated heritage asset, is a negative impact. In the context of policy MD13 of the Council's adopted SAMDev plan it therefore needs to be clearly demonstrated that the harm identified is outweighed by the public benefits of the proposal for it to comply with that part of the policy. It is officer's opinion that the public benefits have not been clearly demonstrated to outweigh the harm. The planning officer considers that the impact to the non-designated assets, although less than substantial, should be given significant weight in the planning balance.

6.7 **Access, highway capacity, car parking and accessibility to town centre**

6.7.1 Paragraph 32 of the NPPF advises that developments that generate significant traffic should be supported by a Transport Statement and promotes 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 to 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.

6.7.2 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.

6.7.3 Access – A new access is proposed off Wrexham Road at approximately the point of an existing field gate. Visibility splays of 2.4m by 34m are shown on the revised plans but the applicant considers that 79m visibility is available, which complies with the requirement for 40mph speeds. From the town centre direction the proposal will include a right turn lane for traffic waiting to turn into the site so that traffic flow to the A41 is not impeded. Furthermore, the revised designs show the splitter from the A41 roundabout extended to the junction with the service station

in order to prevent vehicles turning from the A41 into the services.

- 6.7.4 Concern has been raised by local representatives that the access is not safe and that this access, along with other accesses in the area, will not be safe. The Council Highway Officer's comments are detailed in section 4 above. The Council Highway Officer has considered whether the proposed access is safe as part of his overall consideration of the proposal. The Highway Officer has not raised any issues with the proposed access.
- 6.7.5 The Planning Case Officer considers that the proposed works to the existing highway, in terms of extending the splitter and the potential to extend the 30mph (subject to the formal process for this work) will result in an improvement to the main issue with highway safety on Wrexham Road. Currently there are incidents of traffic turning into the service station on the opposite side of Wrexham Road. This junction is meant to be exit only and not an entrance to the service station. At present the vehicles using this as access increase the risk of collision within the service station and on Wrexham Road. The extension of the splitter would prevent the right turn manoeuvre off Wrexham Road and thereby improve safety. This would be a positive benefit resulting from the development and should therefore be given some positive weight in the planning balance.
- 6.7.6 The proposed access itself is shown to be provided with sufficient visibility in line with highway standards.
- 6.7.7 Highway capacity – Within the TA the applicant accepts that the proposed development will increase traffic but considers that most of the traffic will already be using the A41 and a high proportion will also already be using Wrexham Road. Traffic counts have been carried out by the applicant's highway consultant to consider the impact on the local highway network and the roundabout junction. The assessments and modelling of future traffic movements are considered to show that the roundabout operates within capacity and will continue to do so after the development with no increase in queues.
- 6.7.8 In the immediate area around the site the application includes highway improvements in extending the existing 30mph limit to the roundabout; a splitter island, which has been extended to beyond the exit from the service station, to prevent overtaking and to restrict vehicles from turning into the service station exit; and the installation of VAS.
- 6.7.9 Crashmap data has been investigated and notes 5 slight and 2 serious incidents all but 1 on the roundabout. The applicant's highway consultant considers that this is to be expected at the roundabout due to the level of traffic, speeds and the high order of the A41. However, the consultant does not consider that the proposed food store development on this site will increase the likelihood of incidents.
- 6.7.10 With regard to delivery vehicles the TA advises that there will be approximately 4 HGV deliveries per day plus a daily milk delivery and weekly bin collection. All deliveries are carried out by Aldi and as such the timings of deliveries can be controlled to quieter customer times.

