

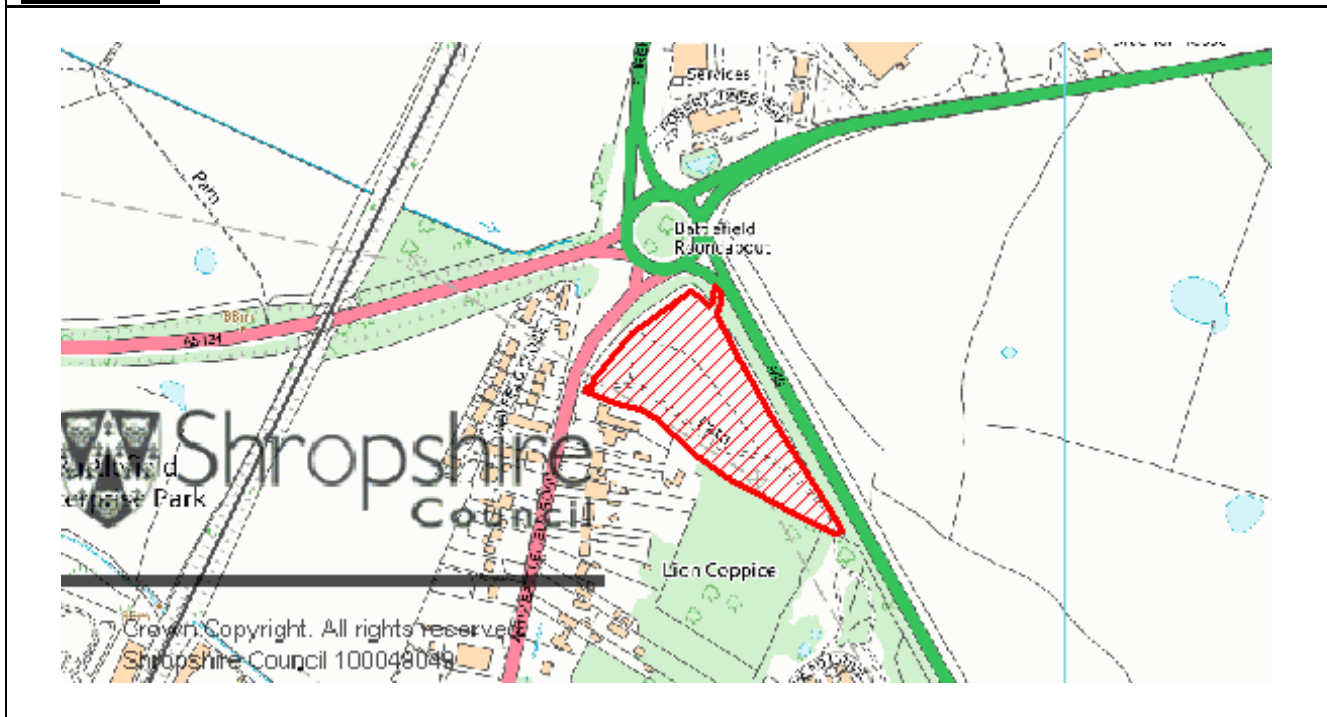
### Development Management Report

Responsible Officer: Tracy Darke, Assistant Director of Economy & Place

#### Summary of Application

<b>Application Number:</b> 21/05804/FUL	<b>Parish:</b>	Shrewsbury Town Council
<b>Proposal:</b> Erection of a foodstore (Use Class E), substation, access, associated car parking and landscaping		
<b>Site Address:</b> Proposed Development Land South Of Battlefield Roundabout Battlefield Shrewsbury Shropshire		
<b>Applicant:</b> Aldi Store UK Limited		
<b>Case Officer:</b> Mike Davies	<b>email</b>	: mike.daves.planning@shropshire.gov.uk

**Grid Ref:** 351650 - 316645



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

## REPORT

### 1.0 THE PROPOSAL

- 1.1 The application is for a food store (Use Class E) (1,880 sq.m Gross External Area; 1,804 sq.m Gross Internal Area; 1,332 sq.m net sales area) to be operated by Aldi Stores UK Limited. The development will include 146 on site car parking spaces, including 9 disabled bays, 9 parent and child spaces and 4 spaces for electric vehicles with a charging point. There will also be space for 12 bicycles to be accommodated outside the store.
- 1.2 The proposals also include the creation of a new access/egress into the site from Battlefield Road, a service yard for deliveries and landscaping treatment around the site. A significant change from the previous proposal on this site is the addition of a left-hand turn exit out of the site which will take traffic north along the A49 to the Battlefield Roundabout, which will reduce traffic queuing to leave the site. If planning permission is granted, Aldi intend to vacate its current store at Arlington Way, prior to the commencement of operations in the new store. This site will then be marketed as an employment site as a direct trade off for this site which is allocated for employment purposes.
- 1.3 The proposed site layout is informed by the design parameters of the site, such as the direction of principal views into the site, a fixed access position along Battlefield Road, an existing footpath through the site, a veteran tree and a pylon with overhead cables.
- 1.4 The proposals integrate the veteran oak tree as the green centrepiece of the development. The proposed store is located to the East of the site, running alongside Eastern boundary to allow maximum customer and occupier visibility into the scheme from Battlefield Roundabout.
- 1.5 The parking spaces included as part of the proposed development will be laid out in a regular pattern to the north and west of the application site. Accessible parking spaces will be located to the west of the store entrance. Cycle parking will also be located adjacent to the store, offering maximum security by means of natural surveillance.
- 1.6 As part of the applicants offer they are proposing to enter into a S.106 Agreement with the Council to market their current site for employment purposes only for a specified period of 10-years. Effectively, the applicant is proposing a land swap in relation to the employment site allocation.

### 2.0 SITE LOCATION/DESCRIPTION

- 2.1 The site is located between the A49 and A5112 to the south of Battlefield Roundabout. The site extends to 2.13 hectares (5.27 acres) and is predominantly greenfield land with naturally regenerated scrub along its north-western and north-eastern boundaries.

- 2.2 There is an existing tarmacked 3-metre-wide footpath/ cycleway runs adjacent to the southern boundary of the site and connects the site to a recent development of 230 dwellings to the south-east of the site (15/00673/REM).
- 2.3 There is an existing high voltage electricity pylon located within the south east part of the site. The site is crossed by the National Grid's high-voltage electricity pylons, which run along the south-western boundary.
- 2.4 The site is located on the edge of the Shrewsbury, around 4.5km north of the town centre.
- 2.5 Beyond the immediate boundaries of the application site, the surrounding area is characterised by residential and industrial uses.
- 2.6 The site lies south of Battlefield Roundabout on the northern edge of Shrewsbury. The site is bounded to its east by the A49 trunk road/ Shrewsbury bypass, to its west by the A5112 Battlefield Road and to its south by residential properties and Lion Coppice woodland. There is also a veteran Tree in the middle of the site which is proposed for retention as a centre piece feature.
- 3.0 REASON FOR COMMITTEE/DELEGATED DETERMINATION OF APPLICATION
- 3.1 The Town Council objects to the proposals as does the ward member. The officer recommendation is contrary to the views of the Town Council and Ward Member. The matter was referred to the Chair/VC who determined that the application should be determined by the Northern Planning Committee.
- 4.0 Community Representations
- 4.1 - Consultee Comments
- 4.1.1 **Cllr Dean Carroll (Ward Councillor)** - As the local Councillor for this area I wish to formally object to this application, I previously objected to application 20/02631/FUL and the substantive objections to that application remain valid for this application too. I shall summarise below the material planning grounds on which this objection is based.

