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**PLANNING APPLICATION ON  
BEHALF OF:**

**ST MODWEN DEVELOPMENTS  
LTD**

**DERBY ROAD, STRETTON:  
PROPOSED SUPERMARKET,  
DRIVE THROUGH COFFEE  
SHOP / RESTAURANT, RETAIL  
/ SERVICE, GYM AND  
EMPLOYMENT UNITS, WITH  
ACCESS AND CAR PARKING**

**Planning and Retail Statement**

**Planning Prospects Ltd  
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Nash Lane  
Belbroughton  
Worcestershire  
DY9 9AF**

**February 2017**

**PPL Reference: PPL/REB/134 v7**

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Appendix 1 Report to Assess the Interest of Hotel Operators

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## 1. INTRODUCTION

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- 1.1 Planning Prospects Ltd (PPL) have been commissioned by St Modwen Developments Ltd (SMD) to submit a planning application for the development of a supermarket, drive through coffee shop / restaurant, retail / service, gym and employment units, including a builders' merchant, with associated access and car parking on land at Derby Road, Stretton, towards the north eastern end of Burton upon Trent ("Burton").
- 1.2 The site is adjacent to the retained Pirelli facility immediately to the north. It occupies land previously owned by Pirelli, which became surplus to their operational needs. The proposal represents a phase in the completion of the commercial development of land released by Pirelli fronting onto Derby Road. Surplus land on the opposite (north western) side of the retained Pirelli facility was also released, and is being brought forward separately for residential use.
- 1.3 It is proposed that the supermarket will be occupied by the value retailer, ALDI. It is proposed that the drive through will be occupied by Starbucks. The builders' merchant, MKM, are a further named occupier. The remaining proposed units will be marketed to a range of occupiers consistent with the successful approach adopted to date in the letting of the initial phases of development here.
- 1.4 The development is described as follows;
- "Supermarket development (use class A1); drive through coffee shop / restaurant (use class A1 / A3 / A5); retail and service units (use class A1 / A3 / A5); leisure unit (use class D2); employment units (use class B1 / B2 / B8); builders' merchant with outside storage (sui generis); with access, car parking, landscaping and associated works (full)"
- 1.5 The proposal seeks to contribute towards the completion of the comprehensive regeneration of this important site. This Statement provides the supporting planning justification for the application, including in relation to retail and centres policy.

### FORMAT AND CONTENT OF SUBMISSION

- 1.6 Following this brief introduction, this Planning Statement comprises:
- Section 2: Describes the application site and surrounding area, and sets the context by way of the relevant site history.
  - Section 3: Describes the development proposals and explains the approach to the planning application.

- Section 4: Provides an overview of the planning policy context within which the current proposals should be determined.
- Section 5: Sets out an assessment of the compliance of the proposals with the key planning policy principles identified.
- Section 6: Sets out an assessment of the compliance of the proposals with the retail and centres policy principles identified.
- Section 7: Sets out the conclusions to the report.
- Section 8: Provides a summary of the main items to be dealt with by way of condition

1.7 The planning application also includes a range of further supporting material, as set out in the submitted schedule. Given the extensive work already undertaken in securing outline planning permission and initial phases of reserved matters on the site and land adjacent a substantial baseline of technical work is already in place. This has been updated and amended where appropriate to support the current proposal.

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## **2. SITE AND SURROUNDING AREA**

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### **GENERAL**

- 2.1 The application site (the site) covers an area of approximately 2.81ha and is located in the north eastern part of Burton, at Stretton. The A5121 Derby Road follows a south west – north east alignment immediately to the east of the site, providing a link to the town centre to the south, and the A38 to the north.
- 2.2 The current proposal should be understood in the context of the recent planning history of the site and land adjoining. This is summarised below, before the site and surrounding area are briefly described.

### **PLANNING HISTORY**

- 2.3 Outline planning permission was granted under application reference P/2011/01130/JN/PO for the erection of up to 300 residential units, Class B1, B2 and B8 industrial units, hotel, public house, and restaurant including demolition of existing buildings, alterations to existing service road and car park, new and revised access points on Beech Avenue, Derby Road and Princess Way, and associated car parking and open space. This planning permission was issued on 1 November 2013, subject to conditions and a s106 planning obligation. The outline planning permission reserved all matters for subsequent approval but did set out parameters for the development having regard to an illustrative masterplan and proposals for site access.
- 2.4 The outline planning permission granted under application reference P/2011/01130/JN/PO was subsequently amended via a Section 73 application. Planning permission P/2015/00393 was granted on 28<sup>th</sup> August 2015 and allows for development of the form previously permitted but without complying with condition 25 relating to aspects of finished floor levels, and modifying the text of other conditions such that previously granted reserved matters can remain in place, be controlled and be implemented, whilst also retaining control over future reserved matters.
- 2.5 This outline planning permission as amended relates to land extending to approximately 15.19 ha and comprising two distinct parcels, one to the north-west of the main Pirelli factory (generally known as the Beech Avenue phases comprising a new housing area) and one to the south-east (generally referred to as the Derby Road phases comprising commercial proposals). SMD are the lead developers having secured the outline planning permission, and then pursuing the site remediation and enabling works readying the site for development. The residential phases of the development, for which

reserved matters have been granted, are being delivered by Persimmon Homes. The commercial phases fronting Derby Road are being delivered by SMD. All elements are comprehensively co-ordinated, generally to the original masterplan for the site considered at the initial outline stage.

- 2.6 The commercial element on the Derby Road land has now been re-branded Albion Gateway; the current application site is within and towards the south western end of this parcel. The first phase of 11 employment units (subject to amalgamation / subdivision) at Albion Gateway was granted reserved matters approval by the Council under reference P/2014/01504 on 13 February 2015. The second phase, for 12 employment units (again subject to amalgamation / subdivision), was granted reserved matters approval by the Council under reference P/2015/00285 on 21 May 2015. Delivery of employment units on this part of the site is now well under way.
- 2.7 A further reserved matters approval was issued on 27 May 2015 under reference P/2015/00214. This relates solely to the formation (now completed) of vehicular access from Derby Road into the southern part of the site where development is now proposed.
- 2.8 The relationship between this permitted development and the current proposal is discussed further in Section 3, below.

## **THE SITE**

- 2.9 The current application site is entirely within the wider area of land that was previously addressed by the outline planning permission, as amended, discussed above. It is an unremarkable, level, vacant and largely featureless site located between the retained Pirelli facility and Derby Road.

## **THE SURROUNDING AREA**

- 2.10 The area surrounding the site is of mixed character. Land immediately to the north west is occupied by the retained Pirelli facility. Land immediately to the north east forms the remainder of the Albion Gateway scheme. Land immediately to the south east, on the opposite side of the A5121 Derby Road, is predominantly commercial in character, including a petrol station, vehicle dealerships, and employment premises (occupied by Rumenco Ltd).
- 2.11 The wider area includes the Pirelli Stadium to the south; beyond this, land to the west of the A5121 is predominantly in residential use, whilst land to the east of this road is of commercial character. Due east of the site, beyond the Rumenco premises, agricultural land extends down to the River Trent. Areas to the north include a mixture of

employment and residential uses whilst areas to the west, including land beyond the A38, are predominantly residential.

## **SUMMARY**

- 2.12 The site covers an area of approximately 2.81ha and is located in the north eastern part of Burton, at Stretton. The current proposal should be understood in the context of the recent planning history of the site and land adjoining. This includes a wide ranging outline planning permission addressing two parcels of land; one earmarked for residential use, the other for commercial use. The site falls within the latter parcel, adjacent to plots where reserved matters have already been granted for employment units.
- 2.13 The site is unremarkable, level, vacant and largely featureless, located between the retained Pirelli facility and Derby Road. The area surrounding the site is of mixed character, including a range of commercial uses and residential neighbourhoods.

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### **3. THE DEVELOPMENT PROPOSALS**

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#### **GENERAL**

- 3.1 The application proposes the development of vacant land at Derby Road for a supermarket, drive through coffee shop / restaurant, retail / service, gym and employment units, including a builders' merchant. A schedule listing the supporting documents is provided as part of the application submission.
- 3.2 The development is described as;
- “Supermarket development (use class A1); drive through coffee shop / restaurant (use class A1 / A3 / A5); retail and service units (use class A1 / A3 / A5); leisure unit (use class D2); employment units (use class B1 / B2 / B8); builders' merchant with outside storage (sui generis); with access, car parking, landscaping and associated works (full)”
- 3.3 It is intended to contribute towards the completion of the Albion Gateway component of the overall regeneration programme.

#### **CONTEXT AND APPROACH TO APPLICATION**

- 3.4 As discussed above, the overall development of the surplus land either side of the Pirelli facility is governed by an outline planning permission, subsequently amended. For the Albion Gateway (Derby Road) side this has been followed up by two reserved matters permissions to facilitate the delivery of two phases of employment units, and a third reserved matters permission to secure access into the area addressed by the current application.
- 3.5 In addition to employment uses the outline planning permission allows for the development of a hotel, public house and restaurant. Despite extensive marketing it has not been possible to secure an operator for a hotel at this location. A summary of the endeavours made in this regard is provided at Appendix 1.
- 3.6 It has also not been possible to secure a pub operator. The current application includes provision for a drive through restaurant facility.
- 3.7 The take up of the employment units being delivered under the existing reserved matters permissions has been encouraging. In this context the current application additionally makes provision for a third phase of employment units, thereby completing the employment development of the northern section of the Albion Gateway site. The



proposal has the effect of expanding the extent of the employment area beyond that anticipated by the first two employment phases.

- 3.8 There is, however, a finite level of demand in the local market for occupiers explicitly to express an interest and then sign up to the scheme. There is also a limit on the extent to which it is commercially prudent simply to build new employment units on a speculative basis.
- 3.9 The inclusion within the current application of a supermarket should be understood against this background. ALDI have expressed a firm interest in developing a second store in Burton and have identified the Albion Gateway location as the site for this. Retail use is not permitted by the existing outline permission and so a new, full, planning application is required to deliver the ALDI store. The supermarket will occupy an area where it was previously anticipated a hotel might be delivered; it will nest with the other elements of the Albion Gateway scheme as part of its comprehensive completion. Importantly, the value it generates and the economies of scale achieved in approaching the remainder of the Albion Gateway land comprehensively will also enable the third phase of the employment space to be developed speculatively. Absent the ALDI element this might not be the case. The proposed retail / service units and gym also make a contribution in this regard.
- 3.10 The relationship between the ALDI store and the other components of the proposal is illustrated in the plan provided at Appendix 2. This shows how these elements – i.e. the proposed ALDI, the drive through, the retail / service units and gym, and the third employment phase – will fit together to contribute to the completion of the development of the land fronting Derby Road. The northern part of Albion Gateway will comprise an employment scheme with its own dedicated access. The southern part will adjoin this but as a distinct element with its own access, accommodating the supermarket and other uses.
- 3.11 Two further points should be made in this regard. First, this is not a case where retail development has belatedly been introduced to supplant key elements of a valued employment led scheme. The development will still be dominated by employment uses (indeed which will be expanded by the current proposal), and other (restaurant) activities previously allowed by the outline permission. Rather, the supermarket will simply replace a single element of the outline scheme, i.e. the hotel, which it has proved impossible to deliver, and the retail / service units with the gym will complete the scheme. All of these activities will of course create employment for local people.
- 3.12 Second, allowing the proposed ALDI store and the other commercial uses would underpin the delivery of more extensive employment space than is currently being

delivered under the first two phases. Completion of these, already permitted, phases would see approximately 7,230 sq m of employment units developed on the site. The third employment phase now proposed will see that expanded to approximately 8,240 sq m, i.e. an increase of 1,010 sq m over that previously permitted. This additional employment space is made possible by the ALDI proposal and other commercial uses, and would not be achieved on a speculative basis without it.

- 3.13 In discussions with officers, it was initially anticipated that just the proposed ALDI would be addressed by a full planning application. Other elements – including the drive through, and separately the employment units – would be the subject of two further reserved matters applications pursuant to the extant outline permission. At that time this was felt to be the appropriate approach in circumstances where the principle of these uses (excluding the supermarket) had already been established, and to facilitate greater flexibility in the delivery of the scheme.
- 3.14 However, on reflection, having discussed the issue in more detail with officers it was decided instead to submit a single, full, planning application covering all elements. The reasons for this were fourfold.
- 3.15 First, whilst offering greater flexibility, the initial approach might create an outcome unwieldy in its complexity. A series of new permissions would sit alongside and partially overlapping one another, and on top of the extant outline and reserved matters permissions. Managing this in terms of ensuring internal consistency, and also that the requirements of numerous conditions are met, could prove very difficult indeed. As such, the simpler approach of a single full planning application was preferred. This should not raise any additional issues in circumstances where (subject to comments below) the only entirely “new” activity to be approved remains the retail and gym, and should result in a far neater, and more self-contained, outcome.
- 3.16 Second, with Starbucks identified as the anticipated occupier for the drive through it was uncertain as to whether this could in fact be pursued via reserved matters when the outline permission only refers to a “restaurant”. The use class status of a drive through coffee shop is not straightforward but is considered to require an A1 / A3 permission given the combination of café activity and (mostly) cold food sales. The requirement for an A5 element is less clear although there will be some, very limited, hot food takeaway activity.
- 3.17 Third, a builders’ merchant has now been identified as an occupier within the employment part of the site. In general terms a builders’ merchant can be regarded as a B8 activity, i.e. in keeping with the uses already permitted at this location and indeed proposed in the current application. However, noting the particular characteristics of the

specific occupier in this case – MKM Building Supplies – and their experience in opening branches in other locations, it is considered that they should be regarded as a “sui generis” use and this is reflected explicitly in the description of development.

- 3.18 Fourth, SMD were mindful that the scheme as initially formulated (including the ALDI and Starbucks units) would leave a “spare” piece of land to the west of the drive through, south of the supermarket, restricted and partly defined by the alignment of buried services crossing the site. It had initially been thought that this would be reserved for future development. However, recent market interest has suggested that it would be preferable to address it now; this will be more efficient and make more sense from a marketing and construction perspective. The interest has been in the leisure and retail sectors (a gym operator and a charity shop respectively), and this additional complexity also invites a single, overarching application.
- 3.19 The current application allows for each of the proposed uses to avoid any doubt or ambiguity. It also allows for the (currently unforeseen) circumstance that Starbucks do not occupy the unit and it is instead occupied by a conventional drive through restaurant operator, or indeed is passed on to such an operator in the future. The description of development is framed to allow for this, albeit in the expectation that the unit will indeed be occupied by Starbucks. It is suggested that a planning condition could be imposed if considered necessary to ensure that this unit is not occupied by a conventional retail (A1) business.