- 6.7.11 The main concern of the local residents, in highway and traffic terms, relates to traffic and on street parking along Wrexham Road towards the town centre. There is currently an issue with residents on Wrexham Road not having off-street parking and therefore on-street parking causes delays to traffic flow. The applicant for the current application set up a highways working group to consider this existing issue. The working group proposed a scheme of managed on street parking. However, the proposal was not looked on favourably by residents and as such the working group has recommended a financial contribution towards a strategic scheme.
- 6.7.12 The proposed contribution is £75,000 and is proposed to be paid to the Council to consider options for alleviating the existing issues in the residential area further along Wrexham Road. The applicant's own planning benefits statement accepts that the Highway Officer does not consider that the contribution is required to make the development acceptable. The new food store will not result in a significantly greater impact. The issue is an existing issue rather than one which is a result of the proposed development. As such it would not be reasonable or related to the application to require the developer to pay a financial contribution towards providing off-street parking on Wrexham Road. Such a contribution would not meet the tests within the CIL Regulations and therefore could not be required by a S106 agreement.
- 6.7.13 The proposed scheme will result in traffic movements to and from the store. The benefits of the physical works proposed to the existing highway in terms of the splitter, extending the 30mph speed limit and the provision of vehicle activation signs (VAS) are all relevant and reasonable benefits and are considered necessary. However the impact on highway capacity is not severe and would not justify refusal or the form of mitigation proposed by the financial contribution.
- 6.7.14 Parking – 117 parking spaces are proposed, of which 9 would be parent and child, 8 disabled and 6 cycle hoops (12 cycle spaces). Aldi have assessed their other stores and the car parking requirements and suggest that the parking requirement will be a maximum of 89 cars during the peak time on a Saturday, with the weekday peaks being around 57 cars.
- 6.7.15 No contrary evidence or information has been provided to officers and as there are no longer parking standards for development Councils need to consider applications on a case by case basis. It is the case officer's opinion that Aldi are not likely to build a store that does not have sufficient parking available to serve its customers as this would not be good business. The site is, as acknowledged above, out of centre and there are no other car parks that customers could use. Alternative means of travel are considered below.
- 6.7.16 However, concern has been raised by the Council's Tree Officer that the parking spaces under the oak trees on the adjacent land would affect the trees. This is taking into account the no-dig method of constructing these spaces. Even with a no-dig proposal the trees will overhang the spaces, the roots will be affected by the provision of hard standing and furthermore customer vehicles may be damaged by the trees and increase the risk of pressure to remove these trees. This affects 13 parking spaces along the eastern edge of the site and would therefore reduce the level of parking provided to 104 spaces. Additional

information has been received relating to the construction methods for under the trees. This has been provided the Council Tree Officer to comment and members will be updated at the meeting. However, even with the reduction to 104 spaces there is likely to still be sufficient parking. Officers have reached this conclusion by comparing the proposed store with the recently opened store in Oswestry which has a similar footprint and 103 parking spaces.

- 6.7.17 The Council's Public Protection Officer has also commented on the need to provide rapid charge electric vehicle charging points to promote sustainable development and reduce CO2 emissions and has recommended the installation of a point to charge 2 vehicles and the infrastructure to provide more at a later date. The website provided by the PPO advises that rapid charge provides 80% charge in around 30 minutes. Given the recent Government announcement to ban new petrol and diesel cars from 2040 it is considered necessary to ensure that electric vehicle charging points are available.
- 6.7.18 The case officer had initially discussed this issue with the applicant prior to the Government announcement and it is Aldi's view that their shoppers do not spend long enough in the store to justify the installation of charging points. However, this does not take account of the rapid charging available at present and also of the speed of change of this technology. It is likely that charging times will only reduce and electric vehicle use will increase. As such this matter has been reconsidered and it is officer's opinion that charging infrastructure should be available within the car park. This is in line with the requirements of paragraph 35 of the NPPF.
- 6.7.19 As such, based on the evidence from the Oswestry store, it is officer's opinion that even with the removal of the parking spaces from under the Oak trees there would be sufficient parking available for cars. Conditions could be imposed should planning permission be granted to ensure these spaces are not used for cars and also to include providing for electric charging points. These are matters which officers consider could be resolved through discussion or a suitable condition and as such do not consider that they should be given any weight in the overall planning balance.
- 6.7.20 Accessibility – The D&A suggests that the nearest bus stop is a short walk from the site, the TA confirms that there are two stops with the nearest 500m from the site. The TA also considers that the site is within walking distance of residential areas and cycling distance of the whole of Whitchurch. However, it also accepts that, in a car, the bypass would be the quickest route into town rather than along Wrexham Road (for the reasons commented above relating to on-street parking). The proposal includes a maintenance schedule for the roadside hedge to maintain useable footpath which will help with pedestrian connectivity. Cycle parking stands are proposed within the site which will help encourage cycling for both customers and staff.
- 6.7.21 Concern has been raised in local resident's objections and the town council objection that the site is not well connected and that there is not a frequent bus service in the area. The Council Highway Officer has recognised that the site is located on the edge of town and notes the concerns raised, however the highway authority consider that a highway objection on these grounds alone would not be

sustainable. The location of the site is, as noted in the policy section of the report a negative in the planning balance, although a refusal based purely on highway grounds could not be sustained this does not diminish the fact it is a negative impact in terms of the overall planning balance.