1. Planning Policy: In Shropshire Council's SAMDev Plan 2006-2026 this site, identified as ELR007, was allocated as employment land. According to Core Strategy Policies CS14 and MD4 employment land is for uses of Class B, where other uses should only be considered in exceptional circumstances. The proposed new supermarket would fall into use Class E. The principle of protecting sites for employment use is well established and a legal requirement for setting a Local Plan. More than that, it is vital economically for the growth and relocation of businesses locally that will supply job and learning opportunities for the local workforce. The claimed net increase of 10 posts does not justify the loss of this promising employment site of over 5 acres. The applicant proposes to swap land use with the site of the existing Aldi store on Arlington Way, a smaller site with existing buildings on that would need to be fully cleared before any redevelopment could commence. Given the lower margins inherent with developments for employment uses I would seriously question the viability and sustainability of this

offer and request it be discarded from consideration for this application. If a greenfield site on a strategic gateway location into Shrewsbury from two trunk roads is not a viable or attractive proposition, how are we meant to believe that the complex redevelopment of a brownfield site surrounded by other uses would be any more viable or attractive? This is a strategic employment site, regardless of size, because of its location at the northern entrance to Shrewsbury from the A49, A53 and should it be constructed also the North West Relief Road, it will be a marker for what visitors and even potential investors in the town should expect from Shrewsbury so we should be demanding the highest standards of both use and design in this location; a well-planned employment site offering good job opportunities and built to the latest standards would do that, a carbon copy supermarket would not.

2. The original consideration of access to this site in the SAMDev Plan 2006-2026 was on the basis of the site as employment land of B Class uses, there is no reference in the applicant's transport assessment to what the difference in generated vehicle movements would be between the envisioned Class B uses of the site and the proposed application. The development of a popular and enlarged supermarket on this site would create far more vehicle movements and throughout the day compared to Class B uses on a site of this size. In determining a separate application further down Battlefield Road for a small housing development Highways Development Control accepted that Battlefield Road was already at or over capacity when taking into account sites already granted planning permission so the net increase in this application compared to the originally envisioned use would also take Battlefield Road over capacity. I contend that this would have a materially adverse impact on the operation of the adjacent highways network.

3. Account needs to be taken of both the comments of the Ramblers Association and the presence of an ancient oak tree in the centre of the proposed development. Whilst the plans do show retention of the oak tree the aspect of an ancient oak should also be taken into consideration. Attention should also be taken to the line of the Right of Way to ensure its enduring protection.

On these grounds I believe this application should be rejected. This site was allocated for employment uses and I believe that it has the capability to deliver small scale, high quality employment opportunities in this part of Shrewsbury and enable the expansion of local businesses which would be lost should this application be approved. If it is the intention of officers to approve this application, then I formally request it be brought before the North Planning Committee for determination on the basis of the material planning reasons above

4.1.2 **Shrewsbury Town Council** - The Town Council object to this application on the grounds of Highway safety. The proposed vehicular exit on to the A49 is a dangerous proposal. The exit is very close to the roundabout at Battlefield and is a danger for car users leaving the food store to join the A49. This will only add to the traffic issues that exist in this already congested location.

4.1.3 **Highways England** – No objections. The development site benefits from an extant planning permission reference 21/01374/FUL for the erection of a food store and associated car parking, access, landscaping and a substation. National Highways

had reviewed the information submitted in support of this application at the time and noted that the development will replace the existing Aldi food store on Arlington Way, Shrewsbury. Based on our review and independent assessments, National Highways did not anticipate the development to result in any detrimental impact on the SRN in the area. Therefore, National Highways issued a 'no objection' response on 19 March 2021.

Having reviewed the information submitted in support of the current consultation, we note that the proposed development detailed within the current planning application remains the same as that of the previously consented application reference 21/01374/FUL. The only difference noted in the current planning application relates to the access arrangement proposed for the development. In addition to the main vehicular access proposed from the A5112 Battlefield Road, an egress only arrangement has been proposed onto the A49.

We have reviewed the traffic flow diagrams presented within the Transport Assessment (TA) submitted, and do not anticipate any material impact on the SRN in the area.

In light of the above, our previous view remains valid and we therefore have no concerns to raise. As such, National Highways offers no objections to this consultation.

- 4.1.4 **SC Highway Authority** – Whilst planning consent was previously granted under reference 21/01374/FUL it is understood that this was subsequently quashed and hence the resubmission to deal with matters not adequately dealt with at the time. This did not involve highway matters and the current application has not materially changed other than the incorporation of a left out exit onto the A49. In this regard you will recall the concerns of Members during the planning application committee debate with regard to vehicles exiting the site onto Battlefield Road and indeed raised this potential vehicle exit option. This has subsequently been looked at by the applicant and their Transport Consultant. Importantly a Stage 1 Road Safety Audit has been carried out and issues that have been raised have been addressed. As part of the design process a further Stage 2 Road Safety Audit would be undertaken and indeed following construction then a Stage 3.

At the outset, the proposal relates to an allocated site in the SAMDev and therefore the principle of developing this site has been established through the local plan process and examination. However, whilst it is acknowledged that the identified use proposed for this site is employment land, it is understood that Aldi are prepared by Section 106 Agreement to offer the existing site off Arlington Way from retail to employment land as compensation for the current application proposal to proceed favourably.

The current application is supported by a Transport Assessment (TA) and following further discussions additional information has been submitted in respect of concerns raised regarding traffic generation and access to the site off Battlefield Road in proximity of the Battlefield Roundabout entry and exit. Further sensitivity assessments have been carried out, a Stage 1 Road Safety Audit of the junction onto Battlefield Road and parking accumulation information which relates directly to

the existing Aldi store off Arlington Way in 2018 and 2019 i.e. pre-Covid times. The latter parking accumulation details are interesting as they show the arrival and departures throughout the day and demonstrate how customer vehicle movements are fairly steady throughout the day, though this is not untypical of how Aldi stores operate in Shropshire. When considering how the smaller and older Aldi stores operated a number of years ago, although the new stores are larger and the spend and dwell time of customers has increased, they do not exhibit traffic problems and all the new sites now operating in Shropshire function without difficulties in relation to parking demand and traffic.

As might be expected, the TA does not raise any fundamental traffic related concerns and considers that the development traffic can be accommodated on the network. Locally however we know that Battlefield Road does suffer from congestion at peak times with queuing back from the Battlefield Road Roundabout towards the Shillingston Drive access. Notwithstanding the conclusions reached in the TA, the position of the highway authority is that this development would have a negative impact at peak traffic periods. The test however in planning terms is whether the cumulative traffic impact of the development would be severe and the view of the highway authority is that the 'severe' impact threshold would not be triggered to justify a highway objection on capacity or safety grounds. The Northwest Relief Road planning application is currently under consideration and at present has assessed that minimal highway mitigation is considered necessary on the A49 southern approach to Battlefield Roundabout. That however is still under review at this stage.

The access has been safety audited and indicates no fundamental road safety concerns. However, in discussions with the applicant's transport consultant it has been acknowledged that the right turn out of the site onto Battlefield Road represents the more difficult movement, particularly at peak times. The revised access drawing now shows greater vehicle stacking for the left turn and right turn out manoeuvre and this is considered a positive amendment to the access. A 'Keep Clear' marking is also shown on the northbound lane of Battlefield Road to assist the right turn out of the site, though the difficulty will be at peak traffic periods along Battlefield Road when there is queuing traffic. What is likely to happen in practise is that customers will adjust their shopping habits to the prevailing peak traffic periods but again the parking accumulation information sets out the pattern of arrivals and departures throughout a Friday period in 2018 and 2019 and show how those movements are relatively steady throughout the day.

Overall whilst there are negative aspects to this development, the highway authority acknowledge that this is an allocated site in the SAMDev and that to a large extent the access position is defined by the available frontage onto Battlefield Road. This is a more unusual Aldi store application as in general the site areas are quite constrained but, in this case, more space is available for landscaping and the car parking provision and servicing arrangements are considered adequate. As set out above, whilst it is considered that this development would have a negative traffic impact upon Battlefield Road at peak times, it is not considered that a highway objection based upon the planning tests of 'severe' is warranted. In addition, the access works will be dealt with under a Section 278 Agreement and subject therefore to technical review.

