

Committee and date

Central Planning Committee

21 December 2017

Item

5

Public

## Development Management Report

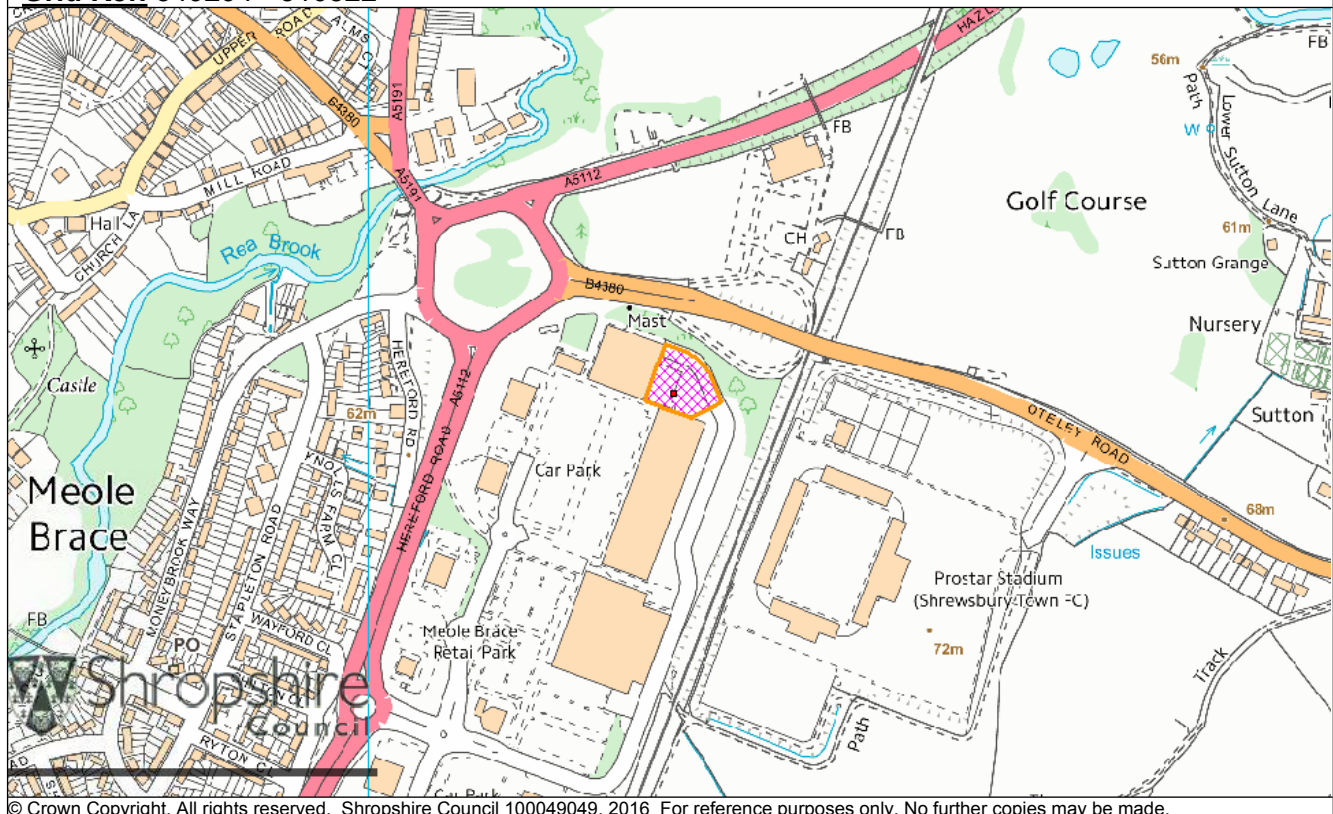
Responsible Officer: Tim Rogers

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

### Summary of Application

**Application Number:** 17/00405/FUL**Parish:**

Shrewsbury Town Council

**Proposal:** Removal of existing structures and construction of an A1 (retail) unit; all associated works including car park alterations, access, servicing and landscaping**Site Address:** Proposed Retail Unit East Of Unit 8 Meole Brace Retail Park Shrewsbury Shropshire**Applicant:** Coal Pension Properties Ltd**Case Officer:** Karen Townend**email:** [planningdmne@shropshire.gov.uk](mailto:planningdmne@shropshire.gov.uk)**Grid Ref:** 349294 - 310522

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**Recommendation:- Grant Permission subject to the conditions set out in Appendix 1.**

## **REPORT**

### **1.0 THE PROPOSAL**

- 1.1 This application is for the erection of an additional retail unit at Meole Brace retail park and associated alterations to the servicing area and landscaping of the site. The scheme did not originally propose any alterations to the existing car park or access to the site for vehicles or pedestrians. Following negotiations with the Council Highway Officer amendments have been proposed to the road and roundabouts within the retail park with the intention of provision better traffic management. No changes are proposed to the existing car parking and service area. The proposal is for a retail unit of 2,787sqm gross made up of a ground floor of 1,393sqm and a full mezzanine.
- 1.2 The supporting information includes full plans, Design and Access Statement, Retail Statement, Planning Statement, Transport Assessment and Drainage details. The submission suggests that the proposal is for “Sports Direct”, with “Outfit” taking over the existing Sports Direct unit; however during the consideration of the application the agent has confirmed that they are seeking an open A1 use rather than a restricted use. The proposal is for non-food retail. The original units on the retail park are all open A1, with no restrictions such as bulky goods only, and the proposal is for an additional open A1 unit.
- 1.3 Unlike other recent food retail developments this application will not need to be referred to the Secretary of State under The Town and Country Planning (Consultation) (England) Direction 2009. Although the application consists of the provision of out of centre retail where, cumulatively, with other consented developments, will provide new floor space of more than 5,000 square metres the application is considered to be consistent with the development plan, as detailed later in this report.
- 1.4 It is the opinion of Shropshire Council as Local Planning Authority that the proposal is not an EIA development under any part of either Schedule 1 or Schedule 2 of the Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 2015 and as such do not require an Environmental Statement to be submitted. The application does not meet the criteria of any part of Schedule 2 of the 2015 Regulations, including part 10(b) as although the development could be considered as an urban development project the site is under 0.5ha in area. Furthermore, taking into account the advice in the National Planning Practice Guidance (available online) the application is not considered to require an Environmental Statement as the proposed development is not significant in relation to the surrounding uses and would not have a significant impact or result in significant effects on the environment by virtue of its nature size or location.

### **2.0 SITE LOCATION/DESCRIPTION**

- 2.1 The application site is and currently used as the service yard for the adjacent units, it was previously used as the outside garden centre area when the adjacent unit

was occupied by Homebase. Since TK Maxx has occupied the adjacent unit this part of the site has been used ancillary rather than as retail space. It is already hard surfaced and enclosed by fencing with a close boarded fence along the edge of the retail park car park.

- 2.2 Oteley Road lies to the south of the site and the railway line to the east with the football club beyond. In the wider area the site is close to the A5 and residential areas including the Sustainable Urban Extension. The existing retail park was developed in the 1990's and has since been extended and altered with the latest developments including the M&S Food store and three small units occupied by a card shop, mobile phone shop and Costa coffee.

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

- 3.1 The determination of this application under delegated powers does not comply with the delegation to officers as set out in Part 8 of the Shropshire Council Constitution. The Town Council have submitted a view contrary to officers, one of the three local members covering this ward has requested that the application be determined by the Central Planning Committee and the Vice Chair of the Committee has confirmed that he agrees that the matter should be decided by committee.