- 6.7.22 The site is within walking distance of both residential areas and bus stops. The applicant has also proposed to provide a “shopper bus” and indicated two possible routes around the other residential parts of the town and the town centre. This, as previously noted, is proposed to enhance connectivity and accessibility between the site, town centre and residential areas. The proposed bus will provide alternative means of travel in addition to the existing public transport in the area. The draft bus note advises that the bus will operate on two days a week, is free to customers (though free membership) and will be funded by Aldi for three years. This is a benefit in terms of connectivity but, as noted in section 6.3, it is not currently clear what happens at the end of the three year period. Overall the benefit of the proposed bus is considered to be neutral as the bus will also provide access to Aldi as well as the town centre.
- 6.7.23 With regard to access from the canal the scheme does not propose to provide direct pedestrian access to the canal on the basis that Aldi are hoping to encourage boaters to continue to use the town centre. A financial contribution is being offered to provide signage along the canal to further encourage this. Local objectors have noted that the site will be accessible from the canal via the A41 road bridge. This is noted, however, officers accept that there is a risk of some custom from the canal users but that the proposed tow path signage will help to encourage canal users to continue to access the town centre.
- 6.7.24 A draft travel plan has also been submitted which sets the principles for a full travel plan to be drawn up on store opening. The store manager will be the travel plan co-ordinator, the plan will seek to encourage staff and customers to cycle, walk and car share through the provision of information, posters and maps. To ensure this occurs, given that the site is outside of the town centre and therefore not well connected by existing other means of travel, a travel plan is considered necessary for this site and, if planning permission were to be granted, a condition should be imposed to require the draft travel plan to be worked up into a full travel plan.
- 6.7.25 Overall the proposed access is considered, by officers, to be provided with sufficient visibility; the off-site highway works will be beneficial to both the development and wider highway safety; sufficient parking and turning can be made available and delivery times can be managed by the store to reduce the potential of conflict with customer traffic; and the site is accessible by foot, cycle and public transport with the proposed shopper bus adding to accessibility and connectivity. The scheme is therefore considered to be acceptable in highway terms when considered against the relevant policies.
- 6.8 **Impact on neighbours amenities**
- 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 Prior to submitting the current application Aldi held public exhibitions and consulted with local residents, members and officers, produced leaflets, press releases and set up a website and phone number. A highways working group was also set up, this matter is dealt with under section 6.5 above. The consultation statement submitted with the application advises that the general response from community consultation was of support for the additional jobs, choice, value and the reduction in travelling. However, concerns were raised about highway capacity (considered at section 6.5 above), the impact on the town centre and that the site is too far out of town (section 6.3). The consultation statement does not detail any concerns of residents regarding direct impact on amenities.
- 6.8.3 This is also the conclusion of the Council's own consultation carried out on the application. The majority of objections relate to town centre impact and highway matters. However, concern has been raised about noise and light pollution. The site is currently a grassed field on the edge of the town. Any development on the site would alter the level of noise & light in the immediate area.
- 6.8.4 A noise assessment has been submitted with the application as the applicant acknowledges that the site is in a sensitive area. The opening hours of the proposed store are 8am-10pm Monday to Saturday and 6 hours between 10am-6pm on Sunday. Background noise measurements were carried out and the dominant noise is road traffic, which given the close proximity of the site to the A41 is as expected. The report notes the potential for noise from plant and deliveries. The plant will be on the northeast elevation of the store and is proposed to be surrounded by 3.75m high timber fencing. The noise levels from the plant have been provided from other recently built stores and the supplier and the conclusion is that the plant noise will be comparable to background noise levels.
- 6.8.5 With regard to deliveries, as noted above, Aldi operate their own deliveries and use an internal unloading system. As with plant the delivery noise was assessed using other stores and noise was noted on arrival, reversing and departure. Noise during unloading was minimal due to the internal system where the vehicle reverses up to the building and unloads directly into the building. However, the report accepts that there will be some noise and that, without mitigation, the noise levels may be significant. As such the proposed layout of the site also includes a 3.75m high acoustic barrier on the east boundary of the site to reduce the impact on the neighbouring properties, including canal boats.
- 6.8.6 The Council Public Protection Officer has confirmed that, subject to the proposed fencing along the northeast of the site and around the plant at the rear of the store, they have no objection to the development and agrees that the site will not increase noise levels. The mitigation will reduce noise impact on the neighbouring residential properties but will also have a visual impact and potential impact on trees and hedges along this boundary.
- 6.8.7 As such the proposed development will not have a detrimental impact on the