Based upon the above, the highway authority does not wish to raise a highway objection to the development but would ask that appropriate conditions are imposed upon any consent granted.

- 4.1.5 **SC Public Rights of Way** - Footpath 101 runs through the development area and would be obstructed by the proposed food store. However, the agent for the applicant has been in talks with Officers and a diversion application has been submitted to divert the footpath onto a different line on the ground.
- 4.1.6 **SC Historic Environment** - It is understood that the proposed development site has been allocated for employment under the SAMDev component of the Local Plan (Site Ref. ELR007). It is further understood that this application is a resubmission of the scheme previously proposed under application 21/01374/FUL, with amended access. The proposed developed site is located c. 265m east, and within the setting, of the Registered Battlefield for the Battle of Shrewsbury (NHLE ref. 1000033). Given its proximity to the battlefield, and the fact that the majority of the site remains undeveloped, it is considered that the low-moderate potential for archaeological remains associated with the battle, in the form of portable objects, to be present on the proposed development site.

Summary: No objection subject to condition. It is considered that the proposed development will not cause any harm to the significance of the Registered Battlefield as a consequence of any effects upon its setting for the reasons set out below.

The following advice is provided as a second joint consultation response on behalf the Historic Environment Team.

When assessing this application due consideration has been given to Sections 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990; Policies CS6, CS17, MD2 and MD13 of the Local Plan; the policies contained in Chapter 16 of the NPPF; and the guidance contained in the NPPG and Historic England's Historic Environment Good Practice in Planning Advice Notes 2 (Managing Significance in Decision-Taking in the Historic Environment) and 3 (The Settings of Heritage Assets).

Heritage assets are an irreplaceable resource and should be conserved in a manner appropriate to their significance, so that they can be enjoyed for their contribution to the quality of life of existing and future generations. In determining applications for planning permission which have the potential to affect the significance of heritage assets (including by development affecting the setting of a heritage asset), local planning authorities are required to consider the heritage significance of that asset.

In response to the requirements set out in Policy MD13 of the Local Plan, Paragraph 194 of the NPPF (July 2021), and the guidance contained on Shropshire Council's Shrewsbury Registered Battlefield Standing Pre-Application Advice Note, the Applicant has submitted a Heritage Statement by JLL (November 2021) and an Archaeological Desk Based Assessment by Bear Archaeology (November 2021)

which set out the significance of the assets in the surrounding area of the application site which have the potential to be indirectly affected by the proposed development.

### Shrewsbury Battlefield

In respect of the battlefield, its principal significance lies in its historic and archaeological interest.

Shrewsbury Battlefield is situated to the north-west of the application site, separated by a field, modern arterial roads and a banked train line which runs north to south. The registered battlefield is significant on account of its archaeological potential, military innovations, commemoration value and topographical integrity. The battlefield also holds group value with the Church of St Mary of Magdalene (grade II\*) and the College of St Mary of Magdalene (Scheduled Ancient Monument) which both lie within its boundary.

The Registered Battlefield is of historic interest marking the site of the Battle of Shrewsbury (1403), a momentous political moment, a pre-cursor to the Wars of the Roses, and a battle which broke the might of the Percy family, confirming the House of Lancaster on the throne. The battlefield also has archaeological significance, potentially containing the remains of arrowheads, weapons and personal effects. A mass grave of the 5,000 who were killed in battle is also allegedly marked by the Scheduled Monument and the Church of St Mary Magdalene which was built to commemorate the souls of the fallen.

It is important to consider the contribution which the application site makes to the significance of the battlefield at present in order to understand whether the proposed development would be likely to cause harm to that significance should it come forward.

The original agricultural and rural setting of the Battlefield has changed over the years but particularly in modern times through the expansion of Shrewsbury towards the battlefield. From within the battlefield, there is an appreciation of the rural character of the area with a series of agricultural fields, paths and natural landscaping. However, the construction of residential developments and a large incinerator to the south of the battlefield, in addition to the new commercial development to the east can also be appreciated from many medium and long-range views within the battlefield.

The battlefield once existed in a rural surrounding with only a handful of houses scattered nearby. However, since the 1850s, infrastructure and housing has been introduced around the battlefield, creating an increasingly semi-urban setting.

A series of commercial developments have previously been established around Battlefield roundabout creating a retail and employment hub to the east of the registered battlefield. To the south of the battlefield, modern residential development has encroached closer over the course of several decades and industrial developments have also been established, including a large incinerator which is experienced within the context of the battlefield.



The application site is a significant distance away from the battlefield and there is very limited intervisibility between the two. As identified in the Landscape Assessment, there will be some limited intervisibility between the battlefield and the Site on account of the landscape screening, modern development and intervening distance. A limited part of the roofscape of the proposed development could be glimpsed from within the Battlefield. It would be at a significant distance and in the context of the surrounding commercial development which forms a band around the east and south of the battlefield. The design of the building has sought to minimise visibility from within the Battlefield by locating the store towards the rear of the site to reduce visibility from within the heritage asset.

It is concluded then that the proposed development would have the potential to cause a very low level of less than substantial harm at the very bottom of the scale of harm. As a result, following paragraph 202 of the NPPF, this harm needs to be weighed against the public interest benefits of the proposed development in order to determining whether it is acceptable in heritage policy terms.

#### Church of St Mary Magdalene (grade II\* listed)

The significance of the Church of St Mary Magdalene derives from its age with elements of the church dating to the early 15th century, when it was built as a commemorative chapel for those who had fallen at the Battle of Shrewsbury in 1403. The church holds close links to the Battle of Shrewsbury and the Scheduled Ancient Monument, it also has a landmark value marking the location of those that fell at the Battle of Shrewsbury. The application site does not make any contribution to the significance or setting of the Church. The Site exists in the outer limits of the church's extended setting, where there is an appreciation of the semi-urban development surrounding Battlefield roundabout and also the residential development from the expansion of the town of Battlefield. As a result it is concluded that the proposed development will not cause harm to the significance of the Church as a result of the proposed development.

The application proposals which are positioned to the south east, are well removed from the College of St Mary of Magdalene Scheduled Ancient Monument (SAM) which is below ground and will not alter its setting. Overall, it is evident that the special historic interest and setting of the nearby heritage asset will remain appreciable and preserved and application proposals will have no impact on the College of St Mary Magdalene.

Officers agree with the assessment contained in the Heritage Statement submitted by the Applicant. The significant intervening distance, development and landscape screening means that the application proposals will not impact the significance or setting of the nearby heritage assets: The Battle of Shrewsbury Registered Battlefield, Church of St Mary of Magdalene (grade II\*), College of St Mary of Magdalene Scheduled Ancient Monument. Their significance will be preserved.

With regard to the archaeological interest of the proposed development site itself, and with reference to Policy MD13 of the Local Plan and Paragraph 199 of the NPPF, the Applicant has submitted an acceptable Written Scheme of Investigation

by Bear Archaeology for a programme of archaeological work. A suitable planning condition, to secure the implementation of this programme of archaeological work, is advised below.

4.1.7 **Historic England** - Declined to offer comment on the application. This can be interpreted as meaning that the application does not cause Historic England any concern and that Historic England is content for the Council to determine the application in accordance with the approach set out in the NPPF and the relevant Local Plan Policies

4.1.8 **SC Economic Growth Service** - The Economic Growth Service supports the proposal. The proposal which involves the relocation from the present site at Arlington Way on Sundorne Retail Park to land south of the Battlefield roundabout will safeguard existing jobs, create additional ones and increase the retail offer being slightly larger store. The applicant is willing to accept a planning obligation restricting marketing the site to specified employment uses. A range of employment opportunities will be provided with staff recruited locally and training schemes for apprenticeships and graduates.

