

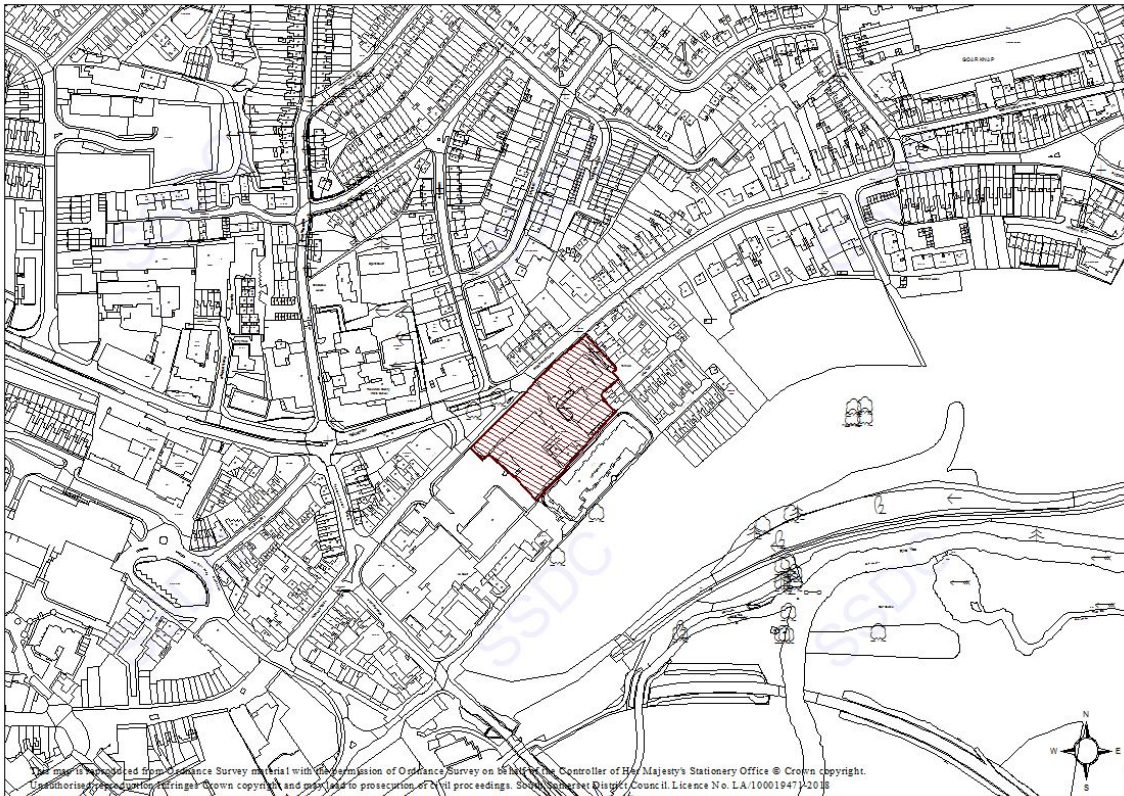
## **Officer Report On Planning Application: 17/02896/FUL**