residential amenities of any existing properties in terms of loss of light, privacy or noise. However, this is on the basis of the proposal including a close boarded fence along the full northeast boundary of the site which officer's consider will have a further negative impact on the character of the area.

6.9 Ecology

6.9.1 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. An ecology assessment and arboriculture report have been undertaken and submitted with the current application and this was considered by the Council's Ecologist and Tree Officer. The impact on trees has been commented on elsewhere within this report but will be touched on again in this section.

6.9.2 The applicant's ecology survey has assessed the site and surrounding area for protected species and also plant species. The submitted survey details the site as being semi-improved grassland with hedges, ruderal plants and 2 oak trees. There are 2 ponds within 500m of the site, one is ornamental in a garden and the other is on the opposite side of the A41. As such the applicant's ecologist considers that there is limited risk of the development impacting on great crested newts. Furthermore there was no evidence of badgers, water voles or otter. None of the trees on site showed features which could be used by bats. The survey acknowledges that the canal offers potential foraging and commuting habitat for otter but there was no signs within the application site that it was being used and the site and boundaries offer potential for nesting habitat for birds. The survey recommends the canal buffer is protected during the construction works and that any works to trees or hedges are carried out outside of the nesting season.

6.9.3 The layout as proposed includes the provision of an 8-10 metre buffer between the edge of the site and the edge of the canal. This is predominately intended to provide a landscaping buffer for trees to reduce the visual impact of the building. However, the buffer will also provide a wildlife corridor and will be planted with both woodland trees, low growing plants and wild flowers. The ecology report also advises that the existing boundary hedge will be retained and enhanced.

6.9.4 The Council Ecologist has considered the application and the survey information and accepted the conclusions of the survey. The Council Ecologist has recommended conditions and informatives relating to protection of the buffer; consideration of bats in the design of the lighting of the site; provision of bat boxes; working methods to manage the site and reduce the risk of formation of habitats within the construction site and the provision of bird boxes.

6.9.5 With regard to existing landscaping the site is currently grassland with a broad-leaved plantation tree belt on the southern, eastern and western boundaries. The southern boundary is also made up of a hedgerow. The boundary to the canal is post and wire fence with low growing plants. Although, as noted above, the ecology report suggests that the boundary landscaping will be retained and enhanced the Design and Access statement advises that the tree belt along the bypass is to be removed and the hedgerow managed, thinned and reduced in

height to open views into the site. With regard to impact on existing trees and hedges a tree survey has been carried out which records 6 trees, 2 hedgerows and 3 groups of trees. The proposal requires the removal of 2 sections of hedge to create the new access but also proposes additional planting to mitigate the loss. None of the existing trees are to be removed.