There is a widening gap between the level of economic growth value added (GVA) in Shropshire compared to the national average, in addition average pay levels are lower than the regional average. The Economic Growth Strategy and the March LEP Strategic Economic Plan seeks to facilitate opportunities to increase economic potential and activities including increasing GVA.

The Lichfield Economic Development Needs Assessment study has indicated that there is an over-provision of employment land. The key issue, however, is the viability of the development of employment sites and workspace and loss of employment land to higher value uses. Whilst sites may be allocated there is no guarantee that they will be developed. The existing building is capable of being converted or the site which is serviced could be redeveloped depending on the requirements of the future user.

The planning obligation sets out that the landowner will only market the site for employment (Use Class E(g) offices, Storage and distribution (Use Class B8) Trade Counter or other suitable Sui Generis uses (including but not limited to car showrooms). The agreement is limited to a period of ten years and if no lease has been entered into for one or more of the uses then the building and its land can revert back to its permitted use class (Use Class E (a)). This longer period will ensure that there is sufficient opportunity for the economic development of the existing unit.

4.1.9 **SC Regulatory Services** - Noise: The report suggests that plant equipment would be inaudible above the competing L90 (lowest 10% background noise) at the nearest noise sensitive properties, esp 124a Battlefield Road.

The noise report states that the times of delivery would be between 0600 to 2300 and hints that 2200-2300 will be the quietest time. The Delivery noise period is based on the LAeq of 60 dB(a) at 10 m, this is by definition an average noise level which realistically takes into account the peaks, for which distance attenuation and

Predict software modelling show it to be 35-40dBA at no. 124 (White Lodge) and a further impulsivity penalty has been modified by an extra 3dB for the BS4142 assessment to make it 39dB(A). I have measured that it is around 80m from the proposed location of the delivery area to White Lodge, (My cruder and basic distance attenuation of 60dB at 10m from the delivery area make it to be around 42 dB at 80m though so I presume that absorption and topography have taken out around 5dB.)

I would note that the delivery period is quoted to be 50mins to 1hr 20 mins hours long, and it could be the case that the 2300hr arrival would extend the delivery period well past midnight, where the L90 is 37dBA whereas the predicted dB is 39dB, notwithstanding the noisier vehicle arrival and departure and the duration of unloading I would suggest that the delivery time be conditioned as such for deliveries between 0600hrs and 2300hrs to account for this.

Contaminated land Response: A Report by GIP; Ground Investigation for a Proposed Commercial Development at Battlefield, Shrewsbury; Report Ref. KCD/29232, 21st August 2020; FINAL has been submitted in support of this planning application.

The results of the site investigation have not identified any potential risks to human health, controlled waters or from ground gas and therefore Regulatory Services has no comments to make in respect of this application from a contaminated land perspective.

- 4.1.10 **County Arborist** - Overall the arboricultural impact is low. The two veteran Oak trees are to be retained and given full protection in accordance with BS 5837 2012 "Trees in relation to Design, Demolition and Construction recommendations for tree protection" Apply the tree conditions listed below to any approval.

#### Report

This is an open grass site with curtilage scrub and thicket hedges (some recently cleared) with a protected veteran Oak tree and a second Oak tree on the SW boundary of the site.

The veteran Oak (T1) is protected by the Shropshire Council "Land south of Battlefield" TPO 2020 and has been retained and described as the "Green centrepiece of the development". As a veteran the correct maximum root protection area of 15m radius has been applied with the tree retained in open space. The root protection area (RPA) is shown as wildflower meadow with scrub cleared. This has the potential to damage the RPA – any clearance of scrub should only be done by hand with no machinery used in the RPA and this area treated with an organic mulch as an alternative to grass/ meadow proposed. There should be no changes in levels around the tree or within the RPA by the addition of soil for example. This work should be supervised by a qualified arboriculturist as stated in condition 2 below.

Protective fencing for a second Oak tree in the SW corner and a barrier 15m from the edge of Lions Coppice (the adjacent priority habitat deciduous woodland) is

shown on the submitted ACS Tree Protection Plan.

Loss of G4 – thicket of hawthorn and Blackthorn to form an access has been mitigated with 19 heavy / extra heavy standards new trees including large canopy specimen oak and Lime.

Should approval be granted then it is recommended that appropriate conditions be attached to consent.

4.1.11 **County Ecologist** - I have reviewed the information and plans submitted in association with the application and I am happy with the survey work carried out. The preliminary ecological appraisal and bat and owl tree survey carried out by Cheshire Ecological Services (Revised February 2021, June 2021 respectively) found no signs of bat roosting or barn owl nesting in the mature oak tree on site. Bat activity levels were monitored during the activity surveys. Activity levels were considered to be very low. Stock dove were recorded nesting within a cavity in the oak.

Reasonable avoidance measures are required should any deadwood removal or pruning to the oak tree be required. A pre-commencement check for barn owl is also considered necessary.

Any external lighting to be installed as part of this development, including signage, should be kept to a low level to allow wildlife to continue to forage and commute around the surrounding area.

SC ecology require biodiversity net gains at the site in accordance with the NPPF and CS17. The installation of a bat box/integrated bat tube will enhance the site for wildlife by providing additional roosting habitat.

It is therefore recommended that appropriate conditions and informatives are included on the decision notice.

4.1.12 **SC Landscape Consultant** - The LVIA has been written as an outline study and is not fully compliant with national guidance, although it is noted that the application is for a site that is allocated in the Local Plan. We have a number of concerns in respect of the assessment of landscape and visual effects.

No beneficial landscape or visual effects are predicted, with all effects predicted to be slightly adverse or neutral.

The proposals have the potential to comply with Local Plan policies CS6, CS17, MD2, & MD12 in relation to landscape character and visual amenity, and the consultant is now in agreement over the visual assessments, however, although the landscape of the site itself has been included as a receptor, there has been no assessment of effects which may have demonstrated a more positive outcome.

4.1.13 **SC Local Lead Flood Authority** - The LLFA is satisfied with the drainage details of the site subject to appropriate conditions being imposed.

## 4.2 - Public Comments

4.2.1 3 Objections were received

- Increased traffic generation and congestion
- Detrimental to highway safety
- Road infrastructure proposed cannot be accommodated within existing highway
- Impact on residential amenity
- Increased Litter
- Existing site more accessible to those without a vehicle
- Increased noise, traffic and light pollution
- Will make it more difficult for existing residents to access Battlefield Road
- Detrimental impact on wildlife
- Site allocated for employment uses proposal will not generate sufficient jobs
- Loss of open space
- Existing store nearby no need for another store
- Site is too far away from town centre
- Site drainage concerns as flooding already occurs
- Increased difficulty for pedestrians crossing Battlefield Road
- Existing trees already removed
- The extra traffic on Battlefield Road would require a light controlled cycle crossing to connect the track along the southern edge of the site to the cycle path on the west side of Battlefield Road
- Traffic calming required to keep vehicle speeds down
- A further supermarket is not required area already has significant provision

## 5.0 THE MAIN ISSUES

Principle of development

Siting, scale and design of structure

Visual impact and landscaping

Residential Amenity

Highways and Transportation

Ecology

Historic Environment

Economic Development and Employment

Drainage

## 6.0 OFFICER APPRAISAL

## 6.1 Principle of development

6.1.1 The relevant Development Plan Policies are provided within the Shropshire Core Strategy (2011); Site Allocations and Management of Development Plan (2015); Sustainable Design SPD (July 2011); Developers Contributions SPD (July 2011) and National Planning Policy Framework (NPPF) (2019). Those of relevance to the proposal are considered below as part of the appraisal.