### 4.0 **COMMUNITY REPRESENTATIONS**

#### 4.1 **Consultee Comments**

- 4.1.1 **Shrewsbury Town Council** – The Town Council feels that this application should be considered in parallel with 17/00529/FUL, 17/00369/FUL and 17/00391/FUL to take into account the cumulative impact of all the potential developments for this site and the exacerbated traffic issues within both the retail park and the outlying highways which need to be addressed. The Town Council has no objection in principle to the plans and before any further development of the Retail Park takes place, members would like to see a comprehensive transport and access plan developed to mitigate the traffic problems encountered in this area. Members respectfully request that this planning application is considered by the Central Planning Committee.

*Note – 17/00529/FUL (Sainsbury on-line grocery collection point) has been withdrawn and replaced by new application 17/03097/FUL to which the Town Council have commented with no objection. 17/00369/FUL (left turn lane at retail park roundabout) has been approved under delegated powers following discussion with the Chair and Vice of Committee. 17/00391/FUL (replacement mezzanine at unit 6) has also been approved under delegated powers. As such only 17/03097/FUL remains pending a decision.*

- 4.1.2 **Policy Officer** – The proposed development is located on the site of the former Focus garden centre in the North East corner of Meole Brace Retail Park. The proposal would result in a new unit of 2,787sqm gross of open A1 use (non-food). The end user is identified as Sports Direct who will move from their existing unit at Unit 6 to the new store. It is proposed Outfit will accommodate Unit 6 and there is a separate application on this unit to increase the amount of mezzanine floor area (consent is not required for Outfit to use unit 6).

It is understood the size and layout of the proposed new unit reflects the requirements of Sports Direct. If developed the new unit would be the second largest non-food unit on Meole Brace Retail Park after Unit 8 which currently accommodates TK Maxx. It is also understood that both the sequential and impact tests have been informed by the specific store requirements and likely trade turnover of Sports Direct.

These policy comments will focus on the principle of development on the site with reference to the Development Plan, and will assess the proposal against the sequential and impact assessments.

#### Development Plan Overview

The applicant's Planning Statement considers the proposal against a number of relevant Development Plan policies, namely CS2, CS15, and MD10b.

Core Strategy Policy CS2 (Shrewsbury – Development Strategy) states:  
*“Shrewsbury will develop its role as Shropshire’s primary retail, office and commercial centre, and the vitality and viability of the town centre will be promoted, protected and enhanced. The Riverside and West End areas of the town centre will be redevelopment priorities.”*

The policy goes on to state:

*“Shrewsbury’s strategy will recognise the need for the continuing development of high quality business parks on the edge of the town centre and the periphery of the town... and the importance of the Meole Brace and Sundorne retail parks, both of which have the scope for enhancement and expansion, if required”*

SAMDev Policy S16.2 (Shrewsbury Area) further clarifies the development strategy for Shrewsbury and confirms that development proposals should have regard to the aims of renewing the Riverside area. To support this, and to acknowledge the extant planning permission, the Riverside Shopping Centre is specifically allocated for an additional 26,000 m2 net retail floorspace, and this is included within the Primary Shopping Area.

Core Strategy Policy CS15 (Town and Rural Centres) states:  
*“In accordance with national planning policy, and having taken into account sequential and impact assessment where relevant, town centres will be the preferred location for new retail, office and other town centre uses”*

The policy goes on to state that provision will be made for 80,000m2 gross comparison retail floorspace between 2006 and 2026. In delivering this requirement the policy states that *“priority will be given to identifying and delivering town centre and edge of centre redevelopment opportunities before less central locations are considered. The Riverside and West End regeneration areas are considered to be the main opportunities for improving the offer for retail and office uses within the town centre.”*

SAMDev Policy MD10b (Town and Rural Impact Assessments) requires proposals for new retail, leisure and office proposals to prepare Impact Assessments where

they outside a defined centre, are not in accordance with the development strategy, and, in Shrewsbury's case have a gross floorspace of over 500m<sup>2</sup>. Where proposals would have a significant adverse impact on the town centres they will not be permitted.

It is noted the applicant considers the proposal accords with the development strategy and that Policy CS2 promotes development at the retail park. It is considered this is an oversimplification of the policy framework, and fails to adequate consideration to the 'town centre' first approach to retail development and prioritisation of the Riverside for town centre investment specifically defined in Policies CS2 and CS15.

However, the policy framework does provide scope for additional retail development at Meole Brace Retail Park if required. In this context, 'if required' relates to the application of the sequential and impact tests. Regards to the application of the impact test in Shrewsbury, the explanatory text of policy MD10a clarifies that the impact on the New Riverside investment opportunity should be considered.

#### Sequential Assessment

The sequential assessment is a 'gateway' test for retail proposals in out-of-centre locations which are not in accordance with the development plan. As such, the sequential test applies to the proposed development, and the applicant has undertaken the exercise as part of their Retail Impact Assessment (RIA).

The applicant has assessed two sequentially preferable sites for their suitability and availability: the New Riverside development site (Pride Hill, Darwin and Riverside Malls); and the 'Gap' site at Raven Meadows. The applicant considers neither site represents an available or suitable option. To this end, the applicant considers the proposal passes the sequential test.

Case law is plentiful on the application of the sequential assessment. For instance, it is an established position that it is LPAs should consider only 'real world' options for disaggregation, i.e. not requiring a developer to artificially disaggregate a proposal so it would 'fit' a town centre site to such an extent it would have a negative impact on the developer's established business model. However, it is reasonable to require a developer to show a reasonable degree of flexibility to their proposals. To this end, it is noted the applicant has sought to show flexibility in applying the sequential test by amending the car parking and access aspects of their current proposal.

UK Commercial Property Trust (UKCPT) are the trustees of the Riverside Mall. Deloitte, working on behalf of UKCPT, have objected to the proposal on both sequential and impact grounds. Regarding the sequential test, Deloitte accept that the New Riverside scheme is not currently available to the applicant within a reasonable timeframe. However, Deloitte do consider it would be possible to accommodate the requirements of Sports Direct into existing premises within the Darwin Centre. Deloitte argue this could be achieved through combining existing units to provide larger floorplates within a reasonable timeframe on a permanent

basis.

It is evident that Sports Direct and UKCPT had entered into early discussions about the potential for the relocated store to be accommodated in an 'in-centre' location within the Charles Darwin centre. It is unfortunate the applicant did not reflect these considerations specifically within their sequential site assessment, even if they ultimately felt the site was not suitable for their purposes. NJL have subsequently provided further consideration to the vacant units within the Charles Darwin Centre within their recent 13<sup>th</sup> April letter. NJL argue that none of the vacant units within the Charles Darwin Centre are suitable for the purposes of Sports Direct.

Additional information provided by Deloitte, on behalf of UKCPT, has outlined current opportunities within the Charles Darwin Centre. It is considered none of the available units are of a sufficient scale to accommodate the proposed Sports Direct even when factoring in a reasonable degree of flexibility.

On the basis of the information provided by the applicant and Deloitte, it is considered the applicant has sufficiently demonstrated the proposal complies with the sequential test.

#### Impact Test

The applicant has provided a Retail Impact Assessment (RIA) which responds to the requirements of SAMDev Policy MD10b and the NPPF. NPPF Paragraph 26 indicates there are two main tests to consider when assessing impact:

- The impact on existing, committed and planned public and private investment;
- The impact 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 application

The Riverside scheme is allocated in the Development Plan, and is therefore a planned private investment within the context of NPPF paragraph 26. When developed it will support the ongoing vitality and viability of Shrewsbury Town Centre. The impact on the delivery of the allocated Riverside site is therefore of significant importance when assessing the proposal.