- 6.9.6 The Council Tree Officer has no objection to the principle of the development and supports the buffer zone and new planting along the northern boundary. However, the Tree Officer has raised an objection to the provision of parking under the two oak trees which lie outside the side but adjacent to the eastern boundary. The Council Tree Officer has advised that these two trees are significant natural assets in the landscape and also provide screening to the neighbouring property. The proposal includes 10 parking spaces under these two trees which will cover approximately 40% of the root protection area. Although no-dig construction methods could be employed any works to crown lift or prune these trees will lead to stress to the trees and parking spaces under trees risks damage to vehicles and people. The Council Tree Officer has advised that proposing parking bays under these trees is not compatible with the healthy retention of the trees in the long term.
- 6.9.7 Additional information has recently been provided with more detail of the construction methods of the car park under the trees. This has been passed to the Council Tree Officer whose response is awaited. Members will be provided with an update at the meeting in regard to this matter. However, as noted in the highway section above it is officer's opinion that the level of parking, even with these 10 parking spaces removed, will be sufficient for the size of the store.
- 6.10 **Flooding, drainage and contamination**
- 6.10.1 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.
- 6.10.2 A FRA has been submitted with the application, although the site is within flood zone 1 it is over 1ha. The FRA identifies possible flood risks but considers the probability of any flooding, including surface water flooding, is low. Canal flooding is very low due to the difference in levels. The FRA has also considered climate change and the need to design the surface water drainage system to accommodate climate change.
- 6.10.3 Surface water is proposed to be discharged through a SUDs system with no increase in run off. The FRA advises that the ground conditions are unsuitable for infiltration and therefore recommends planting with high water demand, re-use of surface water and attenuation. The applicant is negotiating with the Canal and River Trust to seek to discharge the final surface water run-off to the canal. Foul drainage is proposed to be connected to the public sewerage system to the north of the canal vial a pumping station and rising main on the service station site. The foul drainage connection will be subject to agreement with Welsh Water.
- 6.10.4 Both Welsh Water and the Council Drainage Consultant have recommended that the drainage of the site be the subject of a condition. Neither have raised any

objections to the principle of the proposal or suggested that the site is not capable of being provided with a suitable means of drainage.

6.11 **Other matters**

6.11.1 Public support has also been received commenting that the development will provide jobs. This is a matter of fact. New commercial development will provide jobs, subject to the impact test as considered above. The provision of additional jobs can be given some positive weight in the planning balance. Furthermore, the provision of additional choice of retailers and goods is supported locally and is a positive benefit of the development which should be given some weight in the planning balance.

6.11.2 Concern has also been raised about the potential for the car park to be mis-used when the store is closed and also of the potential for trolleys to be dumped into the canal. At present there are no proposals to gate the car park, however as a private car park this would be a matter for Aldi to deal with should the issue of mis-use of the car park arise and cause disturbance to the community or the store. With regard to the trolleys Aldi provide coin-operated trolleys to encourage customers to return trolleys after use and also reduce the risk of trolleys being taken outside of store opening hours. As such although the concerns of the residents are noted these would be matters for Aldi to deal with should the issues arise.

6.12 **Planning balance**

6.12.1 Paragraph 14 of the NPPF advises that development which complies with the local plan should be approved without delay. It goes on to advise how to consider applications where the development plan is absent, silent or out of date. Paragraph 14 does not advise on what to do when an application does not comply with the local plan. For that the Planning and Compulsory Purchase Act 2004, or paragraph 196 of the NPPF advises that applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise.

6.12.2 The application is for development outside of the development boundary for a form of development that is not one of the exceptions listed within the local policies as appropriate for in the countryside (reference policy CS5). It is not either a listed exception or along similar lines to those listed. The starting point is therefore the proposed development is contrary to the local plan. Paragraph 196 therefore advises the decision maker to consider other material considerations. This is the matter of the planning balance. Balancing the harm and the benefit. The fact the application is contrary to the policy for development in the countryside is itself given significant weight on the negative side of the balance.

6.12.3 The agent has submitted a list of what it considers are the planning benefits of the scheme. These include providing a new store for the growing population of Whitchurch which, the agent considers, is needed due to the existing stores performing well (both points disputed by Lidl); existing expenditure lost to other towns; general increase in expenditure with increase in population. Other non-site specific benefits include construction jobs; circa 40 jobs once open; apprenticeship and graduate schemes and the provision of solar panels on the roof. These are considered by officers to be non-site specific as they would be

provided wherever the store was located. These benefits should be given weight. As noted in section 6.2 above there are no sequentially preferable sites. Furthermore, as noted at 6.3, it will also have some impact on the town centre, which is an adverse impact and therefore a harm. As such the above benefits of a new store should, in the opinion of officers, be given substantial weight. Although these benefits may tip the balance in favour of the proposal if the only harm was that the site is outside the development boundary there are other harms, identified in this report which weigh against the proposal.