6.1.2 The site is a designated employment site (ELR007) within the adopted development plan and the allocation covers an area of 2 hectares. The allocation

identifies Class B1, B2 and B8, plus some sui-generis uses as being appropriate on the site. This allocation precedes the changes to the use classes order which now mean former B1 uses are within the new Class E along with a host of other uses including retail which was previously class A1.

- 6.1.3 A key objective of both national and local planning policy is to concentrate new development in locations which promote economic, social and environmental sustainability. Specifically, the Council's Core Strategy Policies CS1 and CS2 set out the spatial policies for Shrewsbury. This site is an allocated employment site with the SAMDev Plan. Policy S16.1b
- 6.1.4 Policy MD4 states that employment development will be managed in accordance with spatial strategies CS1 – CS5 and economic and employment strategy CS13. As part of the management of a portfolio of employment land and premises (CS14 and CS19) and to maintain a reservoir of available sites. Proposals for alternative uses on portfolio sites will only be acceptable where the applicant can also demonstrate that there are no other suitable development sites for the proposal. the development will provide significant employment opportunities or other significant benefits for the sustainability of the community and the development will not adversely affect the range and choice of employment sites in terms of location, quality, type and size.
- 6.1.5 In assessing the proposal against the MD4 part b criteria, the applicant states there are no other suitable development sites for the proposal. This is also confirmed in the applicant's Sequential Test conclusions. The Council is not aware of any alternative sites for the proposed development therefore the proposal complies with this part of policy MD4.
- 6.1.6 The applicant concludes that the development will provide significant employment opportunities or other significant benefits for the sustainability of the community. The Council has assessed the criteria and concludes the proposal will retain existing staff and relocate them to the new site, plus addition of at least 15 or more staff. The unilateral undertaking will ensure that new employment will be created by the sale of the Arlington Way store for specified employment uses. The proposal will contribute to a sustainable community by creating a high-quality supermarket offer at discounted prices so that the community can continue to shop locally.
- 6.1.7 The commentary which accompanies this policy specifically advocates the need for a flexible approach to the development of allocated employment sites and specifically those that are undeveloped. In this context the site which is the subject of this application is being brought forward for development on the basis of a land swap proposal and therefore the loss of the site for employment purposes will be offset by the current Arlington Way site being marketed exclusively for specific employment purposes for a 10-year period. It is therefore considered that this is within the spirit of Policy MD4 which advocates a flexible approach to employment allocations and therefore the proposal is not considered to represent a departure from the development plan.
- 6.1.8 The applicant currently has an existing store at Arlington Way which they intend to vacate should planning permission be granted for the new store on the application

site. As the site is allocated for employment use in the Development Plan the applicant has offered to enter into a legal agreement to ensure that its current site is marketed exclusively for a 10-year period for certain specific employment uses rather than being occupied by another retailer.

- 6.1.9 The Planning Statement accompanying the application includes an assessment of the sequential test and impact test with full Catchment Area Plan and Impact Tables. The closure of the existing Arlington Way store and the transfer of the operation to the new site will result in a modest increase in floorspace over and above that of the existing store by 458 sqm in GIA and 394 sqm in net sales area.
- 6.1.10 During pre-application discussions, it was agreed that as the proposal involves the relocation of the store with a modest increase in floorspace, the scope of the retail assessment should reflect this. Accordingly, the retail assessment presents a relatively high-level consideration of the key issues.
- 6.1.11 The impact assessment shows that the nearest town centre is Shrewsbury town centre. The town centre is outside of the core five-minute drivetime and right on the edge of the secondary ten-minute catchment area. The impact on the town centre is less than 1% which is negligible. All other retail developments assessed are out of centre.
- 6.1.12 There is no requirement for a cumulative impact assessment. The existing Aldi store at Arlington Way will close the day before the new proposed store at Battlefield Road is opened. Aldi has already confirmed it does not intend to trade from the Arlington Way store as it's in a poor location and no longer fit for purpose.
- 6.1.13 This application is simply a relocation of the existing retail operation. The sequential test is robust. As a relocation, Aldi seeks to serve its existing catchment area in the north of the town. The Catchment Area Plan shows that Shrewsbury town centre is not within the core catchment area. Nevertheless, no sites were identified within Shrewsbury town centre or elsewhere that were sequentially preferable. The application site therefore passes the sequential test.
- 6.1.14 The proposals are therefore considered to comply with Policy CS15 of the Core Strategy, Policies MD10a and MD10b of the SAMDev Plan and paragraphs 89 and 90 of the NPPF.
- 6.1.15 The loss of an allocated employment site that is intended to provide an important focus for investment in the town and a significant number of jobs is obviously a concern. However, the Council has a reservoir of employment sites which it freely acknowledges will not all come forward for employment development as the market will ultimately dictate which sites are considered most attractive. The planning statement, at Chapter 8.4, clearly states that the site has been marketed for several years with little or no interest in terms of employment development. The last application on the site included a hotel, a pub/restaurant, a coffee shop and trade counter units. This was a speculative application with no identified end users this application was subsequently withdrawn.
- 6.1.16 Aldi's existing store also sits within an established employment area. To negate any

potential loss of employment land, Aldi has agreed to enter into a s106 Unilateral Undertaking whereby the existing site will be marketed for a period of up to ten years for industrial/warehouse uses only. The site is suitable for industrial/warehouse uses being compatible with neighbouring uses.

- 6.1.17 The Planning Statement addresses Policy MD4 part b and is clear that it meets the criteria. There are no other suitable development sites for the proposal, and this is confirmed as part of the sequential test. The development itself will provide employment opportunities along with other benefits for the sustainability of the community. The proposal will retain existing staff and relocate them to the new site, plus addition of at least 15 or more staff. The unilateral undertaking will ensure that new employment will be created by the sale of the Arlington Way store for industrial use. The proposal will contribute to a sustainable community by creating a high-quality improved supermarket offer.
- 6.1.18 The development will not adversely affect the range and choice of employment sites in terms of location, quality, type and size. – The land swap as per the unilateral undertaking will secure this by not affecting the range of choice. Given the site has been marketed for several years there is no harm in this regard. Furthermore, the application site has a number of constraints, therefore a dense industrial development would not be suitable for the site. Constraints include a footpath through the site which Aldi will maintain and indeed reopen, a veteran tree, a pylon and protection of areas of higher quality grassland. Furthermore, an industrial scheme would require 24/7 activities which would raise amenity issues in relation to nearby residential properties which acts as a deterrent to potential future users. Given the low level of employment interest associated with the Site in recent years, the Site will exhibit an enhanced level of employment if it is used for the proposed development. The Economic Growth Service has advised that the Lichfield Economic Development Needs Assessment study has indicated that there is an over-provision of employment land.
- 6.1.19 Clearly, the changes to the Use Classes Order in September 2020, mean that retail and light industrial are now grouped together under Use Class E and as such it is considered that it is likely to be much more difficult to control retail uses on employment land than in the past. This is particularly true on existing developed sites which have a Class E use. Therefore, the exclusive marketing period is seen as a significant opportunity to test the market in terms of attracting other types of employment to the site, besides retail as it provides a sustained period of exclusivity in relation to the marketing of the current site.
- 6.1.20 The revised NPPF (July 2021) is explicit at paragraph 54 that planning conditions should not be used to restrict permitted development rights unless there is clear justification for doing so. Paragraph 55 continues that planning obligations can be used to make otherwise unacceptable development acceptable, and it is considered expedient in this case to facilitate the allocation swap through a S.106 agreement to secure employment uses on the current site, given the changes enacted in the recent changes to the use classes order. The planning obligation applied in protecting the future use of the existing site at Arlington Way for a ten-year period, and the evidence presented that the application site is not expected to come forward for employment use (B2/B8) as set out by the applicant is accepted.



The proposal therefore complies with the criteria set out in Policy MD4 part b.