It is noted NJL have assessed the impact on the Riverside within their RIA. It is useful to look at the Council's own evidence of retail 'need' prepared by Peter Brett Associates (PBA) in July 2014. Having taken into account existing retail commitments in the town and the level of likely available expenditure at 2014, the PBA study indicated there was negative expenditure capacity for comparison goods. At the time, this led PBA to conclude that further out-of-centre retail development would likely dilute investor and operator interest in Shrewsbury Town Centre. It is therefore necessary to assess if circumstances have changed since 2014 in order to establish any ongoing concerns over the delivery of the Riverside scheme. This will include an assessment of available expenditure capacity within the catchment area.

The New Riverside scheme gained an approval in 2012, and it is acknowledged the delivery of this scheme faced delays. The approval has recently lapsed. However, it is also clear the site's owners UKCPT continue to be committed to the site's redevelopment in the medium term. The New Riverside scheme should therefore continue to be considered a major town centre investment opportunity and therefore requires suitable and appropriate protection.

The applicant's RIA provides an up-to-date assessment of expenditure capacity within the same study area as applied in the PBA 2014 study, and has updated this to take into account Experian Retail Brief 14 prepared in 2016 with regard to the population forecasts and comparison good expenditure. It is evident that the more recent position does indicate a more positive picture with regard to expenditure capacity compared to the PBA assessment.

For clarity, 'need' is not a specific requirement of the impact test. However, it is evident that the degree of available expenditure capacity is a relevant consideration when assessing likely trade diversion from a centre. Currently, NJL have shown that there is surplus capacity for their proposal having taken into account likely growth in expenditure capacity up to 2022 and having taken into account existing commitments (including the New Riverside) as well as Special Forms of Trading such as internet sales.

It is considered the level of available surplus capacity is marginal, although it does indicate there is available capacity for the proposal. Looking specifically at NJL's forecasts on trade diversion, it is predicted that £3.15m will be diverted from the Town Centre from a total town centre turnover of £290.35; representing a 1.07% impact. It is forecast that there will be a greater impact on the existing stores on Meole Brace Retail Park where a 7.65% impact is forecast.

It is considered the level of impact on the town centre's overall vitality and viability is well within the level of acceptable impact. However, in line with the tests set out in the NPPF and in policy MD10b, it is equally relevant to look at the individual impact on the allocated Riverside proposal. To this end NJL argue that the only way in which the proposal could affect the Riverside would be if the scheme was directly competing for the same retailer representation. NJL argue this is not the case with Sports Direct. NJL go on to conclude that the scheme will have no significant adverse impact on investment in the Riverside.

The argument presented by NJL is sound in principle given that Sports Direct are seeking to relocate from their existing site at Meole Brace Retail Park and appear not to be seeking a town centre representation at this stage. It also appears unlikely that Sports Direct is the type of retailer that would be considered as an anchor tenant for any future Riverside scheme.

However, the applicant is applying for an open A1 permission not dependent upon the end-user. This does raise concerns regarding the ongoing control of the new premises, particularly in a scenario where Sports Direct were to vacate the premises. On this basis, and in order to secure any subsequent user would not have a significant adverse impact on the New Riverside proposal, it is

recommended that a condition be applied restricting the end user to Sports Direct or to a bulky goods use. Ahead of the delivery of the New Riverside scheme, it is considered such a condition is necessary in order to allow the Council sufficient control over the ongoing use of the premises. It is understood the specifications of the proposed unit have been designed to the specific requirements of Sports Direct, and on this basis it is considered a restrictive condition would be reasonable.

**4.1.3 Highways** – I write with reference to the above planning application and following previous highway comments/advice on the development proposals.

The applicant/agent has now clarified its position in terms of the measures being promoted as part of this specific application but also in respect of the wider context of the operation of the retail park and its impact upon the public highway. In terms of the later point, the highway authority recognise that traffic issues surrounding the retail park relate also to the major Sainsbury's store and other developments on the site.

Drawing No.1656-01 shows the measures being promoted which consist of:-

- ☐ Increasing the circulatory width of the 2nd internal roundabout (which also provides access/egress to MacDonald's/Sainsbury's and Pizza Hut).
- ☐ 2 lane approach to the roundabout listed above.
- ☐ Removal of 2 speed humps either side of the 3rd internal roundabout.
- ☐ At the 3rd internal roundabout current One Way exit to make this 2 way entry and exit.

In addition to the above the applicant is to carry out further investigative work to assess the traffic issues surrounding the supermarket/retail park and impact on the highway with traffic and parking surveys. This will be carried out independently of this application. Furthermore, the applicant will also consider the formalising of pedestrian/cycle routes from Meole Brace traffic island, however again this is to fall outside the scope of this application.

The list of measures highlighted above have been discussed and agreed and are considered to provide a degree of betterment to the internal traffic flow within the site. These measures can be implemented within the land controlled by the applicant and are considered to be beneficial in the context of the development proposal which essentially introduces a single retail unit into the remaining land available within the retail frontage around the car park. It is recognised at the outset however that at times the sheer volume of traffic trying to get into the site and back out onto Hereford Road will result in traffic issues, particularly those at peak shopping times and seasonal occasions.

Comment has been raised regarding the removal of the southern speed hump and loss of a zebra type pedestrian crossing facility. I would agree that the zebra type markings etc should remain but the speed hump removed. The northern speed hump however provides no desired crossing point that isn't in actual fact picked up further to the north prior to the access/exit entry point serving M&S and Halfords. The issue surrounding the current exit only onto the 3rd internal roundabout is that



fact that there is no rational for restricting this leg to exit only where there is sufficient width to allow entry and exit. This therefore would allow 2 entry points into the retail park car park. Customers would therefore tend to use either entry point relative to where they would wish to shop and park within the large car parking area.

It is considered that the measures being put forward are of benefit and in terms of mitigating the impact of the development, which it is acknowledged is the planning test to be applied. Moreover, the highway authority would contend that a highway objection on the grounds of adverse highway impact is not sustainable.

The highway authority are supportive of the applicant towards considering the wider highway implications of the development on Hereford Road and potential to look at more robust measures. This can only be considered with the appropriate evidence base. The lack of consideration by the applicant to formalise the pedestrian/cycling desire lines towards Meole Brace signal roundabout is however disappointing and this has been expressed by the highway authority in discussions held with the applicant's agent.

- 4.1.4 **Drainage** – The proposed drainage details should be conditioned if planning permission were to be granted.

The Drainage Strategy Report state that the proposed surface water drainage system for the development will incorporate below ground attenuation with flow control to provide a 50% reduction in discharge rates from the new building is acceptable.

Initially also requested a flood risk assessment as the site was given to be within flood zone 2. Following further information from the agent providing greater detail of the flood zone has confirmed that a FRA is not required.

- 4.1.5 **Public Protection** – Having considered the proposal I have no objections to the proposed unit. I would encourage any conditions that are consistent with other units in relation to delivery times and opening hours.

## 4.2 **Public Comments**

- 4.2.1 12 letters of representation have been received, 11 in objection and 1 in support.