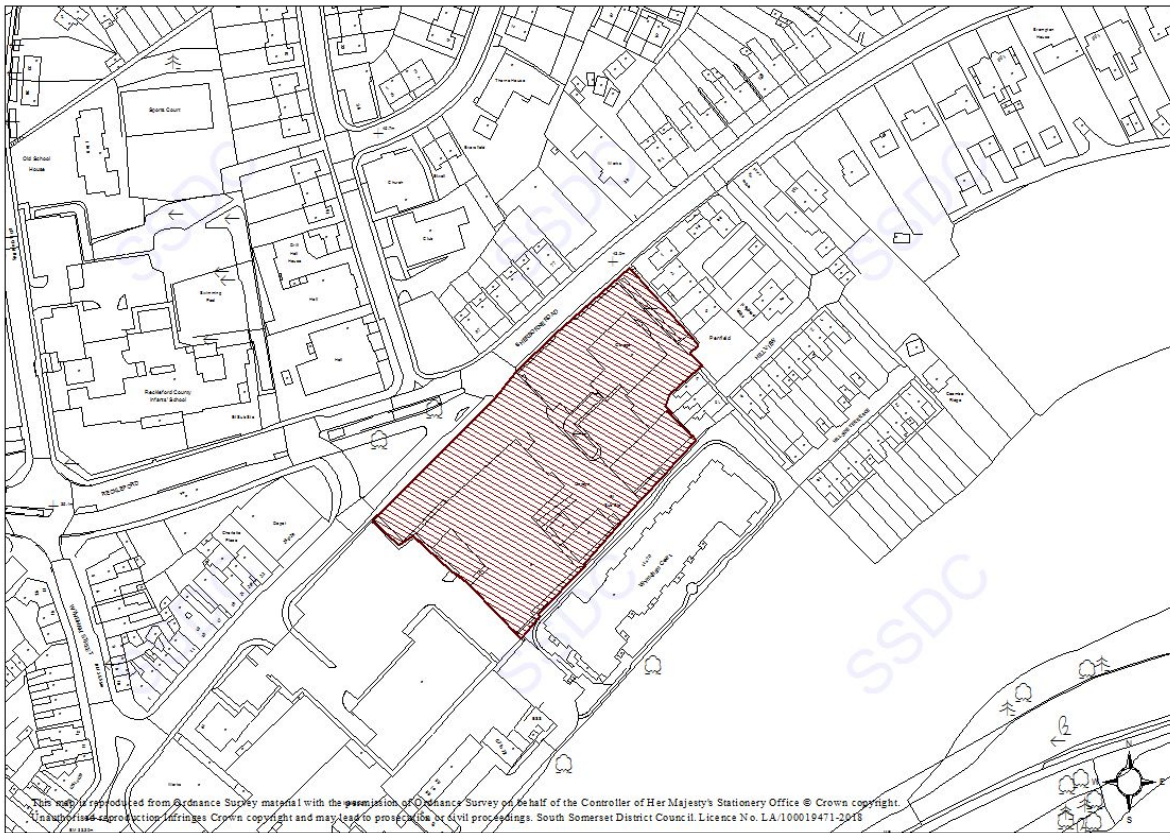
<b>Proposal :</b>	Demolition of existing buildings and the erection of a Class A1 (retail) store with associated access, parking, ancillary works and landscaping.
<b>Site Address:</b>	Former Olds Motor Group Sherborne Road Yeovil
<b>Parish:</b>	Yeovil
<b>Yeovil (East) Ward (SSDC Member)</b>	Cllr David Recardo Cllr Rob Stickland Cllr Tony Lock
<b>Recommending Case Officer:</b>	Simon Fox Tel: (01935) 462509 Email: simon.fox@southsomerset.gov.uk
<b>Target date :</b>	16th October 2017
<b>Applicant :</b>	Marlin Land (Yeovil) Ltd
<b>Agent: (no agent if blank)</b>	Mango Planning And Development Ltd Number One Waterton Park Waterton Bridgend CF31 3PH
<b>Application Type :</b>	Major Retail f/space 1,000 sq.m or 1ha+

### **Reason for Referral to Committee**

This application is referred for Committee consideration at the request of the Lead Specialist (Planning) in accordance with the scheme of delegation and with the agreement of the Chairman, to allow the application to be debated in public given the nature of the proposal and the significance of the development.

### **Site Description, Proposal and Site History**





The 0.70 hectare application site is made up of an area of land formally used for several car dealerships (car sales, repair etc). The site has been partially cleared due to a recent fire and remains wholly unused.

The application site is located to the south of Sherborne Road at its intersection with Reckleford east of the town centre. To the east is a cluster of residential properties (Hill View, Penfield and Hillside Terrace), of redbrick terraced form, to the south is Wyndham Court, a three storey buff brick and render flatted development managed by a national retirement flat operator, and to the west is a redbrick single storey building split into two retail units with frontage parking. To the north is largely residential development, and also the Salvation Army hall.

The site is largely devoid of landscaping save for a cluster of trees at its centre, notionally dividing the two dealerships where vehicular access is also achieved off Sherborne Road. Another access serves the easternmost dealership directly off Sherborne Road also. A few more trees are visible on the eastern boundary to Penfield.

The site has multiple levels but the general fall on the site is from south to north and east to west with localised retaining structures. The site itself sits lower compared to Wyndham Court and the residential properties to the east.

This application has been submitted by Marlin Land (Yeovil) Ltd and seeks planning permission for the erection of a Class A1 retail store. The plans indicate the end-user will be Aldi.

The proposed store would extend to 1,743sqm gross internal area (1,254sqm net sales area).

The site is still to be served by a modified vehicular access off Sherborne Road and will be provided

parking (104 spaces inclusive of 5 disabled spaces), along with landscaping and associated works. All the current buildings would be demolished and the store located in the southwest corner, with frontage parking akin to the neighbouring site.

The application is supported by the following documents:

- Design and Access Statement
- Transport Statement
- Travel Plan
- Planning and Retail Statement
- Geo-Environmental Assessment Report
- Ecological Appraisal Report
- Arboricultural Impact Assessment
- Environmental Noise Survey and Noise Impact Assessment Report
- Air Quality Assessment
- Foul and Surface Water Drainage Assessment

During the course of the application the applicant has put forward a proposed financial contribution of £157,000 towards a wider project of public realm improvement in Sherborne Rd inclusive of a bus stop and a cycle path.