## 6.2 Siting, scale and design of structure

6.2.1 The site is situated to the south east of the Historic Battlefield and as such any proposals to develop the site need to be considered in the context of the battlefield and the impact they will have in terms of views and the appreciation of the battlefield site as a heritage asset.

6.2.2 The store building will be located towards the rear of the site towards the A49. It is a single storey structure so height wise it will not be particularly prominent in the context of the site.

6.2.3 Signage to the site is likely to be closer to the battlefield being situated around the site entrance on Battlefield Road and towards the roundabout.

## 6.3 Visual impact and landscaping

6.3.1 The perimeter of the site is surrounded by mature landscaping, which acts as a screen to inner development area. Part of this is in the ownership of the Council as Highway Authority and this has recently been cut back. The proposals for the site envisage existing landscape being bolstered and better managed than in the past.

6.3.2 Landscaping is likely to be a key component of the development and provide important mitigation in relation to the how the proposals impact on the interpretation of the historic battlefield in the future.

6.3.3 Significant consideration has been given to the landscaping around the periphery of the site and the visual impact of the development on the wider landscape. There is a delicate balancing act between mitigating the impact of the development on the historic battlefield, whilst accepting that the applicant will require a degree of visibility to allow customers to easily locate the store and its access. It is considered that the scheme now achieves the right balance between the applicants needs and the requirement to minimise impacts on the wider landscape setting.

## 6.4 Residential Amenity

6.4.1 There are a number of residential properties that back onto the site that front Battlefield Road. The site is an allocated employment site and as such the principal of its future development has already been established through the development plan process. Mitigation of any impacts arising from the proposed store however are of paramount importance to protect the amenities of existing residents from any noise and disturbance which may arise as a result of development.

6.4.2 Clearly, late night and early morning activity associated with deliveries is a primary source of concern and as such it is proposed to limit deliveries to between the hours of 0600 to 2300 with a condition that delivery vehicles are not on site outside of these hours.

6.4.3 The boundary of the site with adjoining residential properties along Battlefield Road will also be provided with an acoustic fence to further reduce noise and disturbance from activity on the site and in front of this will be a planted buffer zone.

- 6.4.5 The light pollution has been raised as an issue, but it is not considered that on site lighting will have an unacceptable impact on adjoining neighbours as there is a considerable distance between the backs of residential properties and the car parking and service area. A condition requiring a lighting plan is however recommended but this is in relation to ecology matters.
- 6.5 Highways and Transportation
- 6.5.1 The site will be accessed from Battlefield Road with a left-hand filter lane for traffic entering the site from the north (Battlefield Roundabout) and a right-hand turn lane being created on Battlefield Road for those coming from a southerly direction. The egress from the site will consist of two lanes, one for vehicles turning left out of the site and heading south with the other for traffic turning right and heading north. This should minimise delays for vehicles leaving the site as traffic heading south will not be held up queuing behind vehicles turning right out of the site. An exit only has also been added to the A49 which will reduce the need for right hand turns out of the site on Battlefield Road.
- 6.5.2 Traffic queuing back from Battlefield Roundabout on the carriageway heading north is a particular concern, especially with the introduction of a right-hand filter lane for traffic entering the site from the south. Vehicles exiting the side and turning right to head towards the roundabout will have to traverse the south bound lane on Battlefield Road and then negotiate the right-hand filter lane for traffic turning into the site to join the carriageway heading north into the roundabout. The introduction of an additional site egress onto the A49 should considerably reduce the need to make this manoeuvre.
- 6.5.3 This potentially could create some conflict in relation to highway safety as drivers may find it difficult to exit the site in a northerly direction which in turn could lead to frustration resulting in vehicular manoeuvres which may put other road users at risk. As a result of these concerns the applicant has been requested to provide a Safety Audit of the access and egress to the site.
- 6.5.4 Whilst, it is acknowledged that queuing already takes places along Battlefield Road at peak times, experience of how other Aldi stores operate in the county suggests that customers will adjust their shopping habit to avoid peak periods and whilst there may be increases in traffic these will not meet the NPPF threshold of 'severe' so as to justify a refusal on highway grounds.
- 6.5.5 The site is located on a main arterial route into Shrewsbury(A5112/A49). The 511 bus stops at the Red Lion bus stop and operates hourly. Other bus services operating in the locality include the 519, 64 and the BLU park and ride bus service. Public Transport by bus is within the 400m distance as required by transport policies and is accessible. Furthermore, the site is accessible by foot and much improved cycle facilities, with an existing designated cycle way sitting on the site edge.
- 6.6 Ecology
- 6.6.1 The site contains a veteran tree in the centre of the site which is to be retained to form a focal point within the development. There is a mature landscape buffer around the perimeter of the site. It is considered that any adverse impacts arising

from the proposals can be adequately mitigated against by the imposition of appropriate conditions.

#### 6.7 Historic Environment

- 6.7.1 The Council is required to pay special attention to the desirability of preserving or enhancing the significance of any relevant heritage assets. In this regard, the Council must apply the policy approach set out in Section 16 of the NPPF and policies CS6, CS17, MD2 and MD13 of the Local Plan.
- 6.7.2 The significance of the relevant heritage assets and the contribution which the application site makes to that significance (by setting) is identified above and has been set out in the submitted Heritage Statement (prepared by JLL) and Archaeological Desk Based Assessment by Bear Archaeology (November 2021). Views from within the Battlefield have also been considered within the submitted Landscape and Visual Impact Assessment.
- 6.7.3 Notwithstanding the fact that the site is allocated for future development, it is also important that any development that takes place is sympathetic to its surroundings and has regard to its context in relation to the Registered Battlefield and its appreciation/interpretation. In this regard, the proposals would be partially visible from within the Battlefield. This visibility has been minimised through the siting of the store at the rear of the site and through suitable landscape screening.
- 6.7.4 Views to and from the battlefield are an important consideration, and these have been assessed in the Applicant's Heritage Statement and the submitted Landscape and Visual Impact Assessment and carefully considered by Officers. It is concluded that there would be a small element of harm to the Battlefield arising from the proposals which, for the purposes of the NPPF, would be 'less than substantial' and at the very lower end of the scale. According to paragraph 202 of the NPPF, a balanced judgement is required which takes into account the public benefits of the proposals.
- 6.7.5 In this regard, it must be noted that the site has been allocated for development within the local plan for development and there is specific local plan support for this development in this location.
- 6.7.6 The harm to the Battlefield has therefore been minimised through design and landscaping. Whilst there would be an element of harm to the significance of the Registered Battlefield, this would be 'less than substantial' and at the very lower end of the scale. Paragraph 202 allows for this harm to be balanced against the public benefits of the proposals.
- 6.7.7 When considering the impact of a proposed development on the significance of a designated heritage asset, great weight is to be given to the asset's conservation (and the more important the asset, the greater the weight should be).
- 6.7.8 The public interest benefits of the proposal are:
- the delivery of the proposed food store would ensure the continued provision of a discount food store providing good quality food at low prices within the

catchment of the existing Aldi food store;

- there are no alternative sites to deliver a new fit for purpose store in the locality
- the proposal will therefore allow for a high quality, fit for purpose food store which meets customer expectations unlike the existing store;
- the site is an allocated development site and will deliver a low-density scheme unlike an industrial or logistics scheme which would require high bay buildings and 24/7 operations which would be less in keeping with the nearby residential properties.
- the existing Aldi food store at Arlington Way would be marketed for employment uses that would contribute to the employment land supply within the locality.
- the proposal will deliver a sustainable store achieving 100% of its heating from on-site reusable energy; and
- the proposal will provide significant employment benefits in that it will retain existing jobs, create new jobs within the new store and create new jobs within the existing Aldi site by virtue of selling or leasing it for an employment end user.