- 6.12.4 The agent has commented that the Sainsbury store on London Road sits outside the development boundary and that this shows the Council recognise and accept the principle of retail development outside the boundary. However, they have not fully acknowledged the planning balance undertaken for the Sainsbury application and the two scenarios are not therefore directly comparable. The agent suggests that the principle is acceptable where the development makes a contribution to local needs and connectivity. The Sainsbury store was outside the development boundary and therefore contrary to the development plan; however there were other material considerations that weighed in its favour. The Sainsbury store is well located to encourage linked trips with the town centre and the redevelopment of that site included the restoration of two listed buildings and a contribution towards a third. The heritage impact of the Sainsbury store was mitigated by the positive benefit that a financial contribution towards restoring the Old Rectory would provide. The decision for the Sainsbury store was clearly a very finely balanced matter given the objection from Historic England.
- 6.12.5 Officer's opinion of the landscape impact of the proposed development is detailed in section 6.5 and has taken account of both the applicant's landscape assessment and the advice from the Council's landscape consultant. The landscape impact is considered to be adverse, albeit not significant and only to the immediate area, the impact is still a negative in the planning balance to be given weight. The applicant has proposed a landscaped buffer and shown the proposed store after 10 years of growth and also proposed to clad the rear elevation of the store with timber. However, officers are of the view that the proposed store, even with the landscaping proposed would be a substantial commercial building and that it would have a negative impact on the immediate landscape around the site and specifically on the canal and towpath due to its size and proximity to the canal. It is officer's opinion that the negative impact on landscape should be given moderate weight in the planning balance.
- 6.12.6 The heritage impact is detailed in section 6.6 above. The canal which runs adjacent to the site is considered to be a non-designated heritage asset. This section of the canal has canal features which distinguish it from other sections of the canal. The officer view of the proposed development has taken into account the views of the Council Conservation team and the advice from the applicant's heritage consultant and legal advisor. The conclusion of section 6.6 is that there is a difference of opinion. Officer's view is that the development will have a less than substantial negative impact on the significance of the setting of the non-designated heritage asset. However, as noted at 6.6.2, MD13 requires the public benefits of development which is likely to have an adverse effect on the significance of a non-designated heritage asset to outweigh the impact. The planning officer considers that the impact to the non-designated assets, although

less than substantial, should be given significant weight in the planning balance. Furthermore, with reference to MD13, it is officer's opinion that the public benefits have not been clearly demonstrated to outweigh the harm.

- 6.12.7 With regard to highway matters of access and capacity section 6.7 advises that the proposed development will not result in a severe highway impact. The proposed splitter island extension, signage on the roundabout, extension of the 30mph limit and installation of VAS will provide improvements to the current situation in regard to the use of the exit to the service station as an entrance. Furthermore, the application proposes signage within the store and car park directing shoppers to the town centre and directional signage for tourists on the canal to direct them to the town centre. These, are considered to be improvements to connectivity which are reasonable and related to the development proposed. The proposed shopper bus will also provide some level of improvements to connectivity but, as noted above, will not outweigh the harm to the town centre. The benefit of the shopper bus is considered by officers to be neutral.
- 6.12.8 The proposal to pay a £75,000 financial contribution to the Council towards resolving the current on-street parking problems on Chester Road is not considered to be related to the proposed development. As noted at 6.7.12 the Highway Officer does not consider that the contribution is required to make the development acceptable. The issue is an existing one and not one that is a result of the proposed development. The applicant's benefits note confirms that they are aware that this contribution is not required but they have offered it to overcome local objections.
- 6.12.9 The tests in section 122 of the Community Infrastructure Levy Regulations set the criteria for consideration of whether a benefit can be part of a S106 agreement. These tests require the S106 to be a) necessary to make the development acceptable in planning terms; b) directly related to the development; and c) fairly and reasonably related in scale and kind to the development. As noted above the financial contribution to car parking on Wrexham Road does not meet test a or b.
- 6.12.10 The applicant's benefit note also suggests that they are also proposing to make a financial contribution to town centre management. This is the contribution noted in the town council response. This is intended to help to mitigate the impact on the town centre. The agent suggests that the contribution could be used for town centre promotion or public realm improvements.
- 6.12.11 The signage within the site and along the canal tow path is also put forward by the applicant as mitigation of the town centre impact. The signage on the canal is intended to direct canal users to the town centre, not Aldi, and the signage within the site is intended to direct shoppers into the town centre. The signage will go some way towards promoting linked trips but given the distance from the site to the town centre officers do not consider that there will be a high number of linked trips. The proposed signage would slightly reduce the impact on the town centre but officers do not consider that the proposed signage will wholly overcome the impact identified.
- 6.12.12 The addition of the financial contribution towards town centre management will