## **PLANNING HISTORY**

There are numerous historic permissions and advertisement consents related to the former use of the site as a car dealership but none are particularly relevant to the current application.

## **POLICY**

Section 38(6) of the Planning and Compulsory Purchase Act (2004), and Paragraphs 2, 11, and 12 of the NPPF indicate it is a matter of law that applications are determined in accordance with the development plan unless material considerations indicate otherwise.

On 5th March 2015 South Somerset District Council, as Local Planning Authority, adopted its Local Plan to cover the period 2006 to 2028.

On this basis the following policies are considered relevant:-

### Policies of the South Somerset Local Plan (2006-2028):

- SD1 - Sustainable Development
- SS1 - Settlement Hierarchy
- SS3 - Delivering New Employment Land
- SS6 - Infrastructure Delivery
- EP3 - Safeguarding Employment Land
- EP9 - Retail Hierarchy
- EP10 - Convenience and Comparison Shopping in Yeovil
- EP11 - Location of Main Town Centre Uses (The Sequential Approach)
- EP12 - Floorspace Threshold for Impact Assessments
- TA1 - Low Carbon Travel
- TA3 - Sustainable Travel at Chard and Yeovil
- TA4 - Travel Plans
- TA5 - Transport Impact of New Development
- TA6 - Parking Standards
- EQ1 - Addressing Climate Change in South Somerset
- EQ2 - Design & General Development

EQ3 - Historic Environment  
EQ4 - Biodiversity  
EQ5 - Green Infrastructure  
EQ7 - Pollution Control

National Planning Policy Framework (July 2018)

The framework is taken as a whole but the most relevant chapters in this case are:

Chapter 2 - Achieving sustainable development  
Chapter 7 - Ensuring the vitality of town centres  
Chapter 9 - Promoting sustainable transport  
Chapter 12 - Achieving well-designed places

Other

Somerset County Council Parking Strategy (March 2012)

**CONSULTATIONS**

Yeovil Town Council:

*"Approve subject to satisfactory outcome of negotiations in respect of highways (including the entrance and exit arrangements), environmental issues (including flooding), construction hours and dust mitigation, and landscaping".*

Highways Authority (Somerset CC):

The final response from the Highway Authority was received in April 2018. It raised no objections but did indicate a few tweaks would be necessary that could be dealt with via planning condition. A travel plan is requested via s106. Due to the importance of the highways matter in this case the full response is attached as Appendix 1.

SSDC Strategy and Commissioning:

Assessment of this application has been undertaken with the support and expertise of a colleague from Spatial Policy, now Strategy and Commissioning. Given the complexity of the assessment her full response is attached as Appendix 2.

Since that response an updated version of the NPPF was issued in July 2018. As such these additional comments should be read in conjunction.

Para 85 of NPPF2 is clear that decisions should support the role that town centres play at the heart of local communities.

As in the previous para 24, para 86 NPPF2 requires a sequential test to planning applications for main town centre uses which not in an existing centre or in accordance with an up-to-date plan. Only if suitable sites are not available, or expected to become available within a reasonable period (reference to reasonable period is new) should out of centre sites be considered. Referring to the policy advice of 30th April 2018, NPPF2 strengthens the argument that the applicant has failed to fully consider all town centre sites.

Previously the Planning Practice Guide referred to flexibility in terms of format and scale. This is now contained within para 87 of NPPF2 - "demonstrate flexibility on issues such as format and scale, so that opportunities to utilise suitable town centre or edge of centre sites are fully explored". One would argue that this again strengthens the points in relation to the former BHS unit.

The application falls below the retail impact threshold (now para 89 of NPPF) and therefore the comments on impact and Policy EP12 of the Local Plan stand.

Para 90 of NPP2 is clear "where an application fails to satisfy the sequential test or is likely to have

significant adverse impact on one or more of the considerations in paragraph 89, it should be refused". Clearly NPPF2 strengthens town centre vs out of centre development and therefore my position taken on Aldi remains.

SSDC Area Development:

Concerns raised regarding traffic, residential amenity, noise and car park management.

SSDC Environmental Protection:

*"Due to the proximity of the site to sensitive residential properties I am concerned about the potential impact of the demolition and construction phases of this development will have on the amenity of these dwellings".* Construction Environmental Management Plan condition is suggested.

*"This site has a history of previous industrial use and is therefore a potentially contaminated site. I note that some work has already been done to characterise the levels of contamination and that some low levels have been found of PAHs and asbestos have been found".* Contaminated land remedial measures condition is suggested.