The letters of objection raise the following concerns:

- Increase in traffic
- Access is not sufficient for existing units
- Traffic queues to get in and out
- Existing car park and estate roads in poor condition
- Site is furthest away from access and therefore hardest for customers to get to and from during heavy traffic periods
- Should provide access off Oteley Road, vehicular and especially pedestrian

- 4.2.2 Following the receipt of amended plans the following concerns have been raised:

- Changes to road layout will not improve traffic flow and causes obstructions
- Removal of pedestrian crossings disregards pedestrians

4.2.3 Objection letters have been received from Deloitte LLP on behalf of the trustees of the Riverside Mall, Darwin and Price Hill Shopping Centres objecting to the proposal on the basis that new retailers should be accommodated within the town centre, the proposal will have an impact on the vitality and viability of the town centre and specifically the planned investment into the redevelopment of Riverside. Deloitte also raised concerns about delegated determination of the application considering the scheme should be decided by members and suggested a condition restricting the end user.

4.2.4 Shrewsbury Business Improvement District (BID) has objected on the grounds of competition with the town centre; the proposed retailers are high street retailers; will reduce demand in the town centre; there is space in the town centre and the proposal will impact on the vitality of the town centre.

4.2.5 John Tandy, who was the local member at the time the application was submitted, also wrote in providing the following comments:

*I have to object to this application. The proposed extension will worsen current access difficulties at Meole Brace retail park and rule out the one effective solution. At the same time, it risks harm to the town centre. We have crowds trying to get out of the retail park at weekends, sometimes taking as long as 30 minutes to get out of the car park. Everyone who uses the park says another access is needed, and the only place for it would be blocked by this new extension. It is hard to see how another feeder road for the current access can help.*

*To an observer, the majority of those leaving the park appear to be heading back towards Shrewsbury, which tells us where Meole Brace is taking its shoppers from.*

*We cannot risk further detriment to Shrewsbury town centre. Officers must carry out an up-to-date assessment of impact on the town centre – or insist on one from the applicants.*

*Shrewsbury bucks the national trend with the quantity of independent shops it offers throughout the town. We have very few vacant shops. That creates a retail experience that draws people from all over the West Midlands.*

*I see too many towns across the UK ruined by out-of-town retail. We cannot afford to let that happen to Shrewsbury.*

## 5.0 THE MAIN ISSUES

- Policy & principle of development
- Sequential site assessment
- Impact assessment
- Layout of site, scale and design of store
- Access, car parking and accessibility to town centre

- Flooding, drainage and contamination
- Other matters

## **6.0 OFFICER APPRAISAL**

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

- 6.1.1 Under section 38(6) of the Planning and Compulsory Purchase Act 2004, all planning applications must be determined in accordance with the adopted development plan unless material considerations indicate otherwise. Since the adoption of the Councils Core Strategy the National Planning Policy Framework (NPPF) has been published and is a material consideration that needs to be given weight in the determination of planning applications. The NPPF advises that proposed development that accords with an up-to-date Local Plan should be approved and proposed development that conflicts should be refused unless other material considerations indicate otherwise. The NPPF constitutes Government policy and is a material consideration to be given significant weight in determining applications.
- 6.1.2 The Shropshire Core Strategy was adopted in February 2011. Policies CS1 (Strategic Approach) and CS2 (Shrewsbury – Development Strategy) aim to encourage the continued sustainable growth of Shrewsbury as the County town. Shrewsbury is noted in CS1 as being the focus for significant retail, office, employment and residential development. CS2 goes on to provide more detail to CS1 in providing higher level policy guidelines to enable the town to achieve economic growth whilst protecting and enhancing the town's role, character and unique qualities of built and natural environment. CS2 provides for development of the retail centre role of the town and also provides for the two urban extensions. In regard to Meole Brace, CS2 advises that the importance of the retail park is recognised and that there is scope for enhancement and expansion, if required. With regard to retail uses policy CS15 (Town and Rural Centres) encourages the provision of appropriate convenience and comparison retail, office and other town centre uses preferably within the identified town centres as a 'town centres first' approach, however it does acknowledge the NPPF sequential and impact tests where no town centre sites are available. Furthermore, at paragraph 6.25 of the explanatory text this policy advises that in supporting Shrewsbury's wider growth priorities and where sequentially acceptable, development which supports the enhancement and expansion of the existing retail parks at Meole Brace and Sundorne will be favoured in fulfilling a proportion of the overall comparison retail target.
- 6.1.3 The SAMDev for Shrewsbury, policy S16, follows from the principles set in the Core Strategy policy CS2 encouraging sustainable economic growth. S16A deals specifically with the town centre and edge of centre areas and follows the town centre first approach of the NPPF and CS15. This part of the policy, amongst other things, seeks to ensure that the town centre retail offer is enhanced whilst ensuring that the independent sector is retained and developed; seeks to unlock the potential of vacant and underused buildings; but also with an underlying aim of reducing the impact of traffic and congestion in the town centre. Within S16 there is one specific retail allocation, S16.1c, Riverside Shopping Centre which proposes the redevelopment of the existing shopping centre, night club and medical centre

with a new shopping centre providing a department store, improved connections to Pride Hill and Darwin Centre and an active frontage onto Smithfield Road. This allocated site had planning permission but work had not started. S16 also includes smaller retail uses within allocated housing sites at the Flaxmill and both Sustainable Urban Extensions (SUE). Paragraph 3.98 of S16 does provide a small part of advice on Meole Brace in that it comments that, where required, the retail park can continue to offer a complementary role to the town's overall retail offer.

- 6.1.4 Also of relevance are policies MD10a – Managing Town Centre Development and MD10b – Town and Rural Centre Impact Assessments of the SAMDev. Policy MD10a defines Shrewsbury as a category 'C' town where there are primary and secondary frontages. In the two category 'C' towns (Shrewsbury and Oswestry) there are different levels of protection to the primary and secondary frontages and also a presumption in favour of town centre uses within the wider town centre. Policy MD10b sets local thresholds for impact assessments depending on the town. Developments located outside of the defined town centre and which have a gross floor space of over 500sqm in Shrewsbury will require an impact assessment to be undertaken and submitted with the application. Policy MD10b also advises that developments which have a significant impact on town centres, or where the impact assessment is insufficient, will not be permitted. The policies within the Core Strategy and the SAMDev are considered to be consistent with the requirements of the NPPF as detailed in the following paragraphs.
- 6.1.5 At a national level the NPPF, section 2, sets out the national policy for determining planning applications for retail and other town centre uses. It seeks to be positive and promote competitive town centres but does acknowledge that policies will be required to consider main town centre uses which cannot be accommodated in or adjacent to town centres. Paragraph 24 requires local planning authorities to apply a sequential test to planning applications for main town centre uses that are not in an existing centre and are not in accordance with an up-to-date local plan. This test is the "town centre first" approach where out of town sites should only be considered where there are no sites within or on the edge of centres. Preference should be given to accessible out of town sites that are well connected to the town centre.
- 6.1.6 Paragraph 26 of the NPPF also requires out of town retail applications to be submitted with an impact assessment to show the impact of the proposal on existing, committed and planned public and private investment in the town centre; and the impact on the vitality and viability of the town centre. Where an application fails the sequential test or is likely to have a significant impact it should be refused. Where no significant adverse impacts have been identified, and where the application also satisfies the requirements of the sequential test, a decision should be taken by balancing the positive and negative impacts of the proposal and other material considerations, and also the likely cumulative effect of recent permissions. These two issues of sequential and impact assessments are highly important in determining this application but do not set aside the overall planning balance.
- 6.1.7 As noted above there is policy support in CS2 and CS15 of the Core Strategy and S16 of the SAMDev for the principle of additional retail at Meole Brace, subject to

the sequential test and impact test. Therefore the key issues are firstly, determining whether there are any sequentially preferable sites available and suitable, or likely to become so within a reasonable period of time; and secondly whether the proposed retail development would result in a significant adverse impact on the existing town centre. These are the two tests within the NPPF, policy CS15 and policy MD10b. The NPPF states that applications should only be refused where they fail the sequential test or are likely to have a significant impact on existing centres. PPS4, the national retail policy prior to the NPPF, removed the requirement for applicants to satisfy a test of “need” in justifying proposals for town centre uses and as such whether there is a need for the retail units proposed is given less weight but can still inform the conclusions reached in terms of the impact test.