## **PROPOSED DEVELOPMENT**

- 3.20 Full planning permission is sought for a supermarket alongside a drive through facility, retail / service, gym and employment units, plus the builders’ merchant, with car parking and associated development. The vehicular access to the retail, gym and drive through part of the site relies on that already approved and implemented under reference P/2015/00214; the employment units (and builders’ merchant) will be accessed through the earlier phases already delivered at Albion Gateway.
- 3.21 Land immediately to the north east of the entrance will provide car parking (123 spaces) for the supermarket, including parent and child and disabled spaces. Further car parking for staff (15 spaces) is provided to the rear of the site.
- 3.22 The supermarket building will be located in the central / northern part of the site. It will extend to 1,857 sq m (GIA), with a sales area of 1,254 sq m. The occupier will be ALDI (see further discussion below). It is expected that about 80% of the sales area will be devoted to convenience goods, with the remaining 20% devoted to comparison goods.

- 3.23 The store will be serviced via a ramp running along the north western flank of the building. There will typically be three deliveries per day:
- One fresh delivery undertaken by an ALDI articulated vehicle from the regional distribution centre.
  - One ambient delivery undertaken by an ALDI articulated vehicle from the regional distribution centre.
  - One local milk delivery, typically undertaken by a rigid vehicle.
- 3.24 Deliveries are often shared with other ALDI stores on the service route. All recyclable waste is removed from the store and returned to the distribution centre in the delivery vehicles, thereby minimising vehicle movements.
- 3.25 Delivery vehicles will drive into the site, past the south western flank of the building, and then reverse down the ramp to afford level access for unloading from the tailgate onto a docking bay. All movements of goods will be within the delivery vehicles or store, i.e. there is no noisy external transfer in a yard – the entire operation is enclosed. ALDI routinely implement a range of measures to minimise noise from deliveries. In any event, in this case the location of the delivery ramp is such that it is well screened by the store building, and there are no sensitive uses nearby.
- 3.26 Land immediately to the south west of the entrance will be used for the drive through facility. It is anticipated this will be occupied by Starbucks. Vehicular access is provided around the edge of the building to a serving hatch to the rear, and then out to the car park (24 spaces). Whilst this drive through function is central and essential to the business model proposed here, the unit will additionally function as a conventional coffee shop, i.e. for those wishing to use counter service and either drink / eat in, or take away their purchases. The drive through building will extend to 156 sq m (GIA).
- 3.27 Land to the north west of the drive through, and south west of the supermarket, will accommodate a two storey building. The ground floor (465 sq m GIA) will be for retail / service (A1 / A3 / A5) use. It is considered most likely that it will be occupied by retail businesses, and in particular interest has been expressed from a charity shop operator. The upper floor (595 sq m, including access pod) will be for leisure use, and it is expected this will be a gym. The accommodation is likely to appeal to one of the 24 hour, value operators, providing affordable access to high quality fitness equipment, training and classes. Parking for 49 cars will be provided adjacent to this building.
- 3.28 Land to the north east of the retail and drive through area will accommodate the proposed employment units. This aspect of the scheme accords generally with the

principles for the development of the site which have been established through the outline planning permission, as amended, including the Illustrative Masterplan and Design and Access Statement which set the parameters of that permission. This element of the proposed development will address and complete the central part of the Albion Gateway site.

- 3.29 Briefly, the first phase of 11 employment units at Albion Gateway granted reserved matters approval under reference P/2014/01504 addressed the northern part of the site. The second phase of 12 employment units granted reserved matters approval under reference P/2015/00285 was designed as a natural extension to the first phase, and addressed the central part of the site.
- 3.30 The current application represents a third phase and overlaps partly with the second phase. The units which were originally numbered 12 - 18 forming two parallel terraces in the second phase application effectively remain. However, further units are added to extend these terraces in the current, third phase, before an alternative arrangement to that presented by units originally numbered 19 - 23 in the second phase is introduced. Whereas phase two anticipated a row of units across the end of and perpendicular to the two lengthened terraces, the current application proposes accommodation extending further along the south eastern boundary of the site, and a yard area for open storage. It is these units (numbered 5 / 6 / 7 in the current application drawings) plus mezzanine space and the open storage yard which will be occupied by MKM. In this way the area of Albion Gateway devoted to employment use expands beyond that anticipated by phases one and two, and pushes further into the southern part of the site.
- 3.31 Completion of the two, already permitted, phases would see about 7,230 sq m of employment units developed on the site. The third employment phase now proposed will see that expanded to about 8,240 sq m overall, i.e. an increase of 1,010 sq m over that previously permitted. A total of 26 units will be provided, compared with the already permitted 23 (subject to subdivision and amalgamation). Car parking and landscaping is also proposed.
- 3.32 Landscaping is proposed around the site, and an attenuation pond is included within the south western quadrant as part of the strategy to deal with surface water. It is effectively a shared facility designed to serve the whole of the southern part of the Albion Gateway scheme.

### **THE SUPERMARKET OPERATOR – ALDI**

- 3.33 ALDI's aim is to provide high-quality products at discounted prices within a pleasant shopping environment. Since arriving in the UK at the start of the 1990's ALDI has

persistently sought to overcome various negative perceptions associated with discount food operators, and have now reached the stage where their simple value for money philosophy is widely understood and accepted. ALDI retails the highest quality goods at the lowest possible prices. Discounted prices are generally achieved through bulk buying and economies of scale, limiting the number of lines offered and concentrating on own label products and maximising efficiency in the operation of the stores.

- 3.34 Prices are not lower because the quality of goods sold has been reduced. Indeed, ALDI regularly receive widespread recognition of the quality of the own label products, frequently winning awards including, ‘Which?’ Supermarket of the Year, ‘The Grocer’ Discounter of the Year, and various blind tasting tests.

*ALDI Trading Policy*

- 3.35 ALDI’s function is as a supermarket that can act as either a bulk food shop destination or a ‘top-up’ shopping convenience store, although the emphasis is on providing for those wishing to carry out a basic weekly shop, which most frequently (according to most shopping surveys) involves use of the private car. Through their unique retail offer (involving primarily own label products) ALDI stores also contribute to enhancing the overall range and choice of convenience goods available within their catchments.

- 3.36 ALDI stores are modest-scale supermarkets, selling a deliberately restricted product range consisting of approximately 1,500 lines. This is limited in comparison with other grocery stores and supermarkets, which normally carry anything between 2,500 and 40,000 product lines, with superstores often carrying up to 60,000 lines. The result is that ALDI do not stock numerous types of one product (e.g. pet food, bread ranges etc.), but rather provide one line (and most often one size) of a given product.

- 3.37 This limited selection of goods includes:

- pre-packed seasonal fruit and vegetable lines;
- general tinned, bottled and pre-packed groceries;
- frozen and chilled goods;
- beers, wines and spirits;
- pre-packed bread, morning goods and cakes;
- a limited everyday range of non-food household items.

- 3.38 ALDI sell only a limited range of branded goods, which are only offered when, in ALDI’s opinion, the brand offer cannot be bettered. Local and regional sourcing of products,

particularly for fresh produce and bakery goods, is an important element within the range.

- 3.39 ALDI do not sell cigarettes or lottery tickets and stock only a small range of branded wines and spirits, as well as a limited range of bread lines and a small number of boxed cakes. The ALDI store format does not include specialist butcher, fishmonger, bakery, delicatessen or a chemist, which are commonplace with larger supermarket chains.
- 3.40 This is an important distinction with ALDI and crucial to understanding how their stores operate. In practice this means that, unlike larger supermarket formats, ALDI does not offer a 'one-stop-shop' such that, when shopping at ALDI, customers will also have to visit other shops and services to complete their shopping needs. Further, stores have only a limited amount of non-food floorspace (around 20%), which mostly contains weekly specials. This is an additional difference to larger supermarkets, which often have around 30%-50% non-food floorspace.
- 3.41 On this basis, ALDI complements, rather than competes with, existing local traders and generates considerable propensity for linked trips and associated spin-off trade. Store opening hours are also more limited than traditional convenience shops / newsagents, which further limits direct competition with such outlets.
- 3.42 In this way, the introduction of an ALDI offers considerable benefits to the areas a new store will serve, increasing spin-off trade as well providing as physical and economic regeneration. Stores will not only increase main food shopping choice in a locality generally but, by providing an accessible store offering unrivalled value for money, will specifically help those members of the local community on restricted budgets.

#### *Merchandising Layout, Parking & Store Equipment*

- 3.43 Crucial to the ALDI business model is a tried and tested store format, which the Company has developed to allow goods to be handled, displayed and sold efficiently, thus enabling stores to compete effectively and provide the award winning offer. Store layouts are eminently practical and reflect the Company philosophy of offering unrivalled value for money through cost effective management. Although the ambient internal shopping environment is high quality, there is no unnecessary expenditure on elaborate shop fittings with resultant savings being reflected in low prices.
- 3.44 Merchandise is sensibly displayed in specially designed cases to eliminate stocking time and allow easy and efficient re-stocking. ALDI make enormous efficiency gains in this area and pass these directly to the customer. As discussed above, the goods themselves are unloaded directly into the store via a dock leveller and can then be transferred directly to the shop floor to go on display.

- 3.45 The internal store layout and operation has been designed to be efficient and practical for use by customers; these matters are routinely reviewed and monitored and adjustments made to the model as required. Retail is, of course, a constantly evolving and dynamic sector and ALDI are committed to improving operations and shopping experience to meet the demands and expectations of customers.
- 3.46 Features included to support this include:
- long till conveyors that hold a customer's full shop so as to allow goods to be unloaded, scanned and then packed quickly by customers
  - level store access, automatic entrance doors, and wide aisles and checkouts for easy access by all (the design and layout of new ALDI stores also of course complies with the requirements of the Disability Discrimination Act)
  - gondolas and shelving that allow goods to be easily reached
  - typical weekday store opening hours of 8am-10pm, and Sunday opening times to enable general flexibility in choice of shopping (within Sunday trading laws)
- 3.47 It is the above core philosophy that underpins ALDI's operator model and is fundamental to their store development and profitability. The Company's stores and their distribution warehouses are laid out to reflect the internal shop layout, which ensures efficient loading, unloading and stocking of shelves. This requires consistent floorspace proportions and layout regardless of store location.
- 3.48 Although the Company has developed stores of different sizes since arriving in the UK, with the newer stores being larger than the early generation stores, all ALDI stores have a consistent proportion and layout. Aldi strives to ensure that all of the stores can stock the full range of goods (and the Company are currently undertaking a programme of extending their smaller stores), although the amount of circulation space within some of the smaller stores is reduced. The key factor is that each store displays its range of goods in the same way and this is a fundamental efficiency factor in the operation which enables prices to be kept very low.
- 3.49 Stores are required to have adjacent car parking facilities. In particular, customers wishing to undertake a 'weekly' shopping trip, or those purchasing large and heavy items, and less able-bodied customers, must have the opportunity to take their goods home by car irrespective of the accessibility of the store location via sustainable modes of transport.
- 3.50 ALDI recognises the need for flexibility in promoting sites for development and pursue non-standard stores where this will assist in meeting planning policy requirements.



When considering the scope for flexibility, however, the inherent nature of ALDI's operation as a discount food retailer must be borne in mind. Accordingly, there are a number of key areas where it is generally not possible to alter the core design of the store; as to do so would undermine the operational efficiency of the business and hence its viability.

3.51 Specific areas of the design and layout of an ALDI store are as follows:

- *Retail sales area*: this is the most critical aspect of store building design. A 1,254 sq m floor area is generally required to provide approximately 1,500 product lines, and the dimensions of the retail area are determined by the need to ensure that adequate and consistent product display space is provided. The retail sales area is also specifically designed to enable efficient transfer of products (it has been demonstrated that a rectangular store design is necessary for appropriate stock transfer, retail display and security). In view of its central importance to the trading and operational success of ALDI's business, the size and proportions of the net retail floor area is the factor where it is generally not possible for ALDI to depart from their core design as to do so would undermine trading viability.
- *Storage and ancillary non-retail floorspace*: where the size and shape of a particular site requires less than optimal configuration, ALDI can exhibit some flexibility, such as the location of the service pod and size of the storage area although in all cases adequate levels of storage will be required.
- *Urban design*: ALDI recognises that the external appearance of its buildings needs to respond to their design context.
- *Parking*: ALDI is committed to ensuring that its stores are accessible by a variety of modes of transport and seek to locate stores where they are accessible to pedestrians and by public transport. In recognition of the fact that most customers will wish to travel by car, and that many customers visit ALDI to carry out a weekly shop, ALDI normally seeks parking provision in line with local parking standards, subject to maintaining overall store viability.

3.52 This business model has certain implications for the application of retail policy. This is considered in more detail in Sections 4 and 6, below.

## **SUMMARY**

3.53 The application proposes the development of vacant land at Derby Road for a supermarket, drive through, retail / service, gym and employment units. It is intended to

contribute towards the completion of the Albion Gateway component of the overall regeneration programme for land around the retained Pirelli facility.

- 3.54 The value the supermarket and other commercial activities will generate and the economies of scale achieved in approaching the remainder of the Albion Gateway land comprehensively will enable the final phase of the employment space here to be developed largely speculatively. Over 1,000 sq m of additional employment space will be provided if the proposal is allowed, compared with that anticipated by existing permissions.
- 3.55 The supermarket operator will be ALDI, providing high-quality products at discounted prices within a pleasant shopping environment. The business model operated by ALDI means that the store will enhance the overall range and choice of shopping available to local people, as well as offering value for money and complementing, rather than competing with, existing stores. This format of shopping will offer particular benefits to members of the local community on restricted budgets.
- 3.56 The drive through operator is expected to be Starbucks, and MKM Building Supplies will also be accommodated. Their introduction will add further high quality, high profile businesses to the site and further enhance this important gateway location.