also help alleviate the impact. Officers consider that the town centre contribution will enhance the attractiveness of the town centre and the combined signage will encourage visitors to the food store to also visit the town centre. As such it would be considered necessary make the development acceptable in planning terms, when considering the balance against the harm to the town centre, it is also directly related to the development in that it will mitigate some of the impact on the vitality and viability of the town centre and the level of contribution is reasonable and related in scale and kind. As such it is considered by officers that the financial contribution to town centre enhancements meets the requirements of the CIL regulations and that the level of contribution and works to be undertaken, with associated costs, would be detailed within the Section 106 agreement.

- 6.12.13 In conclusion the benefits of the development are the addition of a new store and associated non-site specific matters and the benefit to the town centre of the financial contribution which officers consider partially mitigates the impact on the town centre and makes the balance neutral in that regard. However the harm to the heritage and landscape are not considered to be overcome and the site is outside the development boundary.
- 6.12.14 The material considerations in favour of the development, the benefits, are not considered to outweigh the harm. Officer's view is that the benefits of the scheme need to outweigh the harm. In this case it is officer's opinion, for the reasons given above, that the benefits that can be given weight in the determination of the application do not outweigh the harm. Even if you were to consider this in the counter direction, that the harm needs to outweigh the benefits, it is officer's opinion that, taken cumulatively, the harms resulting from the development of this site are significant and demonstrably outweigh the benefits.

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, subject to the proposed signage and town centre enhancement financial contribution, would not have a significant adverse impact on the vitality and viability of Whitchurch town centre and that there are no sequentially preferable sites. There is still the potential for the existing Lidl to close and there will therefore be some impact on the town centre.
- 7.2 A safe means of access and service delivery space is acceptable and accords with adopted policy. Off-site highway improvements will ensure that the development does not result in severe highway safety implications and also help to mitigate an existing issue which could be compounded by the proposed development. The proposal signage and shopper bus will also increase the connectivity of the proposed development to the wider residential areas and the town centre, however this overall results in a neutral impact. Furthermore the development will not have an unacceptable detrimental impact on the amenities of the neighbouring properties, ecology, flood risk or drainage.

7.3 It is considered that the layout, scale and design of the site is appropriate for the end user, however the site lies in a historic and rural landscape context and the proposed development is considered to have an adverse impact on the significance of the setting of the non-designated heritage asset and an adverse impact on the immediate landscape. These impacts are not considered to be overcome by mitigation offered by the proposed landscaping or finish material for the building. Furthermore, these impacts, in addition to the impact on the town centre and the impact on connectivity are not considered to be outweighed by the public benefits of the development.

7.4 As such the proposal is not considered to comply with the Development Plan Core Strategy policies CS5, CS6 and CS17 or with policy MD13 of the Shropshire Site Allocations and Management of Development (SAMDev) and the National Planning Policy Framework (NPPF), specifically paragraph 135. 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.

10. **BACKGROUND**

Relevant Planning Policies

National Planning Policy Framework

CS1 - Strategic Approach

CS3 - The Market Towns and Other Key Centres

CS6 - Sustainable Design and Development Principles

CS7 - Communications and Transport

CS15 - Town and Rural Centres

CS16 - Tourism, Culture and Leisure

CS17 - Environmental Networks

MD10A - Managing Town Centre Development

MD10B - Impact Assessments for Town and Rural Centres

Settlement: S18 - Whitchurch

Relevant planning history:

None

11. **ADDITIONAL INFORMATION**

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| 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 R. Macey |
| Local Member Cllr Thomas Biggins Cllr Peggy Mullock |
| Appendices |

APPENDIX 1 - Conditions