- 6.1.8 In order to consider these issues the application has been submitted with Planning Statement which includes a Retail Statement and the required sequential and impact assessments.

## 6.2 **Sequential site assessment**

- 6.2.1 Policy CS15 of the Shropshire Core Strategy seeks to maintain and enhance the vitality and viability of existing town and rural centres identifying town centres as the preferred location for new retail development but acknowledging the sequential and impact assessments. Paragraph 24 of the NPPF requires developments in ‘out of centre’ locations to demonstrate that there are no sequentially preferable sites suitable or available to accommodate the proposed development within the town centre or on the edge of the town centre. The sequential assessment should also take into account other out of centre sites which are accessible and well connected.
- 6.2.2 Paragraph 6.2 of the Practice Guidance on Need, Impact and the Sequential Approach states that:  
*“the sequential approach is intended to achieve two important policy objectives:  
 - Firstly the assumptions underpinning the policy is that town centre sites (or failing that well connected edge of centre sites) are likely to be the most readily accessible locations by alternative means of transport and will be centrally placed to the catchments established centres serve, thereby reducing the need to travel.  
 - The second related objective is to seek to accommodate main town centre uses in locations where customers are able to undertake linked trips in order to provide for improved consumer choice and competition. In this way, the benefits of the new development will serve to reinforce the vitality and viability of the existing centre.”*
- 6.2.3 As noted above all of the information submitted with the application suggests that Sports Direct will occupy the new unit. This retailer is currently operating from the retail park in a unit which has a floor area of 930sqm. The submitted Retail Statement comments that the proposal is seeking to increase trading space and therefore units smaller than the operators existing store have not been considered in the sequential assessment.
- 6.2.4 The sequential assessment submitted with the application has considered the Riverside shopping centres (Darwin/Pride Hill and Riverside) and Raven Meadow (Gap) site and discounted both. The agent considers that the Riverside does not

have any units that are of sufficient or comparable size currently available and the redevelopment of the shopping centres has stalled with the 2012 outline consent now expired.. The Raven Meadows gap site is not available within the timescale sought by Sports Direct and is currently in use as a car park. As such the agent suggests that there are therefore no sequentially preferable sites within or on the edge of the town centre. Furthermore, they comment that Meole Brace is recognised in policy as an area suitable for retail development.

- 6.2.5 Objections have been received on behalf of the town centre Shopping centres raising concern about the sequential test and the impact test. The objection suggests that there is space within the town centre which could accommodate the end user. The objection has accepted that the full redevelopment of Riverside shopping centres is not coming forward within what could be considered a reasonable timeframe as required by the applicant. Furthermore, the objection identified units in the existing shopping centres which could be combined to provide larger floor spaces closer to the space being proposed at Meole Brace. The applicant's agent has responded to the town centre objection confirming that there are no suitable existing units in the town centre which would provide similar sized development to the current proposal. It is officer's understanding that the town centre objection is referring to units which could become available rather than units which are currently available.
- 6.2.6 The town centre objection also raises concerns about the proposal for Outfit to occupy the existing Sports Direct unit and questioned whether the applicant has considered combining existing units at Meole Brace. The objection to Outfit is an objection to potential competition with the town centre. The units on Meole Brace retail park are open A1 retail use with no restriction as to who can occupy the units. The Council would therefore have no control over Outfit taking on any of the units on Meole Brace as this would not require planning permission and there is already a vacant unit within Meole Brace Retail Park previously occupied by Next.
- 6.2.7 The sequential test in regard to the proposed scheme should consider whether there are any sequentially preferable sites within or on the edge of the town centre which could accommodate the proposed development, for 3,000sqm of new retail floor space for a single user. The sequential test needs to consider some level of flexibility in terms of sites around the size of the unit being proposed or sites which could provide similar floorspace over more than one floor. However, the sequential assessment does not need to consider sites which are significantly different to the proposal.
- 6.2.8 The Council's Policy Officer's comments are provided in full in section 4 above, these provide detailed advice on the consideration of the sequential and impact tests. With regard to the sequential test, and having regard to the objections received, the Policy Officer advises that it is an established position that LPAs should consider only 'real world' options for disaggregation, i.e. not requiring a developer to artificially disaggregate a proposal so it would 'fit' a town centre site to such an extent it would have a negative impact on the developer's established business model. Although units have been identified by the objection none of these are of a sufficient scale to accommodate the proposed Sports Direct even

when factoring in a reasonable degree of flexibility.

6.2.9 Paragraph 27 of the NPPF indicates that, where an application fails to satisfy the sequential test and the impact test (considered below), it should be refused, however this paragraph does not extinguish the requirement to take into account all other material considerations in assessing the planning balance. It is officer's opinion that the applicant has undertaken an appropriate sequential assessment for a site for Sports Direct and that, for this specific end user, there are no sequentially preferable sites and as such the application is considered to comply with the sequential test.

6.2.10 However, during the consideration of the application the agent has advised officers that the application is seeking an open A1 retail use, i.e. not restricting the end user to Sports Direct or to any other general retail use such as bulky goods. It is officer's opinion that this has not been sufficiently considered in sequential terms. The requirement for nearly 3,000sqm is based on Sports Direct wanting a larger store. There is no evidence of other end users wanting this scale of store and officer's opinion is that if there were other end users wanting new retail units for a general A1 use they should be considering the town centre first.

6.2.11 This is also a relevant point to whether the proposed unit should be allowed to be subdivided in the future. The sequential assessment has been carried out on the basis of the size of the building being proposed. Smaller units may be able to be accommodated in the town centre and as such it is considered that subdivision should be restricted. It is considered that planning permission should be required to permit any future subdivision so that the impact could be considered.

### 6.3 **Impact assessment**

6.3.1 Paragraph 26 of the NPPF requires out of centre developments to also assess the impact on existing, committed and planned investment and the impact on the vitality and viability of the town centre and wider area, up to five years from the time the application is made. Only where the impact is significant should this be used as a reason to refuse.

6.3.2 The Practice Guidance on Need, Impact and the Sequential Approach also comments on impact recognising that new retail developments will have an impact but this is not always a bad thing as new development often enhances choice, competition and innovation. The NPPF seeks to prevent significant adverse impact which would undermine the vitality and viability of the town centre and not to prevent competition or increased choice.