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## 4. PLANNING POLICY

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4.1 This section sets out a brief summary of the planning policy context within which the proposals should be determined. It considers the main policy areas at the national and local levels, summarising the key aspects of these policies. More detailed and topic specific<sup>1</sup> aspects of policy are dealt with where relevant in other documents forming this application submission.

4.2 This section also sets out a more detailed consideration of how certain aspects of retail planning policy should be applied.

### THE LOCAL PLAN

4.3 The new Local Plan for East Staffordshire was adopted on 15 October 2015 and as a result the former (2006) Local Plan was revoked.

4.4 Whilst land on the opposite (western) side of the retained Pirelli facility is identified as a strategic housing allocation by the policies map, the current application site and wider Albion Gateway area does not have any specific allocation or other use or development designation. The status of the site relative to the flood zones is shown.

4.5 The Local Plan sets out a series of Strategic Objectives as focal points for the delivery of the Vision for the Borough. The Strategic Objectives of most relevance to the current proposal include:

- SO6: centres – seeks to maintain and enhance town centres, including Burton town centre
- SO7: economic diversification – seeks to foster and diversify the employment base of Burton

4.6 Simply put, this is an application which seeks to support the economic and job creation aspirations of the Local Plan, whilst ensuring that other objectives, including support for the town centre, are not compromised.

4.7 The Local Plan sets out a Sustainable Development Strategy which, inter alia, seeks to direct the majority of new development to sites in and around Burton; indeed, about three quarters of planned development growth is directed there. Some 6,473 dwellings are allocated on strategic sites for Burton over the Local Plan period (Strategic Policy 4), i.e. over four times the number identified within the Borough's other "Main Town",

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<sup>1</sup> This includes, for example, policy relating to transport and flood risk

Uttoxeter. Two of the five brownfield strategic housing allocations for Burton, west of the retained Pirelli site and along Derby Road (300 and 250 dwellings respectively), are located almost adjacent to the current application site.

4.8 It comments (paragraph 2.18) that Burton;

“...is the largest settlement in the Borough, and the one with most regeneration needs, particularly with regard to attracting investment in industries that will provide a more varied economic base to the town. It is also has the most facilities to serve an increased population, with the most potential to increase and enhance the level of provision. New development which is accessible to existing facilities is likely to be the most sustainable option. The evidence base shows low vacancy rates and relatively strong prices, indicating confidence in strong market demand for the levels of growth the Council is proposing. The transport evidence base also indicates that growth can be accommodated and mitigated in key locations.”

4.9 This approach is reflected in Strategic Policy 2 which directs development towards the most sustainable locations in accordance with a settlement hierarchy headed by Burton and Uttoxeter. New development should be concentrated within the settlement boundaries of these “Main Towns”. Development outside settlement boundaries is highly restricted (Strategic Policy 8).

4.10 The Local Plan sets out the “Presumption in Favour of Sustainable Development” as “Principle 1”, indicating the Council’s positive and proactive approach to working with applicants, and confirming that proposals in accordance with the Local Plan will be approved without delay. For the reasons set out in Sections 5 and 6 below the current proposal accords with the Local Plan; it represents “Sustainable Development” and as such should be approved without delay.

4.11 A local (East Staffordshire) approach to what constitutes “Sustainable Development” is set out in Strategic Policy 1. This is considered further in Section 5, below.

4.12 The Local Plan indicates (paragraph 3.149) that Burton is “essentially a healthy town”, albeit one that has slipped down the retail rankings. It draws on the 2013 East Staffordshire Retail and Leisure Study prepared for the Council by Peter Brett Associates (“the PBA Report”). This is considered in more detail in Section 6, below, but from this work the Local Plan identifies a requirement for 7,200 sq m (sales) of comparison goods floorspace in the 2016 – 2021 period across the overall catchment area (OCA), rising to 21,100 sq m in total up to 2031. It notes the scope to increase the retention of convenience goods spending across the OCA, and a requirement for an additional 2,700 sq m (sales) up to 2021, rising to about 5,750 sq m up to 2031.

- 4.13 Strategic Policy 20 refers to these figures for the OCA, and then sets out additional minimum floorspace requirements for the towns at the top of the local retail hierarchy, i.e. taking a view on how much of the “global” need in the OCA should be planned for within the Borough. For Burton, the requirement is for approximately 14,800 sq m (sales) of additional comparison goods floorspace across the plan period, and a share of the identified requirement for 4,205 sq m (sales) of additional convenience goods floorspace.
- 4.14 Strategic Policy 21 requires retail proposals outside town centres to be subject to the sequential test. The development of local shopping facilities in existing local centres is supported, subject to criteria including that the scale of provision should be to meet local needs only. In Burton, an impact assessment will be required for proposals of 1,500 sq m (gross) or more of convenience floorspace, or 750 sq m (gross) or more of comparison floorspace. As discussed above, the proposed store will extend to 1,857 sq m (GIA), and it is expected that 80% of the sales area will be devoted to convenience goods, with the remaining 20% devoted to comparison goods. Applying the same split to the gross area would yield 1,485 sq m (gross) of convenience space, and 371 sq m (gross) of comparison space.
- 4.15 The figure for convenience goods is below the threshold set out in Strategic Policy 21. As such, there is no requirement in the Local Plan for impact assessment for convenience goods.
- 4.16 As discussed in Section 3, above, the scheme includes a further block providing 465 sq m of A1 / A3 / A5 accommodation. Whilst part of this might be accommodated by (say) a café or restaurant, the main initial interest has been from a comparison retail (charity shop) operator. If the space in its entirety were occupied for comparison retail the total new provision in this sector, including Aldi, would amount to  $(465 + 371) = 836$  sq m. This is – just – in excess of the threshold set out in Strategic Policy 21, and so an impact assessment is required for comparison goods. This is considered further in Section 6 below.
- 4.17 Other Local Plan policies of general relevance to the current proposal include:
- Strategic Policy 24 High Quality Design – proposals must contribute positively to the area in which they are proposed, having regard to a series of design criteria. Questions of design are addressed principally in the Design and Access Statement.
  - Strategic Policy 27 Climate Change, Water Body management and Flooding – sets out requirements in terms of demonstrating the acceptability of development from a

flood risk, water quality and drainage perspective. These issues are addressed in the submitted Flood Risk Assessment and Drainage Strategy.

- Strategic Policy 35 Accessibility and Sustainable Transport – encourages the use of sustainable modes of transport, and seeks to ensure that the highways implications of development are addressed. These matters are considered in the Transport Assessment.
- Detailed Policy 1 Design of New Development – sets out a series of criteria relevant in the consideration of the design of a proposal, including car parking. Questions of design are addressed principally in the Design and Access Statement.
- Detailed Policy 2 Designing in Sustainable Construction – encourages the design and delivery of low carbon buildings. Again, these issues are considered in the Design and Access Statement.
- Detailed Policy 7 Pollution and Contamination – whilst the location and setting of the proposal are such that issues surrounding noise and light do not arise, it is relevant to consider ground conditions. A report dealing with ground conditions has been prepared and submitted in this regard.

4.18 The requirements of these policies are addressed in Sections 5 and 6 below, and in the suite of documents supporting this application.

### **OTHER LOCAL GUIDANCE**

4.19 A “Pirelli Factory Development Brief” was adopted by the Council in July 2011. It was intended to guide the development of land released around the retained Pirelli facility. It has largely been overtaken by subsequent events. It was prepared in the context of the previous Local Plan, which has now been revoked, and a new Local Plan has been adopted. Furthermore, planning permissions have been secured for the development of the land addressed by the Development Brief. It has largely served its purpose and is of limited relevance to the current proposals.

4.20 Other than the retained Pirelli facility and land disposed of for the football stadium, the Development Brief focuses on two areas. The first, on the western side, is identified for residential development, i.e. consistent with subsequent planning permissions and the Local Plan site allocation. The second, on the eastern side fronting Derby Road, includes the current application site and encompasses the Albion Gateway area as a whole. It is identified as a location where employment development is required as part of a mix of commercial uses. As discussed above, employment development on a large

part of this land is already well under way, and will be added to by the current application.

- 4.21 In addition to employment a range of possible uses is identified here; whilst this does not explicitly include retail it is clear that the list is not exhaustive, and no uses are specifically excluded. It is acknowledged that some uses may need to pass a PPS4 (as was) sequential test; this would include retail, leisure and the drive through use.

## **THE NPPF**

- 4.22 The NPPF confirms (paragraph 12) that its publication, “does not change the statutory status of the development plan as the starting point for decision making.” Proposals must be determined in accordance with the development plan unless material considerations indicate otherwise (paragraph 11). The NPPF represents a material consideration which should be taken into account in determining planning applications.
- 4.23 The NPPF is framed as a positive and enabling document, seeking to facilitate sustainable development and growth. There is a clear and firm commitment to supporting and securing sustainable economic growth. Applications for sustainable development should be approved wherever possible, consistent with an overarching approach that demands a “presumption in favour” of sustainable development (paragraph 14). It advocates a proactive, creative and solution seeking approach to planning.
- 4.24 Themes familiar from some of the policy documents replaced by the NPPF are reframed and reinforced as the core principles underpinning the new document (paragraph 17). These include, inter alia, an emphasis on high quality design, carbon reduction, conserving and enhancing the natural environment, promoting accessible mixed use development and sustainable transport, seeking to improve wellbeing, and encouraging the delivery of facilities and services to meet local needs.
- 4.25 It confirms the Government’s commitment to ensuring that the planning system does everything it can to support and encourage sustainable economic growth, with significant weight attached to the need to support economic growth. To this end, local planning authorities should plan proactively to meet the development needs of business (paragraphs 18 – 20).
- 4.26 Again carrying forward themes evident in replaced policy there remains an emphasis in the NPPF on positive planning for the promotion of competitive, expanding, healthy town centres at the heart of communities, encouraging choice and diversity. For proposals

such as the retail and drive through elements of the current application there is a requirement to apply the sequential test, and consider impact (paragraphs 23 – 27).

4.27 The specific provisions of the NPPF in relation to the sequential test and impact, which are addressed in Section 6 of this report, include (paragraphs 24 – 27);

“Local planning authorities should 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. They should require applications for main town centre uses to be located in town centres, then in edge of centre locations and only if suitable sites are not available should out of centre sites be considered. When considering edge of centre and out of centre proposals, preference should be given to accessible sites that are well connected to the town centre. Applicants and local planning authorities should demonstrate flexibility on issues such as format and scale...

...When assessing applications for retail, leisure and office development outside of town centres, which are not in accordance with an up-to-date Local Plan, local planning authorities should require an impact assessment if the development is over a proportionate, locally set floorspace threshold (if there is no locally set threshold, the default threshold is 2,500 sq m). This should include assessment of:

- the impact of the proposal on existing, committed and planned public and private investment in a centre or centres in the catchment area of the proposal; and
- the impact of the proposal on town centre vitality and viability, including local consumer choice and trade in the town centre and wider area, up to five years from the time the application is made. For major schemes where the full impact will not be realised in five years, the impact should also be assessed up to ten years from the time the application is made.

Where an application fails to satisfy the sequential test or is likely to have significant adverse impact on one or more of the above factors, it should be refused.”

4.28 The maximum gross retail floorspace created by the application proposal will be 2,322 sq m, i.e. comfortably below the default threshold set by national policy. As such, there is no national policy requirement for impact assessment.

## **POLICY INTERPRETATION**

4.29 The Planning Practice Guidance (PPG) that accompanies the NPPF provides assistance in terms of how the policy tests should be applied. For the sequential test, two factors



stand out. First, the PPG is clear (ref. 2b-010-20140306) that, "The application of the test should be proportionate and appropriate for the given proposal." As such, for modest proposals such as this, at a scale where there is no requirement to assess convenience impact and only just a requirement to assess comparison impact, a lighter touch is reasonable in applying the test, and the test should also be geared to the consideration of what is proposed, i.e. a discount supermarket, further retail and a gym, and a drive through.

- 4.30 Second, the PPG confirms (2b-011-20140306) that, "Use of the sequential test should recognise that certain main town centre uses have particular market and locational requirements which mean that they may only be accommodated in specific locations". This is again relevant to the current proposal, and is considered in more detail in Section 6.
- 4.31 More generally, case law and Secretary of State decisions established over a period of years provide further assistance in terms of how the sequential test should be applied. From the High Court, in *Zurich Assurance Ltd trading as Threadneedle Property Investments v North Lincolnshire Council*, [2012] EWHC 3708 (Admin), it was noted that the sequential test is "binary", i.e. it is either passed or failed - it cannot be partially complied with. However, the extent of any breach is then to be weighed in the round with other material considerations, and does not dictate refusal. It was determined in the circumstances of this case that the wider, principally economic, benefits of the scheme (for a large M & S store plus retail warehouse units in an out of centre location on the edge of Scunthorpe) were sufficient to allow planning permission to be granted. The *Zurich Assurance* case warns against the absolute and blinkered application of the sequential test.
- 4.32 In his judgement Mr Justice Hickinbottom stated (paragraph 61) that, "It is also important to mark that developers, and planning authorities, work in the real world." This comment was made in the context of assessing the M & S store from a sequential perspective. He went on to note that, "Marks & Spencer had assessed the only available town centre alternative to the Site, and had concluded that a development that was smaller than that proposed, or one with a more restricted range of goods, was neither commercially viable nor suitable for their commercial requirements. On the basis of that assessment, emphasised by their representative who spoke at the planning committee hearing, the officer and committee knew that, if this planning permission was refused, then Marks & Spencer would not locate into Scunthorpe town centre."
- 4.33 He also observed (paragraph 62) that, "Working in the real world, the committee were entitled (and, indeed, bound) to take into account the evidence that any arrangement in

which Marks & Spencer used the T J Hughes unit (the only available unit in Scunthorpe town centre) would not be commercially viable, and that, because of that lack of viability, Marks & Spencer would not locate to Scunthorpe town centre in the event that this application for the Site was refused. On the basis of that evidence, in the committee's view, the applicant had demonstrated flexibility in terms of the sequential approach so far as the possible disaggregation of the Marks & Spencer operation was concerned. They were entitled to come to that conclusion on that evidence."