6.7.9 Even applying great weight to the conservation of the Battlefield's significance on the basis of the approach required by the NPPF paragraph 199, Officers consider that the very low level of 'less than substantial' harm that would be caused to the significance of the Registered Battlefield is outweighed by the public benefits of the application proposals.

6.7.10 Officers agree with the assessment contained in the Heritage Statement submitted by the Applicant that the proposals will preserve the significance (by virtue of change within the setting) of the nearby heritage assets: The Battle of Shrewsbury Registered Battlefield, Church of St Mary of Magdalene (grade II\*), College of St Mary of Magdalene Scheduled Ancient Monument. Their significance will be preserved.

6.7.11 Accordingly, it is concluded that the proposed development accords with national planning policy relating to the conservation of heritage assets. It is considered that the proposals are acceptable and do not give rise to any conflict with NPPF or policies CS6, CS17, MD2 or MD13 of the development plan.

6.7.12 Following on from the comments received from the County Archaeologist, the applicant has subsequently submitted a programme of archaeological works, which have been agreed and this will be conditioned as part of any approval granted.

6.8 Economic Development and Employment

6.8.1 The site is allocated for employment uses in the development plan which at the time the plan was adopted consisted of Class B1 (offices, light industrial and research & development), Class B2 (general industrial) and Class B8 (Storage and Distribution). With changes to the Use Classes introduced in September 2020, Class B1 uses have been subsumed into the new Class E which includes a much wider set of uses including retail (formerly Class A1).

6.8.2 The ability to protect employment sites from other uses within Class E which might

previously have been deemed contrary to planning policy has been significantly undermined by these changes to the Use Classes Order and as such the fact that the applicant is prepared to enter into a Unilateral Undertaking in relation to the marketing of their existing site for an exclusive period for uses formerly classed as employment uses is seen as a positive step in terms of safeguarding sufficient employment land to meet future need in Shrewsbury.

- 6.8.3 The applicant states that a new Aldi stores generally employ circa 40 staff comprising full-time and part-time positions. The proposal is for a relocation and therefore intends to retain and relocate all existing staff from it's Arlington Way store and recruit a further ten additional staff to the new store from the local area.
- 6.8.4 Aldi operates successful apprentice schemes and graduate programmes in the UK. Apprentices are trained to work in all parts of the business including at store, distribution, logistics and management level, as well as progression through to the Store Management Team. The graduate scheme secures an annual intake for the Area Management Programme. Trainee Area Managers spend a year shadowing an Area Manager before they take on three to four stores of their own to manage. The training covers the entire spectrum of running a retail operation and is a UK-wide programme.
- 6.8.5 The construction of a new store requires the services of local building trade contractors which provides employment opportunities during the build-out period. Further employment opportunities also exist for the ongoing maintenance of the site and landscaping.
- 6.8.6 Whilst concern has been expressed at the delivery of employment opportunities as a result of the existing store relocating, there will be an increase in employment opportunities arising from the development. The same also applies to the future reuse or redevelopment of the existing store site.
- 6.8.7 The proposed legal agreement which will be attached to any consent granted means that the existing site will be marketed for an exclusive 10-year period for specified employment uses. The intention of the s106 unilateral undertaking is to ensure that the Arlington Way site is retained for employment use. Aldi has already begun soft market testing and will formally market the site for employment uses following grant of planning permission. Aldi has no intention of trading from the existing store and considers the UU will provide compensation for the loss of employment site at Battlefield Road.
- 6.9 Drainage
- 6.9.1 The LLFA are comfortable with the submitted drainage scheme for the proposed development and have requested a condition securing its implementation prior to the use commencing.
- 7.0 CONCLUSION
- 7.1 The site is allocated for employment uses within the Development Plan. The proposal is for a retail food store on the site. Policy MD4 allows for a flexible approach to uses on designated employment sites where this is justified. The applicants have provided a compelling case to justify the relocation of their store to

this site whilst offering their existing site to the market for employment purposes only for an extended period. The increase in floor area is not considered to be significant being below 500sqm when compared to the existing store floor area.

- 7.2 In terms of this particular site, the applicant has offered to enter into a legal agreement with the Council in relation to the future marketing of their existing site exclusively for employment purposes for a set time period subject to planning permission being granted. This will mean that the existing Aldi site at Arlington Way will only be marketed for certain specified uses within Class E which will specifically exclude retail amongst other uses. Therefore, this will ensure there is no loss of employment land as effectively the designation of the two sites will be swapped.
- 7.3 The other major consideration in relation to the development of this site relates to the impact of the proposals on the setting and interpretation of the historic battlefield. Careful consideration has been given to this issue throughout the application process, however it also needs to be remembered that this is an allocated development site in the local plan. Therefore, the principle of the future development of the site is already established and this application is primarily concerned with its form. It is considered that the proposals incorporate sufficient mitigation to ensure that any perceived harm to the heritage assets are offset by the benefits of the scheme.
- 7.4 The proximity of the site to the Battlefield Roundabout has been a source of some concern particularly in relation to impacts on peak time traffic flows. However, the NPPF is clear that development should only be refused on highways grounds where the impacts are 'severe' and the highway authority are satisfied that given this is an allocated employment site that the network can cope satisfactorily accommodate the development. The Highway Authority are therefore of the opinion that a highways objection to the development is unsustainable.
- 7.5 The applicant has requested that no pre-commencement conditions be attached to any planning permission granted as they are looking to make an immediate start on site once the decision is issued. As any approval will be subject to a planning obligation in relation to the marketing of the existing site for employment purposes it is considered that in the intervening period between the Committee decision and the signing of the legal agreement the applicant can use this period to submit the information required under the pre-commencement conditions and these can then be substituted for compliance conditions on the decision notice thus negating the need for pre-commencement conditions in line with the applicants wishes.
- 7.6 The offer of a S.106 Agreement to secure a 10-year exclusivity period for marketing the current site for employment uses only is considered to be positive trade off in terms of the site allocation as this will allow the markets appetite to be thoroughly tested without the distraction of other higher value uses driving up the value of the existing site to levels where it is no longer sustainable for employment uses. The applicants have also agreed to the imposition of planning conditions restricting the use of the site to Class E(a) Food Retail Store with a maximum sales area of 1,332 sqm.
- 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, i.e. written representations, hearing or inquiry.
- The decision may be 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 made 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 gives 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 1990.

## 9.0 Financial Implications

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

scale and nature of the proposal. Local financial considerations are capable of being taken into account when determining this planning application – insofar 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

Central Government Guidance:

West Midlands Regional Spatial Strategy Policies:

Core Strategy and Saved Policies:

National Planning Policy Framework

CS1 - Strategic Approach

CS2 - Shrewsbury Development Strategy

CS6 - Sustainable Design and Development Principles

CS13 - Economic Development, Enterprise and Employment

Economic Development, Enterprise and Employment

CS14 - Managed Release of Employment Land

CS15 - Town and Rural Centres

CS17 - Environmental Networks

CS18 - Sustainable Water Management

MD1 - Scale and Distribution of Development

MD2 - Sustainable Design

MD4 - Managing Employment Development

MD7B - General Management of Development in the Countryside

MD12 - Natural Environment

MD13 - Historic Environment

Settlement: S16 - Shrewsbury

SPD Sustainable Design Part 1

### RELEVANT PLANNING HISTORY: \_

PREAPP/18/00368 Outline application for employment units (B1/B8), car showroom (Sui Generis) and coffee drive through (A4) with all matters reserved except access PREAIP 31st August 2018

PREAPP/20/00051 Mixed commercial development to include 4 buildings (A: restaurant with bar 650sqm, B: coffee drive thru 168sqm, C: 80-bed hotel and D: sui generis use 929sqm)

PREAMD 5th March 2020

20/02631/FUL Mixed commercial development comprising industrial building (B1c, B8) with trade counter uses; 80-bed hotel; restaurant and bar; coffee shop with drive-through facility; associated access, parking, drainage and landscaping scheme to include diversion of public right of way WDN 10th March 2021

PREAPP/20/00478 Erection of a new foodstore, car parking, access, landscaping and a substation PREAMD 13th November 2020

21/01374/FUL Erection of a new foodstore, associated car parking, access, landscaping and a substation GRANT 12th October 2021



21/04985/ADV Erect and display 5No internally illuminated fascia signs, 1No vinyl sign, 1No internally illuminated directional sign and 2No internally illuminated totem signs GRANT 21st December 2021

21/05200/VAR Variation of Condition No.2 (approved plans) attached to planning permission

21/01374/FUL dated 12/10/2021 WDN 15th November 2021

21/05804/FUL Erection of a foodstore (Use Class E), substation, access, associated car parking and landscaping PDE

## 11. Additional Information

[View details online:](#)

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) Councillor Ed Potter
Local Member  Cllr Dean Carroll
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.