6.3.3 As detailed in section 6.1 above policy MD10b of the SAMDev sets a local threshold for impact assessments of 500sqm for out of centre uses in Shrewsbury. The Planning and Retail Assessment includes this impact assessment. The report notes that the Shrewsbury Retail Study is from 2014 and confirms that the town centre is healthy and performing well. There are a mix of national and independent store operators and the town centre also has historical and tourist interest and a good level of residential properties within the town. Officers acknowledge that the 2014 information is now 3 years old and that other out of centre retail

developments have been carried out in that time. The town centre shopping centres redevelopment has not happened and there are some empty units which may not have been empty in 2014. However, it is officer's opinion that the town centre continues to be healthy and viable

- 6.3.4 The agent considers that Meole Brace will not compete with the town centre, including the proposed redevelopment and investment of the existing shopping centres as the town centre investment is focused on mid to high end fashion retailing. The agent comments that Meole Brace complements existing retail facilities and the town centre redevelopment is intended to deliver a step change in the town centre offer. This is the agent's view but is not wholly clear, both Meole Brace and the town centre offer fashion retailing. Officers accept that Meole Brace provides a different offer for retailers and shoppers in that it provides large format units, however the existing open A1 units permit fashion retailing and there is no guarantee that the town centre redevelopment will be able to provide for mid-high end fashion. As such officers consider it is highly important for Meole Brace to continue to provide a different scale of retail units to the town centre.
- 6.3.5 Included in the impact assessment is an expenditure growth calculation, based on Experian data, which suggests sufficient growth in 2017-2022 to accommodate the proposed retail unit at Meole Brace and the redevelopment of the Riverside. Given all of the above the agent concludes that the trade diversion from the town centre will be minimal, the proposed unit at Meole Brace will not have a significant impact and will improve the overall retail offer across the town.
- 6.3.6 Objections have been received on behalf of the owners of the town centre shopping centres, Shrewsbury Business Improvement District and the previous local member, Councillor John Tandy (objecting when he was local member). The concerns raised are about the retail impact of the proposed development on the town centre. The objections relate to the impact on the existing town centre currently and the impact on the future redevelopment of the town centre. The objection on behalf of the town centre considers that another open A1 unit on Meole Brace would have an adverse impact on the planned and committed investment into the town centre redevelopment, which is allocated within the local plan, and also on the overall vitality and viability of the town centre.
- 6.3.7 The agent's response questions the deliverability of the Riverside redevelopment and therefore whether it should be considered as a committed development but also comments that Meole Brace does not compete with the town centre and that this is evidenced by the number of operators in both locations. The agent considers that their submitted retail statement clearly shows that there would not be a significant adverse impact.
- 6.3.8 However, as noted above the retail impact assessment, as with the sequential test, is heavily geared around the size of the unit and the end user being Sports Direct. It is clear within the retail statement that the agent states this application is for a specific need not a speculative proposal. Although during the consideration of the application the agent has sought to argue that the proposal should be allowed for open A1 retail use officers do not consider that the impact assessment, or



sequential test, is passed for an open A1 use. The agent seems to be trying to argue that there isn't an impact because the new unit is for Sports Direct who need a larger store and that this would not compete with the town centre, whilst also seeking to argue that the permission should allow any retailer to occupy the unit and even for the retail park owner to subdivide the unit.

- 6.3.9 As with the sequential test issue the Council Policy Officer has provided advice on the impact assessment (detailed in section 4 above). The Riverside scheme is allocated in the Development Plan, and is therefore a planned private investment within the context of NPPF paragraph 26. When developed it will support the ongoing vitality and viability of Shrewsbury Town Centre. The impact on the delivery of the allocated Riverside site is therefore of significant importance when assessing the proposal. The Policy Officer has raised concerns that an open A1 permission would not allow the Council to consider the impact of any future occupier, beyond Sports Direct, on the town centre and Riverside redevelopment.
- 6.3.10 It is officer's opinion that the retail impact of an open A1 use or potential subdivision of the proposed unit have not been fully assessed and are likely have a greater impact on the planned town centre redevelopment than has been considered. It is acknowledged that the Riverside redevelopment consent previously granted has now lapsed, however this is still a planned development within the SAMDev Plan. The consent was granted at a time when the Country was only just emerging from a period of significant economic uncertainty. There was clearly a hope that the planning permission would be developed and end users were identified. However, the economic recovery has not developed as quickly as anticipated and this may have influenced the redevelopment and been the reason for the delay.
- 6.3.11 Notwithstanding the fact that the previous consent has now lapsed officers are aware that discussions regarding redevelopment of the town centre shopping centres have been ongoing. A redevelopment scheme which provides additional floor space within the town centre is still a Council priority and allocated development in the SAMDev Plan. The NPPF requires the impact assessment to consider existing, committed and planned investment in the centre and although the expiry of the planning permission means this development is no longer committed it remains a planned proposal. The site's owners UKCPT continue to be committed to the site's redevelopment in the medium term. The New Riverside scheme should therefore continue to be considered a major town centre investment opportunity and therefore requires suitable and appropriate protection.
- 6.3.12 Restricting the use of the new unit at Meole Brace would allow for the construction of a new unit without harming the potential for the future redevelopment of the Riverside. As such officer's recommendation is that the new unit should be restricted to Sports Direct and after that it should be restricted to bulky goods retail only. Obviously Sports Direct may keep it for longer, however if they don't this would prevent any other retailer except bulky goods retailers from occupying the unit without further planning consent. This would allow the unit to be used by retailers such as a DIY store or white goods sales without consent but also allow for other users to apply for planning consent and for the impact on the town centre

and Riverside to be reconsidered.

- 6.3.13 Officers acknowledge that the existing units are in the main open A1 but this does not mean that any new units should automatically also be open A1. The recent consents for mezzanine floors on Meole Brace have been restricted to bulky goods use and any new retail park development elsewhere in the County have been restricted to bulky goods. Meole Brace has open A1 due to its age. However the focus is for town centre first retail and therefore out of town retail should not prejudice the town centre. Without a restriction on the use the unit proposed could have a significant adverse impact on the vitality and viability of the town centre.
- 6.3.14 The applicant's agent has objected to the proposed restrictive condition on the basis that it is not acceptable to the site operator or Sports Direct. They have advised that the draft lease does not allow for personal consents or restricted goods. However, this is a matter of a lease between the site owner and the operator and not necessarily a material planning consideration. Obviously the operator would prefer an open A1 permission as this opens the unit to more potential end users. However, as noted above it is officer's opinion that the information submitted does not clearly show that an open A1 use would be acceptable as it is framed around the noted first user, Sports Direct.
- 6.3.15 The applicant's agent has also argued that their retail statement does assess the proposal as an open A1 use and concludes that there would not be a significant adverse impact on the town centre or on the planned investment of the Riverside redevelopment. Officers do not agree that the retail assessment does sufficiently assess the site for open A1 use and it is therefore officer's strong opinion that a restrictive user condition is required.
- 6.3.16 The applicant would have the opportunity to either apply to remove the condition, at which time they could submit further information, or they could appeal the condition. There is a risk of an award of costs if the Inspector found the Council had behaved unreasonably. However, officers consider that the condition is necessary given the potential for a significant adverse impact on the vitality and viability of the town centre and the planned redevelopment of Riverside.
- 6.4 **Layout of site, scale and design of proposed 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.
- 6.4.2 The Design and Access statement submitted with the application acknowledges that the site is challenging as it sits between existing retail units which have a specific design character. The proposed unit, due to wanting a full first floor, will be higher than the existing units and therefore the challenge has been fitting a new building in to the existing design. However, the agent also comments that the site has limited public frontage and therefore only the short section of the front visible to

the car park will have any design features with the remainder of the building clad in composite cladding.