- 4.34 The *Zurich Assurance* case referred back to an earlier Supreme Court decision, *Tesco Stores Ltd v Dundee City Council*, [2012] UKSC 13. In the *Dundee* case, the Court had to decide whether the word "suitable" means "suitable for the development proposed by the applicant", or "suitable for meeting identified deficiencies in retail provision in the area". Subject to the requirement for the applicant to demonstrate flexibility, the Court endorsed the former and rejected the latter. Providing that local circumstances, the scope for accommodating the development in a different form, and sequentially preferable locations, have been assessed, paragraph 29 of the Judgement states that, "...the question remains...whether an alternative site is suitable for the proposed development, not whether the proposed development can be altered or reduced so that it can be made to fit an alternative site."
- 4.35 Paragraph 38 of the Judgement adds that, "...the whole exercise is directed to what the developer is proposing, not some other proposal which the planning authority might seek to substitute for it which is for something less than that sought by the developer...the context indicates that the issue of suitability is directed to the developer's proposals, not some alternative scheme which might be suggested by the planning authority. I do not think that this is in the least surprising, as developments of this kind are generated by the developer's assessment of the market that he seeks to serve. If they do not meet the sequential approach criteria, bearing in mind the need for flexibility and realism to which Lord Reed refers in para 28, above, they will be rejected. But these criteria are designed for use in the real world in which developers wish to operate, not some artificial world in which they have no interest doing so."
- 4.36 The PPG confirms that there is a requirement to demonstrate flexibility, with respect to format and scale, in assessing the suitability for "the proposal" of more central sites from a sequential perspective. However, that requirement must be understood in the context of the discussion above, having particular regard to the need to operate in the real world, and recognising that, "certain main town centre uses have particular market and locational requirements which mean that they may only be accommodated in specific locations."

- 4.37 A consideration of these issues and how they are applied can be found in the Secretary of State's (SoS) "Call-in" decision in respect of an out of centre retail led mixed-use proposal at Rushden, East Northamptonshire (APP/G2815/V/12/2190175). This took into account the post-inquiry issue of the PPG.
- 4.38 In this case, the SoS (paragraph 15 of decision letter) agreed with the Inspector that the sequential test relates, "...entirely to the application proposal and whether it can be accommodated on an actual alternative site", and, "...not whether the proposed development could be altered or reduced so that it can be made to fit the alternative site" (Inspector's report paragraph 8.45). The Inspector stated (paragraph 8.46) that, "It is important to bear in mind that the sequential test as set out in NPPF [24] require **applications** for main town centre uses to be located in town centres and it then runs through the sequence, edge and then out-of-centre. This makes good the very simple point that what the sequential test seeks is to see whether *the application* i.e. what is proposed, can be accommodated on a town centre site. There is no suggestion here that the sequential test means to refer to anything other than the application proposal. So *Dundee* clearly applies to the NPPF." (emphasis original)
- 4.39 The Inspector also concluded (paragraphs 8.47 and 8.51 of his report) with support from the SoS (paragraph 16 of the decision letter) that there is no longer any requirement to consider disaggregation of a scheme. This point is perhaps irrelevant to the current proposal, unless there were some perverse and unreasonable view that the relatively limited comparison goods element of the supermarket should be separated and isolated, or indeed the view were taken that the drive through could be hived off, or part of the retail / leisure building. From the discussion above it is clear that the relevant parts of the proposal must be considered as a whole.
- 4.40 The Inspector also considered the question of whether there is a hierarchical dimension to the sequential test and concluded (paragraph 8.48) that, "...there is nothing in the sequential test as set out in NPPF [24] that states that the concept of "suitable" sites means suitable in terms of the scale of the nearest centre to the site in question and/or its place in the "hierarchy" of centres. The sequential test relates entirely to the application proposal and whether it can be accommodated e.g. on a town centre site."
- 4.41 This approach was subsequently (25 June 2015) endorsed in a SoS "Call-in" decision in respect of an out of centre food superstore proposal at Braintree (APP/Z1510/A/14/2219101). In this case the SoS (paragraph 9 of decision letter) agreed with the Inspector's assessment regarding the sequential test. The Inspector's assessment at *Braintree* draws together the progression of the points discussed above.

4.42 The Inspector noted (paragraph 447 of report) that, "The Framework does not ask whether sites are likely to become available; it asks whether they are available." Referring back to *Dundee*, the Inspector stated (paragraph 448) that, "The [sequential] exercise is directed to what the developer is proposing". The *Rushden* decision was specifically referred to, with support for its position on disaggregation, and that the sequential test relates entirely to the proposed development, and whether it can be accommodated more centrally on an actual alternative site. The Inspector also referred to the *Zurich Assurance* case, and the appropriateness of having regard to the requirements of commercial operators (in this case Sainsbury's not wishing to have two town centre sites in Braintree).

4.43 Reading the above as a whole, and the trajectory of the debate around this point through to June 2015 and the *Braintree* decision, the implications for the current proposal include that:

- The application of the sequential test should be proportionate and appropriate for the scheme
- Certain main town centre uses have particular market and locational requirements which mean that they may only be accommodated in specific locations
- Flexibility must be applied but also, importantly, a "real world" approach to what developers are seeking to achieve, and what commercial operators require
- The sequential approach applies to the application scheme as proposed, and whether it can be accommodated more centrally
- There is no requirement to consider disaggregation
- There is no specific hierarchical dimension to the sequential test
- Sites should be considered on the basis of whether they are available now, not whether they are likely to become available

4.44 In terms of the third of these bullet points it is difficult for the current applicant to demonstrate a great deal of flexibility in relation to the supermarket element of the development. As discussed in Section 3 above, the fundamentals of the supermarket part of the proposal are already accommodated very efficiently in the scheme as designed, and there is limited scope to vary this within the confines of a well-established and successful business model. The "real world" point is obviously a particularly relevant one in the consideration of proposals for an ALDI store such as this which has a number of fixed characteristics.

- 4.45 The second, third, fourth and fifth of these bullet points are also particularly relevant to the drive through. This use has an obvious requirement in terms of road access and the ability for cars to manoeuvre within the site. The application here, specifically, seeks permission for a drive through (rather than simply a restaurant), and the correct approach must be to consider this alongside the retail and leisure elements, i.e. the scheme as a whole, rather than look individually at the constituent elements.
- 4.46 Two more recent cases provide more clarity in terms of how the sequential test should be approached. They do not alter the central thrust of the analysis set out above. Rather, they refine aspects of how the test should be applied.
- 4.47 The first case relates to a SoS recovered appeal decision in respect of proposals for up to about 17,000 sq m GEA of A1, A2, A3, A5, D1 and D2 uses at an out of centre site in Exeter (APP/Y1110/W/15/3005333). The SoS agreed with his Inspector that the appeal should be dismissed and planning permission refused.
- 4.48 In part this decision related to conflict with the Development Plan as a whole, including strategic policies directing major development within an up to date hierarchy, and identifying the appeal site within a wider allocation that from a retail perspective made provision only for a local centre (SoS letter paragraphs 14 – 15). However, from a sequential perspective the key issues centred on the need to show flexibility, and the availability of an allocated and more centrally located site.
- 4.49 As discussed above, it is recognised that flexibility must be shown in applying the sequential test, albeit there is sometimes a tension between this and following a real world approach to the scheme as proposed. In any event, at *Exeter* the SoS concluded (paragraph 18 of letter) that, “given no more than reasonable flexibility” the accessible, sequentially preferable, suitable and available bus station site would represent an alternative to the appeal site and as such the test was failed. The SoS’ conclusions (paragraph 29 of letter) indicate, as above, that the sequential test is not determinative and its failure is capable of being outweighed by other considerations (although the balance still came down against the appeal scheme in this case).
- 4.50 At *Exeter* Development Plan policy specifically identified the bus station site as a location for major retail and mixed use development. The relevant considerations included whether it was suitable and available (IR paragraph 11.29), with no requirement to look at sites in other towns, given the catchment to be served (paragraph 11.36). In referring back to *Dundee* the Inspector noted (paragraph 11.32) that, “the question of suitability does require judgement but also that the purpose of flexibility is not to require the application to be transformed into something significantly different.” In following this approach, he found that the appeal scheme could be accommodated on the sequentially

preferable site with some reasonable reconfiguration. He noted that the drive through element of that (outline) proposal was not fixed, did not feature in the description of development, and could be varied to another use (paragraph 11.33). He concluded that consideration of site availability should relate to the development proposed, not the landowner hoping to carry out the development (paragraph 11.39 – 11.40).

- 4.51 The current proposal does not face the same challenges that were evident in *Exeter* in terms of conflict with the plan strategy, or being contrary to the Development Plan as a whole. Equally, at Burton, there is no major plan allocation in or on the edge of the town centre to contend with, and the current proposal is a full one which specifically applies for a drive through, amongst other uses. The relevance of *Exeter* in the current case therefore relates primarily to the requirement to show a reasonable degree of flexibility in terms of looking for potential alternative locations for the development proposed.
- 4.52 The second case relates to the judgment of Mr Justice Ouseley in *Aldergate Properties Ltd and Mansfield District Council and Regal Sherwood Oaks Ltd, [2016] EWHC 1670 (Admin)*. This related to questions including whether the application of the sequential test to proposals for an ALDI store could exclude sites in the town centre in circumstances where Aldi would not locate there due to the proximity of other existing or permitted ALDI stores. The Claimant was a property developer who had secured planning permission for a town centre site to include at least 4,000 sq m or so of retail floorspace, and where policy required a convenience store. It also related to questions about whether a condition personal to ALDI would be appropriate.
- 4.53 Again, at the outset, there are some clear differences between the current proposal and the situation in *Mansfield* given the identification and planning status of the town centre site there, but also of course some direct similarities due to both cases relating (in part) to proposals for ALDI stores. The issue of conditions is discussed below in Section 8. A conditional permission personal to ALDI is inappropriate but there are other means whereby via condition controls can be secured such that the character of the completed development will be consistent with that proposed and assessed here.
- 4.54 In the *Mansfield* case Mr Justice Ouseley stated (paragraph 35) that, “In my judgment, “suitable” and “available” generally mean “suitable” and “available” for the broad type of development which is proposed in the application by approximate size, type, and range of goods. This incorporates the requirement for flexibility in [24] NPPF, and excludes, generally, the identity and personal or corporate attitudes of an individual retailer. The area and sites covered by the sequential test search should not vary from applicant to applicant according to their identity, but from application to application based on their content. Nothing in *Tesco v Dundee City Council*, properly understood, holds that the

application of the sequential test depends on the individual corporate personality of the applicant or intended operator.” He reiterated (paragraph 39) that, “the identity of the applicant or proposed occupier is generally<sup>2</sup> irrelevant”, indicating also (paragraph 40) that an alternative approach would, inappropriately, convey an advantage or disadvantage in relation to the test depending on identity.

4.55 Whilst not determinative in this case Mr Justice Ouseley was also concerned (paragraphs 50 – 55) with the application of a personal condition, and indeed with a range of other matters. For the current proposal the relevance of *Mansfield* relates primarily to the view that the identity of the applicant or proposed occupier is unlikely to be relevant to the approach to the sequential test.

4.56 These issues, and the extent to which the points raised above have a bearing on how the sequential test should be applied in this case, are considered further in Section 6.

## **SUMMARY**

4.57 The application site has no particular allocation in the adopted Local Plan. Burton is identified as the location to where most development will be directed, and a location of significant planned growth. A large requirement for additional retail floorspace is identified. Whilst the sequential test applies, there is no requirement for impact assessment of the convenience retail element current proposal. The Local Plan is framed positively with a “presumption in favour of sustainable development”, and includes a range of policies addressing matters such as design, flood risk and accessibility.

4.58 A “Pirelli Factory Development Brief” was adopted in July 2011 to guide the development of land released around the retained Pirelli facility. It has largely been overtaken by the new Local Plan, and planning permissions on the land it addresses. It anticipates commercial, employment led, mixed use development on land including the current application site.

4.59 At the national level, the NPPF is a positive and enabling document, seeking to facilitate sustainable development and growth wherever possible. Important themes evident in superseded policy are reframed and reinforced as the core principles underpinning this document. The encouragement for investment in centres remains. The PPG, case law, and Secretary of State decisions are instructive in guiding how retail and centres aspects of policy should be applied.

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<sup>2</sup> Acknowledged at paragraph 43 that this is not universal, there are instances where identity may matter

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## **5. PLANNING ASSESSMENT**

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- 5.1 Section 4 (above) provides an overview of the planning policies most relevant to the determination of this application. In this section, the application proposals are assessed within this policy framework.
- 5.2 The general principle of the proposed development is considered at the outset. The wider planning issues associated with the development of the site are then briefly explored, largely drawing on the specialist studies submitted alongside this report. Reference is also made to the economic effects of the proposal, including the employment benefits.
- 5.3 Matters relating directly to retail and centres policy are addressed in Section 6.

### **THE GENERAL PRINCIPLE OF DEVELOPMENT**

- 5.4 The current application site and wider Albion Gateway area does not have any specific Local Plan allocation or other use or development designation. The general strategy and policies of the Local Plan apply. The application must be determined in accordance with the development plan, unless material considerations indicate otherwise.
- 5.5 At a strategic level, the Local Plan encourages economic development, economic diversification, and employment growth, and seeks to direct most of the planned growth to Burton, on land within the settlement boundary. Significant growth in, and expansion of, the town is proposed over the Plan period, addressing its regeneration needs, and attracting investment. The current proposal is consistent with this strategy, and supporting these objectives.
- 5.6 The proposal is consistent with the relevant principles set out in Strategic Policy 1 in determining whether development is sustainable. For example:
- It is well related to the strategic highway network, and is entirely acceptable in highways terms;
  - It is accessible by a choice of means of transport, and well related to those living in existing and planned residential areas;
  - It will be well integrated into the evolving townscape in this part of Burton;
  - It will be entirely acceptable from an amenity perspective;
  - It is designed to a high standard;



- Flood risk and drainage have been fully addressed, and a pond is included as part of the sustainable drainage solution;
- The site is cleared and ready for development and so there will be no harm to biodiversity, whilst an appropriate landscaping scheme will be provided;
- In the manner described above the scheme will underpin and enable the delivery of more extensive employment space than is currently being delivered, helping to attract new businesses to the area and supporting the re-sizing of existing businesses;
- Sustainable construction techniques, materials and waste management will be applied as appropriate;
- It will regenerate a site embedded within the settlement boundary, reducing the pressure for development on agricultural land; and
- It will contribute towards the completion of the sustainable re-use of a wider area of land that was formerly part of the Pirelli industrial complex

5.7 As such, in the terms set out in the Local Plan, this proposal comprises “sustainable development.”

5.8 Whilst the Pirelli Factory Development Brief is largely out of date, the proposal is consistent with it. The application site, and land encompassed by the wider Albion Gateway scheme, is earmarked by the Development Brief for employment led commercial development. A mix of uses consistent with this is being delivered. It is also of course the case that the principle of the employment element of the current proposal has already been established here, and is capable of being implemented through the reserved matters process, i.e. without recourse to a fresh planning application.