3. The programme of archaeological work for the development approved by this permission shall be carried on in complete accordance with the Written Scheme of Investigation by Bear Archaeology dated August 2021.

Reason: The site is known to hold archaeological interest.

4. All new services will be routed outside the root protection areas indicated on the Tree Protection Plan or, where this is not possible, all measures should be applied in accordance with the approved detailed method statement and task specific tree protection plan by ACS Consulting.

Reason: To safeguard the amenities of the local area by protecting trees

5. The development shall be carried out in accordance with the details contained in Construction Traffic Management Plan (CTMP) Version 0 (Submitted 14 December 2021) and the Construction Management Plan (CMP) Version 1 (Dated August 2021) and shall be adhered to throughout the duration of the construction period.

Reason: In the interests of highway safety and to protect local amenity.

6. No construction works shall take place before 8 am on weekdays and 8 am on Saturdays nor after 6 pm on weekdays and 1 pm on Saturdays; nor at anytime on Sundays, Bank or Public Holidays.

Reason: To protect the amenities of occupiers of nearby properties from potential nuisance.

**CONDITION(S) THAT REQUIRE APPROVAL BEFORE THE DEVELOPMENT COMMENCES**

7. No more than two weeks prior to the commencement of development, an appropriately qualified and experienced ecologist shall undertake an inspection of the cavity of tree 2 for the presence of nesting barn owl. Within one week of undertaking the check, a brief notification to the Local Planning Authority of the results of the pre-commencement check for barn owl shall be submitted including details of any required mitigation in the light of the check. This should include a implementation timetable for any proposed mitigation identified.

Reason: To protect barn owl, a Schedule 1 species (W&C Act).

8. Prior to the commencement of the development a suitably qualified Arborist shall be appointed to undertake supervision and monitoring of the tree protection fencing at pre-commencement stage and throughout the construction period as outlined in the submitted ACS arboricultural method statement. The commission shall also include for the supervision of scrub clearance in the root protection areas of the veteran tree. On completion of the works and prior to occupation a satisfactory completion statement should be submitted to the LPA to demonstrate compliance with the approved tree protection measures.

Reason: To safeguard the amenities of the local area by protecting trees

9. All trees which are to be retained in accordance with the approved plan shall be protected in accordance with the ACS Tree Protection Plan Arb/4261Y/300 and in accordance with BS 5837: 2012 "Trees in relation to Design, Demolition and Construction recommendations for tree protection". The protective fence and temporary ground protection shall be erected prior to commencing any approved development related activities on site, including ground levelling, site preparation or construction. The fence shall be maintained throughout the duration of the development and be moved or removed only with the prior approval of the LPA.

Reason: To safeguard the amenities of the local area by protecting trees.

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

10. The proposed surface and foul water drainage schemes shall be installed in accordance with the approved drainage plan and details submitted on 14 December 2021 prior to the first use.

Reason: To ensure that the proposed drainage systems for the site are fully compliant with regulations and are of robust design.

11. Watering of new trees shall be carried out as follows: Trees shall be watered in with 25 litres each and then a further 25 litres every week during dry periods during the first 12 months of establishment Any trees or plants that, within a period of five years after planting, are removed die or become, in the opinion of the Local Planning Authority, seriously damaged or defective, shall be replaced with others of species, size and number as originally approved, by the end of the first available planting season.

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

12. Any arboricultural works to T2 (oak) shall be undertaken in accordance with section 7 of the Bat and Barn Owl Survey of Tree report dated June 2021 by CES.

Reason: To protect bats, European protected species.

13. Prior to the first use of the development, a nest box suitable for use by stock dove, shall be erected on tree 2 (as per the AMS). The box shall be sited at least 2m from the ground on a suitable tree on a northerly or shaded east/west aspect with a clear flight path, and thereafter maintained for the lifetime of the development.

Reason: To ensure the provision of nesting opportunities for wild birds, in accordance with MD12, CS17 and section 175 of the NPPF.

14. Prior to the development hereby permitted being brought into use/open to trading, the access/egress onto Battlefield Road and egress onto the A49 shall be laid out and constructed in accordance with the approved plans and in accordance with full engineering details to be first submitted to and approved in writing by the Local Planning Authority.

Reason: To ensure a satisfactory access to the site in the interests of highway safety.

15. Prior to the development hereby permitted being brought into use/open to trading, the internal access roads, car parking and servicing areas shall be fully laid out and constructed in accordance with the approved plans.

Reason: To ensure an adequate provision of on-site car parking and servicing arrangements to serve the development.

16. Within three months of the store opening for trading, a Travel Plan shall be implemented in accordance with details to be first submitted to and approved in writing by the Local Planning Authority; thereafter the Travel Plan shall remain in force for the lifetime of the development.

Reason: To reduce carbon emission and promote active travel and health benefits.

17. Prior to the first use/opening of the site a lighting scheme for the site shall be submitted and approved in writing by the local planning authority. The approved lighting plan shall thereafter be adhered to at all times.

Reason: In the interests of residential amenity and to protect the ecological networks.

18. All hard and soft landscape works shall be carried out in accordance with the approved plan. The works shall be carried out prior to the occupation / use of any part of the development hereby approved. Any trees or plants that, within a period of five years after planting, are removed, die or become, in the opinion of the Local Planning Authority, seriously damaged or defective, shall be replaced with others of species, size and number as originally approved, by the end of the first available planting season.

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

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

19. The net sales floor area of the food store hereby approved shall not exceed 1,332 square metres. No more than 20% (266 square metres) of the net sales floor area of the store shall be used for the sales of comparison goods. Comparison goods are defined within the COICOP categories for the following goods:

- Clothing materials & garments
- Shoes & other footwear
- Materials for maintenance & repair of dwellings
- Furniture & furnishings
- Carpets & other floor coverings
- Household textiles
- Major household appliances, whether electric or not
- Small electric household appliances
- Tools & miscellaneous accessories
- Glassware, tableware & household utensils
- Medical goods & other pharmaceutical products
- Therapeutic appliances & equipment
- Bicycles
- Recording media
- Games, toys & hobbies
- Sport & camping equipment
- Musical instruments
- Gardens, plants & flowers,
- Pets & related products
- Books & stationery
- Audio-visual, photographic and information processing equipment,
- Appliances for personal care, jewellery, watches & clocks
- Other personal effects.

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

20. The use of the premises shall be restricted solely to Use Class E(a) food store and shall not be used for any other use within Use Class E.

Reason: For the avoidance of doubt.

21. No Deliveries vehicles shall be present on site outside of the hours of 0600 - 2300 daily.  
Reason : In the interests of residential amenity.

22. The premises shall not be open for customers and no customers shall remain on the premises outside the following hours: -  
[0800 - 2200], Mondays - Saturdays and [0930 - 1630] Sundays.

Reason: To protect the amenities of occupiers of nearby properties from potential nuisance.

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