- 6.4.3 The design as submitted with the application proposed a two storey building with a predominately glazed front elevation with the glazing set between brick pillars and under a brick plinth. A shallow pitched roof sits behind the brick plinth. Concerns were raised by officers that the design did not reflect the designs of the existing retail units as the roof shape is significantly different and the full height two storey proposal does not allow for the same pitch of roof as the existing buildings. Officers suggested that the design should either fit it better, by designing an elevation with a similarly pitched section of roof, or be more modern in appearance by being finished in different materials.
- 6.4.4 Negotiations between the case officer and the agent have resulted in a design which provides a pitched roof and also different materials between the glazing on the front elevation. The roof, due to the full floor two storey proposal, is not the same height as the buildings either side, it is now proposed with matching materials and a matching pitch but does not extend to the eaves of the existing buildings either side.
- 6.4.5 It is considered that the amendments to the roof and the materials, along with the acknowledged limited frontage, will reduce the impact of the design of the proposed unit on the overall character of the retail park. The design is not exceptional or innovative or matching the existing retail park and as such it is considered that the design could be better. However, officers accept the constraints imposed by the site and the requirement of the site operator to provide a full two storey retail unit.
- 6.4.6 Officers therefore consider that the amended scheme is appropriate and acceptable for the site and the wider area and will result in a scheme which is not visually intrusive or harmful to the character or amenity of the area and as such complies with the policies of the Core Strategy and SAMDev.
- 6.5 **Access, car parking and accessibility to town centre**
- 6.5.1 Paragraph 32 of the NPPF advises that developments that generate significant amounts of traffic should be supported by a Transport Statement and promote sustainable modes of travel, safe accesses and improvements to existing transport networks. Core Strategy Policy CS6 states that proposals likely to generate significant levels of traffic should be located in accessible locations where opportunities for walking, cycling and use of public transport can be maximised and the need for car based travel can be reduced.
- 6.5.2 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.

- 6.5.3 There are three issues to be considered: the technical acceptability of the access and parking arrangements within the site; the capacity of the local highway network, junctions and traffic movements; and the accessibility of the site by means other than the private car. Shrewsbury Town Council has no objection in principle to the proposal but have raised concerns about the traffic impact. However, the town council comments appear to acknowledge that the issue already exists. Local residents also have objected on the basis of increase in traffic; queueing traffic; that the access is not sufficient; and that the existing car park and roads are in poor condition. Local residents have suggested a new access should be provided off Oteley Road for vehicles and pedestrians and this is also reflected in the comments from John Tandy, the previous local member for the area.
- 6.5.4 Access to site and parking. The application site is within the Shrewsbury development boundary, within the A5 bypass and also within the existing Meole Brace retail park. Access is via an existing roundabout on the A5112 which connects to the A5 at Dobbies roundabout. Oteley Road runs to the south of the site and the railway to the east with pedestrian access available under the railway line but no formalised pedestrian access off Oteley Road.
- 6.5.5 Improvements are proposed within the retail park. A separate application was submitted, and has been approved, to provide a left turn only lane from the retail park onto the A5112 roundabout and also to provide two lanes on the approach to the Sainsbury/ Pizza Hut roundabout to provide a right turn lane into Sainsbury. The agent considers that these two improvements will increase capacity on the internal road network and therefore improve traffic flow and reduce queuing and delays.
- 6.5.6 The above works are all within the retail park and are intended to improve traffic flow. The TA comments that the improvements are not a requirement of this application for a new unit on the retail park. They are proposed as stand alone improvements as there is no evidence that the proposed new retail unit would result in a pro-rata increase in traffic numbers.
- 6.5.7 Following the receipt of objections and concerns raised by the Council Highway Officer further amendments have been sought. It is officer's opinion that additional improvements to the existing road layout within the retail park would help to increase traffic flows around the park and also to get traffic into and out of the park. The Highway Officer met with the applicant's highway consultant on site and discussed a number of different parts of the site. The results of the discussions are shown on the latest amendments.
- 6.5.8 The amendments remove one of the three raised pedestrian crossing points. This has been raised as a concern locally. Officers accept that the removal of the raised platform, which is currently a traffic calming measure, will improve traffic flow but is not considered to increase risk of speeding within the site as the other two platforms remain as do the roundabouts which also calm traffic. A further raised platform, which does not provide a pedestrian crossing, is also to be removed. The

assessment carried out as part of these recent amendments advises that the traffic speed at the point of these platforms is unnecessarily slow and therefore the removal of these two would be beneficial. However, it is officer's opinion, as reflected in the local objections, and the Highway Officer's advice that the pedestrian crossing point should be re-instated after the removal of the raised platform to provide safe crossing point for pedestrians.

- 6.5.9 Also proposed is the creation of two lanes at the roundabout adjacent to Marks and Spencer and the creation of an entrance to the main car park, as well as the existing exit, at this roundabout. This is also intended to improve traffic flows around the car park and was suggested by the Council Highway Officer.
- 6.5.10 As noted above the proposal does not propose to provide any additional car parking spaces and seeks to rely on the car park already available at the retail park. The only changes proposed within the car park are to ensure that a level access is provided to the store door. The TA confirms that the applicant has carried out a review of the car parking and traffic flow and recommendations are made to improve efficiency and capacity. The improvements are to the internal road network rather than car parking space capacity. As detailed in section 4 above the Council Highway Officer has confirmed that the proposals provide a degree of betterment to internal flows and that a highway objection could not be sustained. It is unfortunate that alternative access points are not being considered at present but the current proposal would not justify requiring additional access points, on the basis of the traffic increase from the proposed unit. It would not be reasonable or relevant to the current application to either refuse consent on the basis of the proposal not providing an additional access.
- 6.5.11 With regard to parking, the current planning policies do not include any parking standards. Parking has to be provided at a level which is appropriate for the development; however there are no set minimums or maximums. The previous Shrewsbury and Atcham Borough Council policies did include parking standards. For this form of development the parking requirement would be 1 space per 20sqm which would therefore require 139 parking spaces. However, the agent, within the TA suggest that the increase in customer numbers will be less than the increase in the floor space due to linked trips (existing shoppers visiting the new unit on the same trip as visiting other units). The TA comments on other appeal decisions across the Country where a 100% increase in floor area have resulted in a 19% increase in traffic. The current proposal is for 2,788sqm on a retail park with 13,023sqm existing floor space, this therefore equates to a 21.4% increase in floor space and, using the above appeal, an estimated 4.1% increase in traffic.
- 6.5.12 Using the survey data carried out by the applicant this would equate to an additional 55 two way movements during the Saturday peak hour. Given the surveyed traffic movements are 1,353 during this peak hour, in July, the applicant considers that an additional 55 movements will have a minimal impact. It has been accepted that there are currently empty units on the retail park and also that traffic will increase during the Christmas period, however the TA suggests that even with full occupancy of the units there would be space capacity in the car park. The Council Highway Officer has accepted this conclusion and it is considered that the

existing car park is sufficient to provide for the new unit.

- 6.5.13 Highway network, junctions and traffic. A Traffic Assessment (TA) has been submitted with the application. The TA advises that, on the basis of the assessments undertaken, Meole Brace roundabout carries high volumes of traffic due to the number of connecting arms linking to residential areas, the A5 and the town centre. However, the TA advises that the predicted increase in traffic, as noted above, would not have a severe impact on the highway network. Many of the traffic issues on the highway network, junctions and traffic volumes are existing issues not created by the proposed development and the evidence submitted shows that the proposed development will not exacerbate the existing issues to a degree which would warrant refusal of the current application.
- 6.5.14 Taking into consideration the objections from the local community noted above the Council Highway Officer has agreed with the conclusions of the TA with regard to traffic movements off-site. The issue is existing, there is a high level of traffic on the surrounding road network. The alterations recently completed to the Meole roundabout have alleviated some of the queueing. The amendments to the internal layout of the site and the previously approved left-turn exit lane will help to alleviate traffic within the site and therefore will have a positive knock-on effect to the surrounding roads by getting traffic into the retail park quicker.
- 6.5.15 Accessibility. The TA comments that the main pedestrian access to the retail park is from the vehicular access roundabout on the A5112 with a secondary pedestrian access adjacent to the pedestrian crossing over the A5112. The TA also notes that there is an off road pedestrian and cycle route along the A5112 and therefore suggests that there is a safe pedestrian and cycle access into the site. Comments from local residents differ in that residents consider that the pedestrian access from the crossing over the A5112 is the main point of pedestrian access.
- 6.5.16 The scheme does not propose any changes to the pedestrian/ cycle access into the site. Although the internal layout changes detailed above remove two of the raised platforms from within the site and one of these currently holds a pedestrian crossing it is officer's opinion that the pedestrian crossing should be provided across the level access road. This can be achieved through an appropriately worded condition.
- 6.5.17 As with traffic and parking the proposed new unit will not significantly increase pedestrian and cycle movements. As such, as with traffic access, although a new pedestrian access may be beneficial for the retail park and accessibility for pedestrians and cycle traffic, it is not necessary to make the development acceptable and therefore the Council could not insist on a new pedestrian access point.
- 6.5.18 The site is accessible on foot and by cycle, it will remain accessible after the development. The development will not significantly increase pedestrian or cycle movements.
- 6.5.19 Conclusion. Overall it is considered that satisfactory access for vehicles,