5.9 The proposal is in line with central themes of the NPPF encouraging sustainable economic growth. It resonates with a number of the “core planning principles” underpinning the planning system as expressed at paragraph 17 of the NPPF, including:

- It is plan-led, responding to the strategy and direction of growth set out in the recently adopted Local Plan.
- It represents a creative response to unlocking the final part of the wider Albion Gateway site, also enabling the delivery of additional employment space there.
- It will help to meet the defined need for retail floorspace in Burton, responding to market signals identifying a requirement for this type of development.

- It will secure high quality design and a good standard of amenity.
- It is consistent with the character of this part of Burton, and will help to promote the vitality of the urban area.
- It represents a sustainable form of development, delivering an appropriate response to challenges presented by flood risk.
- It addresses surplus land of lesser environmental value, and will enable the effective use of an area which was formerly part of the wider Pirelli site.
- It will contribute to and help facilitate the completion of a wider mixed use development.
- It will have no adverse impact on heritage assets.
- It occupies a location accessible by public transport, walking and cycling.
- It will provide a facility that will help to foster a healthy community by offering good quality food in an accessible location at affordable prices.

5.10 As such, subject to the technical considerations summarised below and addressed fully by the suite of documents supporting this application, and compliance with the retail and centres policy issues as demonstrated in Section 6 below, the proposal represents sustainable development, in accordance with the Local Plan, and consistent with important themes expressed in the NPPF. The presumption in favour of sustainable development applies; the application should be approved without delay.

## **OTHER ISSUES**

5.11 The policies relevant to the application raise a range of technical issues pertinent to its determination. These are considered in the suite of documents that accompanies this application. The ways in which these issues are addressed in this submission as a whole are summarised below.

### **i) high quality sustainable design**

5.12 There is an expectation in policy that a high standard of sustainable design, broadly defined, will be evident in all development. This is particularly important for major development in prominent locations such as that proposed here.

5.13 These issues are covered principally in the Design and Access Statement. This provides a full assessment of the site context, considers the evolution of the scheme,

and explains and illustrates the proposed development. It demonstrates that a high quality development can be realised for the site, responsive to its setting.

**ii) transport and accessibility**

- 5.14 Planning policy seeks to ensure that development is accessible to pedestrians, cyclists, and those travelling by public transport. In parallel with this it seeks to reduce reliance on the private motor car, and the need to travel. This notwithstanding, development should provide an appropriate level of car parking.
- 5.15 Issues of transport and accessibility are dealt with comprehensively through the Transport Assessment and the Design and Access Statement. This material emphasises the important focus that has been placed on creating a site that is accessible by sustainable modes of transport, whilst ensuring that the road network can accommodate visitor traffic.
- 5.16 The Transport Assessment reflects on the trip generation assumed when outline planning permission was granted for the wider site, and shows how the current scheme can be accommodated relative to that envelope. It shows that the relevant junctions will operate within acceptable parameters, demonstrates that there are no issues arising from accident data, and also that the site is highly accessible by a choice of means of transport. It concludes that the scheme is accessible in transport and accessibility terms.

**iii) economy**

- 5.17 In the context of gradual recovery from the economic downturn, the strong and clear message of national policy guidance, and the translation of that into local policy, great emphasis should be placed on the importance of planning positively for economic growth. Support should be given wherever possible for proposals which will attract investment, meet the needs of businesses, and create jobs. The weight to attach to this already important consideration is enhanced yet further following the Brexit vote, with a greater need now for decisions which underpin confidence, strength and certainty in the economy.
- 5.18 The current proposals should be understood in this context. They will represent a significant investment in Burton, inspire wider investor confidence, help to enable more extensive employment development on land adjacent, and be directly associated with meaningful job creation. These factors provide very considerable support for the application proposals.

- 5.19 The direct employment creation associated with the ALDI store will amount to around 40 FTE jobs, including full and part time positions. The flexibility offered by these jobs will be particularly beneficial to those re-entering the workforce and for households seeking a second income. Around 8 new full time jobs plus 7 new part time jobs will be created with the Starbucks unit.
- 5.20 Occupiers have yet to be identified for the retail and leisure space. However, on the basis of average employment densities it is estimated that around 34 FTE positions would be created here, and of course further jobs will be associated with the expanded employment unit provision proposed.
- 5.21 In addition, there will be further job creation associated with the construction phase of the development, and also arising indirectly from multiplier effects in the wider economy, e.g. from businesses serving or supplying the scheme in the construction and operational phases. The business rates associated with the development should also be recognised as a further benefit.

#### **iv) flood risk and drainage**

- 5.22 The submitted Flood Risk Assessment builds on the work previously undertaken for the Albion Gateway development. The approach to flood risk and drainage for Phase 3 is a continuation of the principles already agreed for earlier phases, and in this way Phase 3 can be delivered successfully from a flood risk and drainage perspective.

#### **v) ground conditions**

- 5.23 A ground conditions report has been submitted which summarises the scope and findings of investigative works and recommendations for further works. Significant efforts have already been made to prepare the Albion Gateway land for development, and indeed such development is already well advanced on the northern part of the site. The current application simply seeks to facilitate the extension of this into and across the southern part of the site. The report makes a series of recommendations in terms of development, reclamation, remediation, and testing, and any further requirements in this regard can be dealt with via condition where necessary.

### **SUMMARY**

- 5.24 The general principle of the proposal is readily acceptable. It represents sustainable development, in accordance with the Local Plan and national policy. Subject to detailed development management considerations, the scheme should be supported in line with the presumption in favour of sustainable development.

- 5.25 It relates to a site within a wider area long identified for employment led, mixed use development, where planning permission exists for employment which is currently being implemented. It will contribute to meeting the borough's development needs, and resonates with important national planning principles.
- 5.26 The policy issues raised by the proposals have been addressed comprehensively in this report and the suite of further documents supporting the application. Matters of high quality sustainable design, transport and accessibility, flood risk and drainage, and ground conditions, have all been dealt with. None of these issues should represent an impediment to the development.
- 5.27 Economic considerations also provide considerable support for the scheme. In policy terms, and having regard to the need to sustain the economic recovery, great emphasis should be placed on the importance of planning positively for economic growth. The scheme will represent investment in Burton, help to enable more extensive employment development on land adjacent, inspire wider investor confidence, and directly create jobs in the operational phase, with further employment created through construction, and through multiplier effects.

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## **6. RETAIL AND LEISURE ASSESSMENT**

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- 6.1 Section 5 (above) demonstrates the acceptability of the proposal in principle, in the context of the presumption in favour of sustainable development, and having regard to the various technical issues arising from the scheme. This section focuses on the proposal in terms of retail and centres policy. It discusses the retail context in Burton, before considering the sequential test. The policy review in Section 4 (above) confirmed that there is no requirement in this case to assess convenience retail impact, but the proposal is also considered here in terms of the identified need for retail development, the comparison retail impact, and issues arising from the proposed leisure element.

### **RETAIL CONTEXT AND THE HEALTH OF BURTON**

- 6.2 Whilst placed alongside Uttoxeter at the top of the borough retail hierarchy (Local Plan Strategic Policy 20), Burton is, by some margin, the largest centre in East Staffordshire. It has about double the number of retail and service units that are present in Uttoxeter. There are no district centres identified in the Local Plan hierarchy, but rather a series of local centres. According to Strategic Policy 20 these;

“...are of varying size offering a basic level of convenience shopping and service function for the immediate residential areas. No specific additional retail floorspace requirements are identified in these centres.”

- 6.3 As discussed above, the expansion of local centres should be of a scale to meet local needs only (Strategic Policy 21).
- 6.4 The local centres are distributed unevenly across Burton. For example, there are clusters of centres along Horniglow Road and Waterloo Street, but in the northern sector of Burton extending away from the town centre east of the river and west of the A511 there is just a single local centre, at Main Street in Stretton. Main Street has two clusters of units, around the post office and further to the east opposite The Green, and these are of a type and scale consistent with a local centre designation. They are somewhat divorced from the application site by the A38. As such, the provision of centres in this part of Burton is very limited indeed.
- 6.5 Significant housing growth is also planned in this sector of the settlement. Strategic brownfield allocations have been made immediately to the west (Pirelli, 300 dwellings) and south (Derby Road, 250 dwellings) of the application site, with an additional allocation to the south on the edge of the town centre (Hawkins Lane, 300 dwellings). A further 100 dwellings are allocated to the north, beyond the A38 at Guinevere Avenue.

6.6 In terms of main food shopping provision in Burton amongst the leading supermarket and superstore operators:

- Aldi have an existing supermarket on the northern edge of the town centre, south of Horniglow Street
- Lidl operate a store to the west of the town centre, on Derby Street
- Asda (Octagon Centre) and Sainsbury's (Union Street) operate superstores within the town centre
- Tesco have a superstore to the south of the town centre, beyond St Peter's Bridge, and Morrisons operate a superstore at the southern tip of the settlement, towards Branston

6.7 As such, looking at the northern sector of the town described above:

- There is just a single local centre.
- Significant new housing is allocated, including almost 1,000 dwellings across four strategic sites.
- There is no main food shopping provision, with all the existing main supermarkets and superstores located in and around the town centre, and to the south.

6.8 The application site is located in the heart of this sector. It is extremely well placed to serve the existing and planned residential areas, and to fill a gap in the current distribution of supermarkets and superstores.

6.9 A large Tesco superstore was permitted on an out of centre site just to the north of the town centre on land west of Hawkins Lane. Whilst a start was made on site to keep the permission alive that scheme will not now be built. It is notable, however, that it is taken into account in the assessment of retail need undertaken to inform the Local Plan, and hence the requirement for floorspace set out in policy and discussed above and below is additional to that which would have been provided by this store.

6.10 A further (full) planning application was made for a smaller superstore plus a further retail unit and (in outline) a restaurant on this site. This application benefits from a resolution to grant planning permission, subject to conditions including a "bulky goods" restriction on the retail unit, and the signing of a S106 agreement, following consideration by planning committee in April 2015. The S106 agreement includes significant payments and a range of obligations, and it is understood that it has yet to be signed; as such the planning permission has not been issued. Given that this scheme

no longer has an operator attached, that the “big four” grocers are already represented in the town, and that each has significantly scaled back their new stores programme, it is very doubtful indeed whether this superstore will ever be built, assuming the S106 is eventually signed and the permission issued.

6.11 More generally, commentary on the retail context of Burton and East Staffordshire as a whole is provided in the PBA Report. Points from this report of relevance to the current application include:

- The town centre’s convenience retail offer is considered to be healthy in both quantitative and qualitative terms.
- In numeric terms the town centre has a good representation of comparison retail outlets, and it also has a good array of national multiples in the comparison sector. The overall comparison sector is considered to be healthy, although it would benefit from the addition of a department store.
- Burton is assessed as being well catered for in terms of local services, with no clear quantitative or qualitative deficiencies.
- In this context, the overall assessment (paragraph 3.2.12) is that, “...Burton Town Centre continues to boast a healthy mix of retail and service sector uses which are in-keeping with its role in the retail hierarchy, particularly against the backdrop of the very challenging economic climate.”
- The evidence considered in the round suggests that demand from operators for town centre premises is reasonably healthy.
- Vacancy levels are relatively high, and whilst this is not surprising given the recent challenging economic conditions and ongoing changes in the market it is nevertheless a cause for concern.
- Whilst relatively high levels of footfall are evident throughout the primary shopping areas in Burton, footfall levels in the town’s covered precincts have been on a downward trajectory.
- Whilst the centre is generally very well maintained there are parts which would benefit from enhancement, and the general physical condition and environmental quality is very mixed.
- Whilst the current level of convenience expenditure retention within the PBA study area is reasonably good, there is room for improvement by recapturing some of the expenditure leakage, and a clear quantitative need for new convenience (and indeed



comparison) floorspace. Convenience expenditure retention rates will increase as new floorspace is developed, although this should be encouraged in the town centre.

- The out of centre Morrisons store in Burton has a relatively dominant position in terms of local market share.

6.12 The overall conclusion is that Burton remains reasonably healthy, albeit with some signs of weakness. Importantly, there are clear strengths in terms of the convenience and comparison retail offer and service provision, and this is fundamental to the vitality and viability of any town centre. Demand for representation from operators has held up. Whilst there is a mixed position in terms of vacancy rates, footfall and environmental quality, Burton appears to be a robust centre which has been able to withstand the challenges of recent economic circumstances. There is considerable scope for additional convenience (and comparison) floorspace; this is considered further below.

### **THE SEQUENTIAL TEST**

6.13 The circumstances of this proposal are such that the application of the sequential test is not perfectly straightforward. Having regard to the commentary in Sections 3 and 4 above:

- The elements of the scheme which are subject to the sequential test include the ALDI store and Starbucks unit, as well as the retail and leisure block. This defines the character of what is proposed, and the sequential test should be approached as such.
- ALDI have a specific business model for a supermarket with adjacent car parking. There is some flexibility in this, but a minimum site area of about 0.4ha is required for their purposes. The site area for the retail, leisure and drive through element of the current application (about 1.38ha of built area) happens to be much larger, as it includes some shared access facilities, landscaping, as well as the Starbucks unit and retail and leisure block. The actual requirement to accommodate a new store and parking together with a drive through and additional retail / leisure provision could possibly more efficiently be met on a somewhat smaller site, so 1.38ha should probably be regarded as a maximum site area.
- The application makes specific provision for a drive through. This must have good road access and visibility, with sufficient on plot space to manoeuvre cars around the unit.
- The current proposal for a store of 1,857 sq m GIA is typical of the size required for ALDI to operate their business model efficiently, and would need to be capable of

being accommodated on any alternative site. There are examples of recent ALDI proposals where site specific issues meant that a slightly smaller footprint has been applied, but essentially new stores are of about this size. ALDI do not operate alternative small convenience store, or large superstore, formats.

- ALDI already have a store centrally located within the wider town centre area. Applying a “real world” approach to what developers are seeking to achieve, and what operators require, it might be regarded as unrealistic to expect ALDI to open another store in close proximity to their existing unit. That said, the case law review set out in Section 4 above suggests that the sequential test should be blind to the identity of the retailer.
- ALDI wish to invest, and expand their presence in, Burton. The distribution of existing supermarkets and superstores is such that the central and southern parts of the town are, relatively, well served, with the northern part much less so. Substantial housing growth is also planned in the northern quadrant of Burton, and so the market here will expand. As such, and as recognised in guidance, there is a particular market and locational requirement in this case, i.e. to meet the needs of an underserved and growing market in the northern part of Burton.
- There are no defined higher order centres in the northern part of Burton, or indeed elsewhere outside the town centre; rather, there is just a single local centre, at Main Street. Local Plan policy seeks to limit the scale of new shopping facilities in local centres, but in any event there is no site within or on the edge of this (Main Street) centre that is suitable for the current proposal.

6.14 In this context, there are particular challenges in terms of how the sequential test should be considered. The town centre, and edge of town centre, locations, would not adequately serve the northern part of the town, and are likely to be too close to the existing store. There are no other centres of relevance in this regard. As such, from a practical (rather than strict policy) perspective it is difficult to look beyond the current application site as the preferred location for the proposed development.

6.15 Where edge of centre or, as in this case, out of centre sites are being considered, the NPPF provides (paragraph 24) that, “preference should be given to accessible sites that are well connected to the town centre.” As noted in the Transport Assessment submitted as part of this application, the site is accessible by a choice of modes, including bus services linking it with the town centre. Whilst the site is not immediately related to the town centre, it is not distant from it, and those visiting the proposed store would have the

opportunity to combine this with a trip to the town centre, either by public transport or by car. It has good credentials in this regard.

- 6.16 In terms of other sites that have been identified which might theoretically be considered as alternatives from a sequential perspective, the following observations can be made. In searching for sites, those with very obvious deficiencies from a retail and drive through perspective – e.g. back land locations with poor access and limited or no prominent frontage – have been discounted, and only those without these immediate limitations are discussed further below.
- 6.17 *Bargates / Molton Coors, High Street* – these adjacent sites are addressed in the Local Plan as two parts of a strategic allocation. They are in very close proximity to the existing ALDI unit. In the terms explained in Section 3, above, the southern (Molton Coors) part can be discounted because it is not available now. The northern (Bargates) part is understood to be available, but there have been longstanding aspirations for a mixed use treatment here.
- 6.18 The preferred option in the November 2010 Bargates SPD identifies a broad mix of uses for the Bargates site, including 100 residential units as well as café / restaurant / bar activities, a hotel, offices and small unit shops. The Local Plan again anticipates a mix of uses, including 350 residential units across the strategic allocation as a whole, and a design which opens up and provides links to the washlands. Development including a monolithic supermarket building with adjacent parking and drive through is inconsistent with this allocation, and would also be difficult to achieve successfully given the restrictions of the conservation area setting.
- 6.19 *Coopers Square Car Park and land fronting Station Street* – this block is defined by Coopers Square Shopping Centre to the south and east, Union Street to the west, and Station Street to the north. It extends to just over 2ha. It is in close proximity to the existing ALDI unit. It would benefit from a comprehensive treatment but properties fronting Station Street are in multiple ownership and not available now. The remainder (i.e. the car park area) is larger by some margin than what is required to accommodate the current proposal. As such, the development here of a supermarket and the other uses as proposed would be piecemeal.
- 6.20 There would be some loss of town centre car parking, but little compensating benefit in terms of enhancing the town centre offer; this site is adjacent to Sainsbury's and mid-way between Asda and the existing ALDI. A further supermarket occupied by any operator here would largely provide “more of the same”, rather than something different.

- 6.21 Proposals for the expansion of the Coopers Square Shopping Centre to provide additional retail and restaurant units have been advanced here in the past, and it is understood may be revived in the future. Given the need to enhance the town centre comparison retail offer identified in the PBA Report this would appear to be a much preferable option of far greater benefit to Burton, but one that could be frustrated if a freestanding supermarket unit and drive through with small scale retail were to be introduced. It would be very surprising indeed if part of the car park were to be made available for development on this basis.
- 6.22 *Octagon Centre Car Park* – similar issues to the Coopers Square Car Park site discussed above arise at this location. It is also poorly placed to serve the identified need on the northern side of the town. At about 1.5ha it is a little too large for the proposal to be delivered efficiently, is not suited to a piecemeal scheme, and again has value as car parking serving the Octagon Centre, Asda and wider town centre that would be lost through partial development. It is unrealistic to assume that the owners would make it available for a supermarket, drive through and other uses in this context. There are also particular challenges here arising from the irregular shape of the site.
- 6.23 *Burton Rugby Club / Land Fronting Orchard Street* – this site is adjacent to the Octagon Centre Car Park discussed above; again, therefore, it is still relatively close to the existing ALDI store and poorly placed to serve the identified need on the northern side of the town. At about 1.6ha it is a little too large for the proposal to be developed efficiently. A previous planning permission for the development of this site would have delivered up to about 9,800 sq m (gross) of retail here, i.e. several times the size of the current proposal, and against this background it is expected that a large scale and comprehensive treatment of the site would be required to optimise the receipt to the Rugby Club and assist with its relocation. It is unrealistic to assume that the owners would make it available for piecemeal development in this context. Moreover, it is not available now.
- 6.24 As such, and notwithstanding that the current application site is regarded as the most appropriate location for the proposed development in any event, it is considered that there are no sequentially preferable alternatives which could accommodate the scheme.

## **NEED**

- 6.25 As discussed above, there is no requirement in this case to assess the convenience impact of the proposal. Furthermore, for some considerable time now there has also been no policy requirement to demonstrate the “need” for retail proposals in a development management context. That said, in circumstances where East

Staffordshire has a relatively recently adopted Local Plan which has specifically considered the question of retail need and quantified it, it is relevant to consider how the current proposal would be located within that requirement to inform an assessment of its acceptability.

- 6.26 Strategic Policy 20 provides that across the OCA there is a requirement for 21,100 sq m of comparison goods floorspace. The strategic direction of the plan is that the considerable majority (some 70%) of this should be directed to Burton. As such, across the plan period some 14,800 sq m of additional comparison goods floorspace is to be provided there. The evidence from which these floorspace figures are derived (the PBA Report) shows that they are expressed in net (sales) rather than gross terms.
- 6.27 The proposed ALDI store would have a comparison goods sales area of (1,254 sq m x 20% =) 251 sq m. On the basis of an assumed sales density of £7,000 / sq m this would generate a comparison goods turnover of £1.76 million.
- 6.28 A further 465 sq m of A1 / A3 / A5 accommodation is proposed. This might well be let to include some café or restaurant provision, but on the assumption this space were fully occupied by comparison retail, with a net:gross ratio of 80%, it would have a sales area of 372 sq m. As discussed above, interest has been shown by a charity shop operator in this location. There are no published sales density figures for charity shops, but applying an assumed value of £5,000 / sq m this would generate a comparison goods turnover of £1.86 million.
- 6.29 As such, a total of (251 sq m + 372 sq m =) 623 sq m of comparison goods sales area will be delivered here, equivalent to only about 4% of the requirement identified in the Local Plan. It should also be noted that the calculations on which the figures in the Local Plan are based assume that a number of comparison retail commitments would come forward which are no longer going to be delivered. These include, for example, the Tesco scheme on Hawkins Lane for which a comparison turnover allowance of £25.4 million at 2016 is made, and development at the rugby club for which a corresponding allowance of £24 million is made. The non-delivery of these schemes means that the allowance made for their turnover in the evidence base is effectively returned to the model, increasing capacity in the same, significant, amount.
- 6.30 From the assumptions above the current proposal will generate comparison sales of (£1.76 + £1.86 =) £3.62 million. This is dwarfed by the turnover which will no longer be taken up by the schemes noted above. In other words, even with the development of the current proposal the actual capacity for comparison retail development in Burton will be well in excess of that expressed in the Local Plan.

- 6.31 Turning to the convenience market, in headline terms, Strategic Policy 20 provides that Burton should receive a share of the identified requirement for 4,205 sq m (sales) of additional convenience goods floorspace, this being a subset of the larger need for 5,750 sq m (sales) of additional convenience goods floorspace in the OCA as a whole. The immediate point is that the current proposal – with a sales area of (1,254 sq m x 80% =) 1,003 sq m – would account for less than a quarter (24%) of this. It would contribute to meeting the need, but there would still remain a further requirement for additional development.
- 6.32 The position is more complicated than this for three reasons. First, whilst expressed in the Local Plan in floor space terms, the evidence from which these figures are derived (the PBA Report) calculates the requirement in monetary terms, and then converts this to floorspace using an assumed sales density. It uses a figure of £13,500 / sq m in this regard at 2013 – 2016, growing to £13,704 / sq m at 2016 – 2021, £13,911 / sq m at 2021 – 2026, and £14,120 / sq m at 2026 – 2031. This effectively relies on the assumption that new floorspace would be occupied by one of the “big four” grocers.
- 6.33 In this case, the occupier will be ALDI, who have a company average convenience goods sales density of approximately £10,700 / sq m. Use of this operator specific figure rather than the sales density figures applied in the PBA Report would see the floorspace capacity figures increase by about 26%; in other words, the requirement expressed in floorspace terms in policy increases significantly if it is assumed it will be, as is the case here, built out for ALDI rather than one of the “big four”.
- 6.34 Second, the evidence was prepared on the assumption that the permitted Tesco scheme would be developed. In fact, this will not now be the case and a much smaller store is proposed. As discussed above there is a strong argument to say that even this smaller store will not be built, but in any event the PBA Report makes an allowance against convenience goods spending capacity for the Tesco store of £41.9 million at 2016. The Planning and Retail Statement submitted in support of the revised, smaller store assumes this would generate convenience goods sales of £28.1 million at 2016.
- 6.35 As such, if the smaller store now proposed for this site were to be included within the PBA analysis and all other assumptions held constant, an additional (£41.9 - £28.1 =) £13.8 million capacity would arise at 2016. The estimated convenience goods turnover of the current proposal is (1,254 sq m (sales area) x 80% (convenience space) x £10,700 / sq m (convenience sales density) =) £10.7 million, i.e. £3.1 million less than this additional capacity. In other words, if both the smaller store for the Tesco site, and the current proposal, were to be introduced to the PBA work instead of the earlier Tesco scheme the analysis would suggest increased capacity and a greater floorspace

requirement than is expressed in Strategic Policy 20. The two stores could be developed, and the residual need would still be in excess of that identified in the Local Plan.

- 6.36 Third, there is an argument to suggest that the requirement calculated in the evidence has been understated. The PBA Report assumes (with the exception of its consideration of Tesco at Ashby-de-la-Zouch) that there will be no inflow of convenience goods expenditure into the OCA, i.e. nobody living outside the OCA but travelling into the OCA for (say) leisure, business or family reasons, ever spends any money there on convenience goods. This is not a criticism of the PBA Report which, quite reasonably, takes a robust and overarching approach to a study covering a wide area. However, it does at least identify one aspect in which its results, and hence the figures in the Local Plan, might be regarded as cautious.
- 6.37 Taking all these points together, the current proposal falls very comfortably within the convenience floorspace requirement identified in the Local Plan. That requirement is understated when understood in relation to proposals such as this for a discount food operator, and also in terms of the assumptions made around the inflow of expenditure. It also makes an allowance for a large Tesco store which will not now be built; if instead an allowance is made for the smaller store proposed instead of the Tesco, and additionally the current scheme, the residual requirement will still be in excess of that identified in the Local Plan.
- 6.38 Again, as discussed above, there is also a qualitative aspect to the need for the current supermarket proposal. A specific operator is seeking to expand their presence in Burton where they have identified a need to be served. There is a gap in supermarket and superstore provision in the northern part of Burton, and the market there is set to grow with significant planned housing development, thereby amplifying the effect of this local shortfall. The application site, at the heart of the northern sector of Burton and identified as the location sought by ALDI, is targeted directly at meeting this qualitative need, as well as helping to address the quantitative requirement.
- 6.39 Briefly, there is also of course no requirement to consider need, or indeed impact, in relation to the drive through. By its very nature this will largely serve passing trade and contribute towards meeting some of the needs of those living and working in the area. This kind of facility is well attuned to modern lifestyles, and can readily be incorporated into the local market.

## IMPACT

- 6.40 At the outset, an assessment of the likely impact of the comparison element of the current application should recognise two points. First, the position from the Local Plan summarised above is that the capacity for further development in the local market is very substantially in excess of that proposed here. Significant further capacity, in addition to that explicitly recognised in the Local Plan, will be released through the non-implementation of earlier pipeline schemes which were accounted for in the evidence base. Whilst this does not in itself confirm that the scheme is acceptable in impact terms, it does provide a very strong indication indeed in this case that the scale of development proposed can very readily be accommodated in Burton without harming the town centre.
- 6.41 Second, and as a corollary of this, the non-implementation of pipeline development in the manner discussed above means that the impact of these schemes on the town centre will no longer be experienced. The grant of planning permission for the large Tesco scheme on Hawkins Lane plus the scheme at the rugby club confirms that the Council were satisfied that the cumulative effect of these developments on the town centre in impact terms would be acceptable. Absent these schemes it must therefore be the case that the solus effects of the current, significantly smaller, proposal on the town centre is acceptable in impact terms.
- 6.42 The comparison impact of the proposal should be understood in two parts. First, there will be some trade diversion associated with the non-food element of the Aldi store. This provision will, principally, be incidental to the main food offer. It will include seasonal and one off “when it’s gone, it’s gone” items. These will be goods bought as an ancillary part of a main food shopping trip; very few customers indeed will visit the store specifically to buy comparison goods.
- 6.43 For these reasons, the comparison goods turnover of the Aldi store would tend to be diverted from the equivalent offer in the other supermarkets and superstores in Burton. Customers visiting the new Aldi store instead of (or as well as) the other main foodstores in the town to buy some of their groceries may as part of the same trip also buy some non-food items they might previously have purchased in the other stores. The trade diversion to Aldi would be low in total – estimated above at £1.76 million – and would largely be derived from a number of other supermarkets and superstores. It would be spread relatively thinly between them, and as such be largely imperceptible.
- 6.44 Second, there will be some trade diversion associated with the retail element in the separate block. As discussed above, on the worst case scenario that this is occupied in



its entirety by comparison goods retail it would generate an estimated turnover of £1.86 million. From the PBA Report the comparison turnover of Burton town centre at 2016 can be estimated, conservatively, at about £266 million. Diversion of the full turnover of this element of the proposal from the town centre would therefore equate to an impact of just 0.7%, which again would be largely imperceptible.