pedestrians and cycles is already available, it is acknowledged that there are existing issues on the retail park and the surrounding highway network, however the current proposal would not significantly increase traffic movements. The proposed enhancements within the retail park will improve traffic flows within and around the site. Officers accept that a further new access to the retail park would also improve flows but the scale of the current proposal is not such that would justify requiring the construction of a new access. This matter needs to be considered separate to the current application. The site is considered to be in an appropriate location to promote sustainable means of transport, especially for staff but also for some of the customer movements. As such officers consider that it is concluded that there are no highway grounds on which to refuse the application and it is considered to comply with the relevant parts of the NPPF and the local policies.

- 6.5.20 The applicant has also committed to undertake a study of vehicle and pedestrian flows within the retail park and consider further improvements. Additional pedestrian access may be provided, subject to this further survey work, adjacent to Costa coffee to connect to the improved pedestrian route crossing the Meole roundabout. However, this is to be dealt with outside of the scope of this planning application and is not a matter that can be controlled by condition as, as noted above, are not necessary to make the current application acceptable in planning terms.

**6.6 Flooding, drainage and contamination**

- 6.6.1 Policy CS18 'Sustainable Water Management' of the Shropshire Core Strategy indicates that development should integrate measures of sustainable water management to reduce flood risk and avoid an adverse impact on water quality and quantity. Policy CS6 'Sustainable Design and Development Principles' also requires all developments to consider ground conditions including potential contamination.
- 6.6.2 The application has been submitted with a drainage strategy report which advises that the proposed development does not increase the catchment area in that the proposed building will replace existing drained hard standing whilst also acknowledging that the development of the site will need to provide 50% betterment to the existing discharge rate for surface water run off. This will be done through a sustainable drainage system and using below ground attenuation and flow control to restrict the discharge rates.
- 6.6.3 Foul drainage is to be connected to the existing drainage system which links to the public sewer system outside the site. This is the preferred method of dealing with foul drainage and is considered to be acceptable.
- 6.6.4 The Council Drainage Consultant has confirmed that the proposals are acceptable and recommends that the details should be the subject of a planning condition should permission be granted. In principle the site is capable of being developed with a suitable drainage system which would meet the requirements of CS18 and also the betterment requirements of the council.

## **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 restricted A1 retail unit on the application site would not have a significant adverse impact on the vitality and viability of Shrewsbury town centre and that there are no sequentially preferable sites. However, both the sequential assessment and impact assessment are only passed on the basis of the unit being restricted to sports goods or bulky goods.

7.2 It is also considered that the layout, scale and design of the proposed building, as amended, is appropriate for the end uses and the context of the surrounding site; the level of parking and service delivery space is acceptable and accords with adopted policy; and the improvements to the internal access routes will mitigate the additional traffic flow and provide enhancements to the existing situation.

7.3 Accordingly, subject to the conditions listed, the proposal is considered to comply with the Development Plan Core Strategy policies CS2, CS6, CS7, CS17 and CS18 and with the requirements and aims of policy CS15 in seeking to protect the vitality and viability of Shrewsbury Town Centre. The scheme is also in accordance with policies MD1, MD2, MD10a, MD10b and S16 of the Shropshire Site Allocations and Management of Development (SAMDev) and the National Planning Policy Framework (NPPF), specifically paragraphs 23 to 27. In arriving at this decision the Council has used its best endeavours to work with the applicant in a positive and proactive manner to secure an appropriate outcome as required in the National Planning Policy Framework paragraph 187.

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

### **8.1 Risk Management**

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

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

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



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

## 8.2 **Human Rights**

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

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

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

## 8.3 **Equalities**

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

## 9.0 **FINANCIAL IMPLICATIONS**

9.1 There are likely financial implications of the decision and/or imposition of conditions if challenged by a planning appeal or judicial review. The costs of defending any decision will be met by the authority and will vary dependant on the scale and nature of the proposal. Local financial considerations are capable of being taken into account when determining this planning application – in so far as they are material to the application. The weight given to this issue is a matter for the decision maker.

## 10. **Background**

### Relevant Planning Policies

MD10A - Managing Town Centre Development

MD10B - Impact Assessments for Town and Rural Centres

Settlement: S16 - Shrewsbury

National Planning Policy Framework

CS1 - Strategic Approach

CS2 - Shrewsbury Development Strategy

CS6 - Sustainable Design and Development Principles

CS7 - Communications and Transport

CS15 - Town and Rural Centres

CS17 - Environmental Networks

CS18 - Sustainable Water Management

## 11. **Additional Information**

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

Cabinet Member (Portfolio Holder)  
Cllr R. Macey

Local Member  
Cllr Ted Clarke  
Cllr Jane Mackenzie  
Cllr Tony Parsons

Appendices  
APPENDIX 1 - Conditions

## **APPENDIX 1**

### **Conditions**

#### **STANDARD CONDITION(S)**

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

Reason: To comply with Section 91(1) of the Town and Country Planning Act, 1990 (As amended).

2. The development shall be carried out strictly in accordance with the approved plans and drawings

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

#### **CONDITION(S) THAT REQUIRE APPROVAL DURING THE CONSTRUCTION/PRIOR TO THE OCCUPATION OF THE DEVELOPMENT**

3. Prior to the development being first opened to trading the internal highway measures, as shown on Drawing No.1656-01, shall be implemented in accordance with engineering details to be first submitted to and approved in writing by the Local Planning Authority. As part of these works the pedestrian crossing on the southern raised platform shown to be removed shall be re-instated at highway level and maintained as such in perpetuity.

Reason: In the interests of highway safety.

4. Prior to the above ground works commencing samples and/or details of the roofing materials and the materials to be used in the construction of the external walls shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in complete accordance with the approved details.

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

#### **CONDITION(S) THAT ARE RELEVANT FOR THE LIFETIME OF THE DEVELOPMENT**

5. Notwithstanding the provisions of the Town and Country Planning (Use Classes) Order 1987, or any subsequent re-enactments, the retail unit hereby approved shall only be used for the sale of sports goods by Sports Direct or for the sale of the following non-food bulky goods:

- DIY, bulky furnishing and major household appliances
- pet foods and pet supplies
- motor parts and accessories
- bicycles and cycling accessories
- drinks sold in bulk
- kitchen and cookware items

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

6. The retail unit hereby approved shall be occupied as either one single unit or as two units and not be subdivided to more than two units.

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

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