6.45 As such, the proposal should be regarded as acceptable in comparison impact terms. The need analysis indicates that development of the scale proposed can very readily be accommodated in the local market. Trade diversion associated with the scheme will be very significantly less than that associated with other proposals which were deemed acceptable by the Council but which are no longer to be developed. The scale and nature of the proposal is such that levels of trade diversion from other supermarkets and superstores, and the town centre, are likely to be imperceptible.

## **LEISURE**

6.46 As discussed above, it is anticipated that the leisure space proposed as part of the development will be occupied as a gym. The accommodation is likely to appeal to one of the 24 hour, value operators, providing affordable access to high quality fitness equipment, training and classes.

6.47 The PBA Report sets out a broad brush assessment of the gym market and concludes (paragraph 7.1.31) that, “there may be a need for some additional provision in the longer term to serve residents of Burton and Uttoxeter”. It also points to the difficulties inherent in the assessment of quantitative need in the leisure sector.

6.48 The map and schedule provided here at Appendix 3 summarise the gym and health and fitness facilities in Burton and the surrounding area. From this, a number of observations can be made:

- Existing facilities are concentrated in a band across the central part of Burton, with some additional provision to the south. There is a cluster of facilities in the Wetmore Road area outside the town centre but the northern part of the town, beyond this, is not served at all – there is no provision here. The application site is located centrally to this northern area, and well placed to meet the needs of those living in this part of Burton who are currently poorly served.
- There are currently just two facilities in the town centre. One, at the western edge of the town centre, is a specialist (kickboxing) facility rather than a conventional gym. The other (DW Sport) is a more conventional facility but offers a swimming pool, spa

pool and steam room. These facilities would not be offered as part of the current proposal.

- In the wider area there are also two facilities in Swadlincote town centre. Both of these are specialist. One (V3 Fitness) is for women only, with a focussed health and fitness offer alongside beauty treatments. The other (Zeus) is a more traditional “muscle gym”, concentrating on weights rather than a general fitness offer.
- All of the other facilities identified are located outside of defined centres. Many of these are specialist or have a clearly defined point of difference, rather than simply performing a general fitness function. Some offer martial arts or boxing (e.g. Unique Physique, Burton Amateur Boxing Club), others offer health and beauty (e.g. The Workout), target a specific market (e.g. Fitness for Ladies), or provide a swimming pool (e.g. Bannatyne, Branston Golf and Country Club, Livingwell, and Green Bank and Meadowside Leisure Centre).

6.49 As such, the current proposal would be located in the northern part of Burton which is not served by health and fitness facilities – existing provision is found in the central area, and to the south. It would not compete directly with the limited town centre provision, or indeed with those facilities which offer a specialist function. There are currently no facilities locally which are open 24 hours, 7 days a week, and an operator offering this might well be attracted to the application site. In this context the proposed leisure element should be acceptable in this setting.

## **SUMMARY**

6.50 In the northern part of Burton there is just a single local centre, significant new housing is allocated, and there is no main food shopping or health and fitness provision. The application site is located in the heart of this area. It is extremely well placed to serve the existing and planned residential areas, and to fill a gap in the current distribution of food stores and leisure facilities.

6.51 Burton remains reasonably healthy, albeit with some signs of weakness. Importantly, there are clear strengths in terms of the convenience and comparison retail offer and service provision. Demand for representation from operators has held up. Whilst there is a mixed position in terms of vacancy rates, footfall and environmental quality, Burton appears to be a robust centre which has been able to withstand the challenges of recent economic circumstances. There is considerable scope for additional convenience and comparison retail floorspace.

- 6.52 The application of the sequential test in this case is not straightforward. It is difficult to look beyond the current application site as the preferred location for the proposed development. This notwithstanding, there are no sequentially preferable alternatives which could accommodate the scheme.
- 6.53 There is no requirement in this case to assess the convenience impact of the proposal, or to demonstrate a “need”. That said, there is a clear requirement expressed in the Local Plan for new retail floorspace significantly in excess of that proposed here. For reasons relating to the calculation of that requirement it is the case that as expressed in policy it would in fact not be diminished by the scheme; indeed, the residual would be greater than that set out in policy. There is also a clear qualitative need for the current proposal.
- 6.54 The proposal should be regarded as acceptable in comparison impact terms. The need analysis indicates that development of the scale proposed can very readily be accommodated in the local market. Trade diversion associated with the scheme will be very significantly less than that associated with other proposals which were deemed acceptable by the Council but which are no longer to be developed. The scale and nature of the proposal is such that levels of trade diversion from other supermarkets and superstores, and the town centre, are likely to be imperceptible.
- 6.55 It is expected that the leisure element of the proposal will be occupied by a gym. The type of facility envisaged would not compete directly with the limited town centre provision, or indeed with those facilities which offer a specialist function. There are currently no facilities locally which are open 24 hours, 7 days a week, and an operator offering this might well be attracted to the application site. In this context the proposed leisure element should be acceptable in this setting.

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## **7. CONCLUSIONS**

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- 7.1 Planning Prospects Ltd have been commissioned by St Modwen Developments Ltd to submit a planning application for the development of a supermarket, drive through coffee shop / restaurant, retail / service, gym and employment units, including a builders' merchant, with associated access and car parking on land at Derby Road, Stretton, towards the north eastern end of Burton upon Trent.
- 7.2 The site covers an area of approximately 2.81ha. The current proposal should be understood in the context of the recent planning history of the site and land adjoining. This includes a wide ranging outline planning permission addressing two parcels of land; one earmarked for residential use, the other for commercial use. The site falls within the latter parcel, adjacent to plots where reserved matters have already been granted for employment units.
- 7.3 The site is unremarkable, level, vacant and largely featureless, located between the retained Pirelli facility and Derby Road. The area surrounding the site is of mixed character, including a range of commercial uses and residential neighbourhoods.
- 7.4 The application proposes the development of land for a supermarket, drive through, retail / service, gym and employment units. It is intended to contribute towards the completion of the Albion Gateway component of the overall regeneration programme for land around the retained Pirelli facility.
- 7.5 The value the supermarket and other commercial activities will generate and the economies of scale achieved in approaching the remainder of the Albion Gateway land comprehensively will enable the final phase of the employment space here to be developed largely speculatively. Over 1,000 sq m of additional employment space will be provided if the proposal is allowed, compared with that anticipated by existing permissions.
- 7.6 The supermarket operator will be ALDI, providing high-quality products at discounted prices within a pleasant shopping environment. The business model operated by ALDI means that the store will enhance the overall range and choice of shopping available to local people, as well as offering value for money and complementing, rather than competing with, existing stores. This format of shopping will offer particular benefits to members of the local community on restricted budgets.
- 7.7 The drive through operator is expected to be Starbucks, and MKM Building Supplies will also be accommodated. Their introduction will add further high quality, high profile businesses to the site and further enhance this important gateway location.

- 7.8 The application site has no particular allocation in the adopted Local Plan. Burton is identified as the location to where most development will be directed, and a location of significant planned growth. A large requirement for additional retail floorspace is identified. Whilst the sequential test applies, there is no requirement for impact assessment of the convenience retail element current proposal. The Local Plan is framed positively with a “presumption in favour of sustainable development”, and includes a range of policies addressing matters such as design, flood risk and accessibility.
- 7.9 A “Pirelli Factory Development Brief” was adopted in July 2011 to guide the development of land released around the retained Pirelli facility. It has largely been overtaken by the new Local Plan, and planning permissions on the land it addresses. It anticipates commercial, employment led, mixed use development on land including the current application site.
- 7.10 At the national level, the NPPF is a positive and enabling document, seeking to facilitate sustainable development and growth wherever possible. Important themes evident in superseded policy are reframed and reinforced as the core principles underpinning this document. The encouragement for investment in centres remains. The PPG, case law, and Secretary of State decisions are instructive in guiding how retail and centres aspects of policy should be applied.
- 7.11 The general principle of the proposal is readily acceptable. It represents sustainable development, in accordance with the Local Plan and national policy. Subject to detailed development management considerations, the scheme should be supported in line with the presumption in favour of sustainable development.
- 7.12 It relates to a site within a wider area long identified for employment led, mixed use development, where planning permission exists for employment which is currently being implemented. It will contribute to meeting the borough’s development needs, and resonates with important national planning principles.
- 7.13 The policy issues raised by the proposals have been addressed comprehensively in this report and the suite of further documents supporting the application. Matters of high quality sustainable design, transport and accessibility, flood risk and drainage, and ground conditions, have all been dealt with. None of these issues should represent an impediment to the development.
- 7.14 Economic considerations also provide considerable support for the scheme. In policy terms, and having regard to the need to sustain the economic recovery, great emphasis should be placed on the importance of planning positively for economic growth. The

scheme will represent investment in Burton, help to enable more extensive employment development on land adjacent, inspire wider investor confidence, and directly create jobs in the operational phase, with further employment created through construction, and through multiplier effects.

- 7.15 In the northern part of Burton there is just a single local centre, significant new housing is allocated, and there is no main food shopping or health and fitness provision. The application site is located in the heart of this area. It is extremely well placed to serve the existing and planned residential areas, and to fill a gap in the current distribution of food stores and leisure facilities.
- 7.16 Burton remains reasonably healthy, albeit with some signs of weakness. Importantly, there are clear strengths in terms of the convenience and comparison retail offer and service provision. Demand for representation from operators has held up. Whilst there is a mixed position in terms of vacancy rates, footfall and environmental quality, Burton appears to be a robust centre which has been able to withstand the challenges of recent economic circumstances. There is considerable scope for additional convenience and comparison retail floorspace.
- 7.17 The application of the sequential test in this case is not straightforward. It is difficult to look beyond the current application site as the preferred location for the proposed development. This notwithstanding, there are no sequentially preferable alternatives which could accommodate the scheme.
- 7.18 There is no requirement in this case to assess the convenience impact of the proposal, or to demonstrate a “need”. That said, there is a clear requirement expressed in the Local Plan for new retail floorspace significantly in excess of that proposed here. For reasons relating to the calculation of that requirement it is the case that as expressed in policy it would in fact not be diminished by the scheme; indeed, the residual would be greater than that set out in policy. There is also a clear qualitative need for the current proposal.
- 7.19 The proposal should be regarded as acceptable in comparison impact terms. The need analysis indicates that development of the scale proposed can very readily be accommodated in the local market. Trade diversion associated with the scheme will be very significantly less than that associated with other proposals which were deemed acceptable by the Council but which are no longer to be developed. The scale and nature of the proposal is such that levels of trade diversion from other supermarkets and superstores, and the town centre, are likely to be imperceptible.

7.20 It is expected that the leisure element of the proposal will be occupied by a gym. The type of facility envisaged would not compete directly with the limited town centre provision, or indeed with those facilities which offer a specialist function. There are currently no facilities locally which are open 24 hours, 7 days a week, and an operator offering this might well be attracted to the application site. In this context the proposed leisure element should be acceptable in this setting.

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## 8. CONDITIONS AND LEGAL AGREEMENT

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8.1 The current proposal is a freestanding application, not subject to the conditions or planning obligation attached to the overarching outline planning permission. As such, the question of conditions and any planning obligation needs considering afresh in the context of this application.

### CONDITIONS

8.2 Should the council be minded to approve the planning application, we would expect the grant of permission to be subject to conditions. A range of conditions will be required to control the terms of a planning permission. Having regard to the nature of the proposal and the existing planning permission on the wider site, we would expect that the main areas to be covered will include:

- The lifespan of the planning permission
- Reference to the approved drawings and any other application material as required
- Finished levels
- Details of foul and surface water drainage
- Measures to ensure ground conditions are appropriately addressed
- Requirement for a Construction Environmental Management Plan
- Access and parking provision to be in place to agreed design prior to occupation, and retained thereafter

8.3 Given the specific nature of the proposal and its content consideration might also be given to a range of further conditions including, for example:

- Retail floorspace limited to that assessed in the supermarket and separate block: “The Class A1 retail development hereby permitted in the supermarket and separate mixed use block shall have a maximum floor area of 2,322 sq m GIA.”
- Drive thru floorspace limited to that assessed: “The Class A1 / A3 / A5 drive through unit hereby permitted shall have a maximum floor area of 156 sq m GIA and shall not be occupied other than as a drive through restaurant or coffee shop.”



- Supermarket to be operated by a Limited Assortment Discounter: “The supermarket unit identified on the approved plans shall only be occupied as a Limited Assortment Discounter.”

- 8.4 Whilst the precise wording of these conditions might be refined, and additional conditions added to address any particular issues identified by officers or members, it is clearly the case that the scale, form and character of retail and centre use development on this site (as indeed any site) can readily be controlled in this manner.
- 8.5 We would be pleased to discuss the scope and format of conditions with the Council during the determination of the application.

### **LEGAL AGREEMENT**

- 8.6 The existing outline planning permission, as amended, for the wider site was granted subject to a legal agreement addressing matters ranging from open space provision to highways and education. This is obviously not applicable to the current proposal, and it is not anticipated that a further legal agreement relating to any other issues will be required in relation to the current proposal.

## **APPENDIX 1**

### **REPORT TO ASSESS THE INTEREST OF HOTEL OPERATORS**

# Burton on Trent Albion Gateway Site

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Report to Assess the Interest of Hotel Operators

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# 1.0 Introduction

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- We have been asked to assess the interest of major hotel operators for a proposed new hotel on the vacant Albion Gateway Site.
- The property comprises part of a site measuring approximately 9 acres, with the remainder of the site being a mix of B1, B2 and B8 uses.

## 2.0 The location

The site is located fronting the A5121 Derby Road on the north eastern edge of Burton on Trent adjacent to The Burton Albion Football Club.



## 3.0 Our marketing exercise

We were instructed by St.Modwen, the owners of the Albion Gateway site to undertake an extensive marketing exercise to assess demand from the major hotel groups. This marketing exercise was undertaken during the course of 2015. The marketing took the form of direct approaches to all the active Hotel operators and agents. Details were listed on BWD and Cheetham & Mortimer website as well as the most active national websites, including Shopproerty, EGi and Focus.

In our marketing exercise we drew attention to the prominent accessible location at the edge of the town centre and only 1 mile from the A38 junction and also the proximity to the town centre and Burton Albion Football Club. We similarly drew attention to the regular and level nature of the site with services and utilities readily available and the potential to develop a purpose built hotel providing approximately 60 – 100 rooms with dedicated parking facilities, given the overall site area. In addition to the proposals for the remainder of the site, we also drew attention to the significant recent development and the extensive new housing initiatives underway.

We concentrated our efforts on the 3 star and budget hotel market which in our view would fit best with the demographics of the area.

The table below summarises the operators approached, their responses to the opportunity as to whether they would be interested and the reasoning why they came to their decisions.

Hotel Operator		Response	Reason Given
		No	Not interested in location, and no longer taking leases.
		No	Location not of interest – sufficient hotel provision already present.
		No (to lease or site purchase)	Not appropriate – concentrating on City Centre locations – more affluent areas preferred.
		No	Already represented at Parkway Centrum. Low priority.
		No	Already have representation in Central and Burton East.
		No	Already representation at A38 Northbound, A38 Southbound and Central. Expansion programme has slowed considerably over recent years.

## 4.0 Summary of results from marketing exercise

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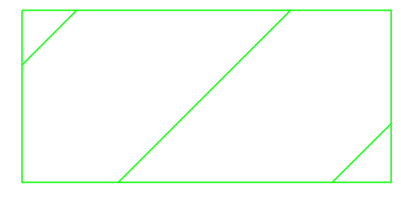
- It is apparent from the table above that negative responses were forthcoming from all the hotel operators approached demonstrating an absence of any demand from these operators to the prospect of a long term lease or long leasehold site purchase.
- In conclusion, we have not managed to generate any interest from recognisable operators in the Albion Gateway Site on the basis of a long leasehold purchase or long term lease agreement that would give a firm foundation for a viable hotel development on the site at this time.



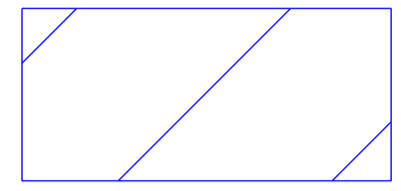
**APPENDIX 2**  
**PROPOSED SITE PLAN**



Planning Application Boundary 2.81 hectares



Employment Area 0.87 Hectares



Retail Area/Leisure Area 1.94 Hectares

This drawing to be read in conjunction with all specifications and all other consultants design information. Any contradictions to this drawing and any other design information to be advised to the contract administrator and author immediately.

The contractor to site measure, check and verify all information issued, and confirm the correctness of the contents prior to the commencement on site.

The contractor to comply with all current statutory legislation, Building Regulations, British Standards, and good building practice.

Do not scale from this drawing.

Revision	Date	Init		
rev	description	date	dr by	ap by
A	Restaurant layout updated	22-01-16	kd	jw
B	Sub Station relocated, approx setting out co-ords added	25-01-16	kd	jw
C	Rest co-ords added	07-03-16	kd	jw
D	Drive through relocated	08-04-16	kd	jw
E	Drive through relocated	10-05-16	kd	jw
F	Restaurant omitted	22-07-16	kd	jw
G	Retail/Employment areas shown	01-08-16	kd	jw
H	Foodstore position updated	16-08-16	kd	jw
I	Red line amended	12-09-16	kd	jw
J	Retail added, balancing Pond and Pumping station updated	05-10-16	kd	jw
K	Commercial car parking increased	20-10-16	kd	jw
L	Site boundary line and areas amended	10-11-16	kd	jw



client: St Modwen Developments Ltd			
project: Albion Gateway Phase 3			
title: Proposed Site Layout			
date: 12-11-2014	scale: 1:500@A1	status: Planning	
drawn by: kd	job No: 16001	dwg No: 0003	rev: L
checked by: fw			

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## **APPENDIX 3**

### **GYM / HEALTH AND FITNESS PROVISION**

## Gym / Health and Fitness Facilities: Burton upon Trent and Surrounding Area

Map No.	Name	Address	Notes
1	Unique Physique Gym	The Maltsters Wetmore Road Burton on Trent DE14 1LS  Out of centre location, to north of town centre	Gym and mixed martial arts  Open Monday to Friday 8am to 10pm and Saturday / Sunday 10am to 4pm  Peak membership - £29.99 per month or £359.88 per year Off Peak membership - £19 per month or £192 per year Student rates available
2	DW Sports Fitness	11 Middleway Park Burton on Trent DE14 1NA  Town centre location	Gym, classes, swimming, steam room  Open Monday to Thursday 6.30am to 10pm, Friday 6.30 am to 9pm, Saturday and Sunday 8am to 8pm  Peak membership - Annual £456, Monthly £38 (14 month contract, option to cancel after 6 months) Off Peak membership – Annual £336, Monthly £28 (14 month contract, option to cancel after 6 months)  Student and OAP rates available
3	The Workout	Wetmore Road Burton on Trent DE14 1SP  Edge of centre location, to north of town centre	Gym, classes, health & beauty  Open Monday to Thursday 6.30am to 10pm, Friday 6.30 am to 9pm, Saturday and Sunday 8am to 5pm  £10 joining fee. Annual membership £22.95 per month, monthly membership £25.95 per month

## Gym / Health and Fitness Facilities: Burton upon Trent and Surrounding Area

Map No.	Name	Address	Notes
4	Fundamental Fitness	Unit 5, Wetmore Road Burton on Trent DE14 1LS  Out of centre location, to north of town centre	Gym and a few classes  Open 24 hours Monday to Friday, Saturday 12am to 6pm and Sunday 10am to 4pm  No joining fee 12-mth contract – peak £28 per month, off-peak (6am to 4pm) £20 per month Rolling contract – peak £34 per month, off-peak £25 per month Student rate available
5	Fitness for Ladies Gym	The Maltsters 1-2 Wetmore Road Burton on Trent DE14 1LS  Out of centre location, to north of town centre	Gym, a few classes and power plates  Open Monday to Friday 8am to 8pm, Saturday and Sunday 10am to 2pm  Peak membership £359.99 per year, £179.99 for 6 months, £29.99 per month Pay as you go £5 gym use, £4 class Pay up front £299 per year, £149 for 6 months, £39.99 per month
6	Peak Performance Fitness Development Centre	Unit 55 Imex Business Centre Burton on Trent DE14 2AU  Out of centre location, to west of town centre	Gym, classes  No opening hours on website  Membership levels 1-2-3, levels 2 and 3 include personal training sessions. No prices on website.
7	Bannatyne Health Club and Spa	Centrum 100 Retail Park Wellington Road Burton on Trent DE14 2WG	Gym, classes, power plates, swimming and spa  Open Monday to Friday 6am to 10pm, Saturday and Sunday 6am to 8pm

## Gym / Health and Fitness Facilities: Burton upon Trent and Surrounding Area

Map No.	Name	Address	Notes
		Out of centre location, to south of town centre	Membership:  Joining fee - £20 Peak - £39.99 per month or £431.89 Off-peak - £38.99 per month or £421.09 Premier off peak - £41.99 per month or £453.49 Day pass - £15
8	Branston Golf and Country Club	Burton Road Branston Burton upon Trent DE14 3DP  Out of town location, to south of town centre	Gym, classes, swimming, spa and salon  Open Monday to Friday 6am to 10pm, Saturday and Sunday 7am to 8pm  Standard, junior, intermediate and 60+ membership levels. No prices on website.
9	Burton Kickboxing Academy	2 School Yard Guild Street Burton on Trent DE14 1NB  Town centre location	Kickboxing classes  Joining fee £20 Session fee £5 Licence fee £15
10	Livingwell Health Club	Hilton Hotel St Georges Park Newborough Road DE13 9PD  Out of town location, to west of town	Gym, classes, swimming, Spa  Health club open 6am to 10pm 7 days per week, spa open 9am to 8pm 7 days per week  Full or daytime (9am to 5pm) membership, no prices on line
11	Burton Amateur Boxing Club	Bradmore Road Burton on Trent DE13 0GH	Boxing  No further details

## Gym / Health and Fitness Facilities: Burton upon Trent and Surrounding Area

Map No.	Name	Address	Notes
		Out of centre location, to north of town centre	
12	Meadowside Leisure Centre	High Street Burton on Trent DE14 1TL  Edge of centre location, to east of town centre	Gym, swimming  Open Monday to Friday 7.15am to 10pm, Saturday and Sunday 8am to 6pm  Adult - £6.05, Senior and youth - £3.05
13	Shobnall Leisure Complex	Shobnall Road Burton on Trent DE14 2BB  Out of centre location, to west of town centre	Sports hall and athletics  Open Monday to Friday 9am to 10pm, Saturday and Sunday 9am to 6pm
14	Shredz Fitness Centre	29 Swadlincote Road Woodville DE11 8DE  Out of centre location (Woodville)	Gym  Open Monday to Friday 6am to 10pm, Saturday 8am to 8pm and Sunday 9am to 4pm  £29.99 per month, no contract
15	Green Bank Leisure Centre	Civic Way Swadlincote DE11 0AD  Edge of centre location (Swadlincote)	Gym, classes, swimming, climbing, racket sports  Open Monday to Friday 7am to 10pm, Saturday 7am to 7pm and Sunday 7am to 9pm  Premium - £35.50 per month Student - £25 per month
16	V3 Fitness	31 Market Street Swadlincote DE11 9DA	Female only, vibration plates  Open Monday to Friday 8am to 8pm, Saturday 9am to 4pm and Sunday 10am to Noon.

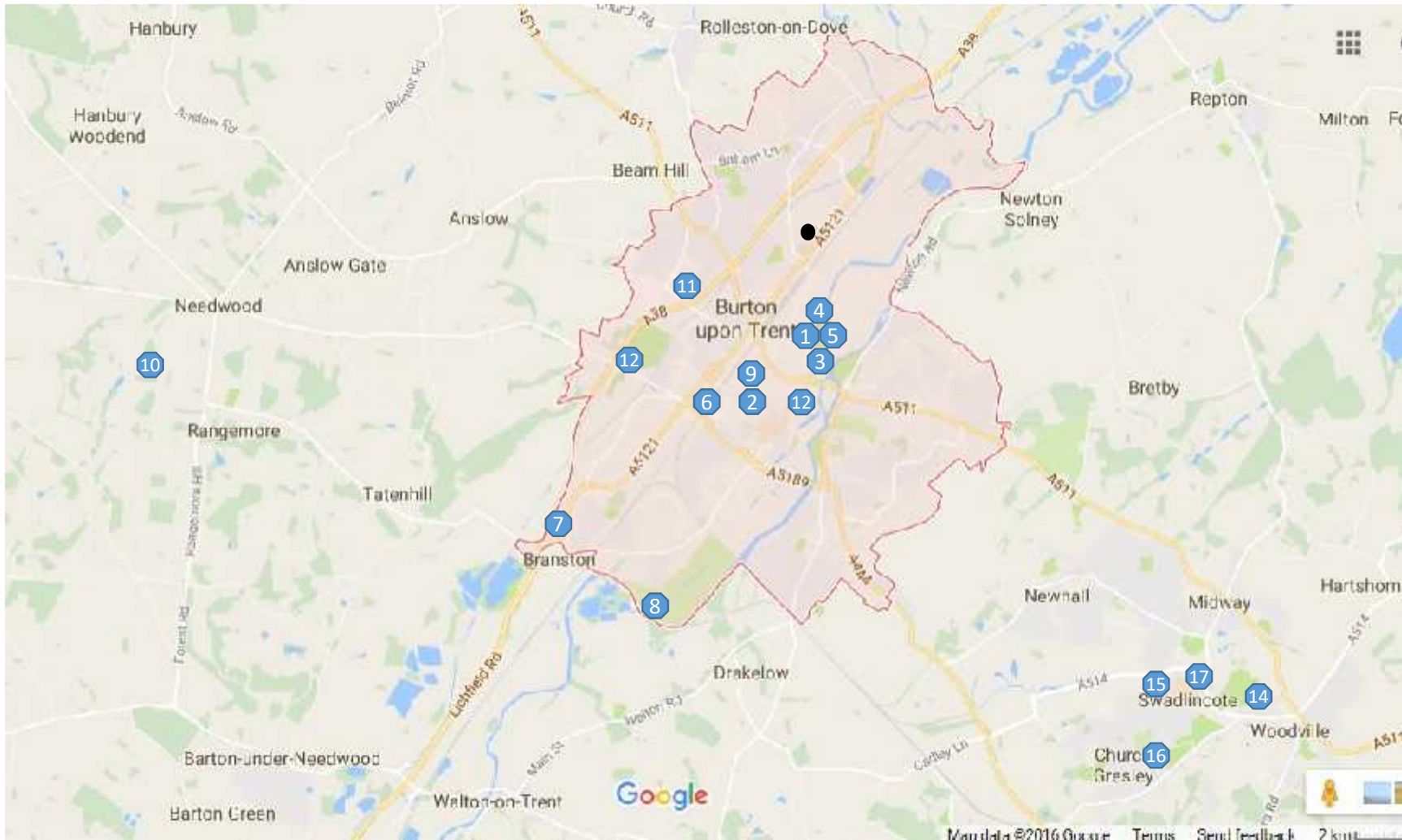
## Gym / Health and Fitness Facilities: Burton upon Trent and Surrounding Area

Map No.	Name	Address	Notes
		Town centre location (Swadlincote)	£4.50 per session £15 per month (1 x 10 min session per day) £2 for 10 min session Annual £300
17	Zeus Gym	26A High Street Rear Swadlincote DE11 8HY  Town centre location (Swadlincote)	Weights, muscle gym  Opening hours Monday, Wednesday and Friday 8am to noon and 3pm to 9pm, Tuesday and Thursday 3pm to 9pm, Saturday and Sunday 9am to noon.  £4 per session, £12 per week Direct debit - £25 per month, £75 for 3 months £35 lifetime membership plus £25 per 4 weeks

Shaded entries denote town centre location



## Gym / Health and Fitness Facilities: Burton upon Trent and Surrounding Area



● Site Location

Please read in conjunction with schedule