With regard to noise a condition relating to store delivery times has been suggested. In terms of the air handling plant, *"The applicant has submitted a noise assessment, reference 24217/NIA1. This report recommends an upper limit on the noise generated by any air handling plant 1 meter away from sensitive residential properties. I concur with this recommendation".* A noise mitigation scheme condition is suggested.

After an air quality assessment was requested, its findings were accepted with the dust control measures suggested. The air quality impact assessment during the operational phase was also seen to be satisfactory based on an agreed methodology. As such no mitigation measures are seen to be required.

SSDC Tree Officer:

In assessing the landscaping plan - generally content with tree coverage, although concerns regarding certain species choice.

SSDC Ecologist:

Satisfied that the ecological appraisal does not raise any issues other than the need for a further bat survey. Notes the proposed landscaping includes a good proportion of native species that will be of benefit to wildlife.

*"In my response of 2nd August 2017, I advised further bat surveys were necessary. These have now been submitted (Bat Survey Report, 11 August 2017, Soltys Brewster Ecology).*

*Due to the presence of a bat roost, the applicant will require a licence from Natural England (to be applied for after the grant of planning permission) before demolition of buildings used by bats can proceed.*

*Bat surveys have confirmed the presence of a night roost for low numbers of lesser horseshoe bat. In order to satisfy legislation and planning policies, mitigation (including a compensation bat roost) will be required. Outline mitigation proposals are given in section 4.3 of the report and includes a proposed replacement roost structure (1 x 2 x 2.5 metres) to be located to the rear of the store (see layout plan in appendix IV.) I'm satisfied with the outline mitigation proposals.*

*I have no objection subject to a condition requiring full mitigation details to be submitted for approval. Please note that as the development will result in the destruction of a bat roost, the officer or committee report will need to include an assessment against the three Habitats Regulations tests.*

*Habitats Regulations reporting - An assessment against the three derogation tests of the Habitats Regulations 2010 is a legal requirement in the determination of this application. Permission can only be granted if all three derogation tests are satisfied. Such assessment should be included in the*

relevant committee or officer report. The tests are:

1. the development must meet a purpose of 'preserving public health or public safety or other imperative reasons of overriding public interest including those of a social or economic nature and beneficial consequences of primary importance for the environment'
2. 'there is no satisfactory alternative'
3. the development 'will not be detrimental to the maintenance of the population of the species concerned at a favourable conservation status in their natural range'.

See appendix 1 for Natural England guidance on tests 1 and 2.

In respect of test 3, I conclude that favourable conservation status is likely to be maintained due to the presence of only low numbers of bats, and the securing of appropriate mitigation and compensation by condition".

Condition requiring a bat mitigation plan and informatives regarding Habitats Regulations suggested.

Crime Prevention Officer:

No objection subject to comments. Concern raised regarding boundary treatment choice along the west boundary, potential damage to the curtain walling from vehicles due to no bollard protection and requests that a barrier be included to prevent unauthorised use of the car park outside business hours.

Wessex Water:

Information provided regarding current known infrastructure in the vicinity, no objections or issues raised.

Lead Local Flood Authority (LLFA):

Initial objection but on submission of additional information;

*"The applicant has now submitted additional information that supports their intention to discharge surface water runoff as per the existing arrangements.*

*The additional information indicates an intention to attenuate on site and discharge at controlled rates, calculations to be based on events up to and including 1 : 100yr event + 40% climate change.*

*The applicant should note that it is their responsibility to seek approval from Wessex Water that they are satisfied with the proposed new discharge rates to their system.*

*In view of the additional information submitted the LLFA would withdraw their previous objection".*  
Drainage condition suggested.

South West Heritage Trust (Archaeology):

No objections.

Climate Change Officer:

Comments made about walkability to the store, LED lighting and the potential use of PV.

## **REPRESENTATIONS**

Neighbouring properties to the site were notified in writing. A site notice was displayed and a press advert placed (major development).

During the course of the application 14 individuals have made representations. The full representations can be read on the Council's website, here is a summary of comments:

- "...this will be a positive addition to Yeovil Town on a site that looks appalling. After discussion concerning entrance and exit from the car park for cars and lorries, I am happy that this has been thought through to minimise impact of the A30 traffic".
- "...we welcome the new Aldi with open arms. Not only will it create more jobs with the Yeovil

area, but for us who live at Wyndham Court and our outlook is directly on the proposed site it is such good news".

- "While I support the proposal, I feel it would be of further benefit to the immediate local community if the area of wasteland to the SW of the development immediately opposite nos 91-1 Hill View were to be made accessible for residential vehicle/on street parking", another representation expresses concern regarding the impact on maintaining an adjacent property and privacy to a window if this land is offered for parking.
- Trees adjacent to Penfield are to be retained, but they shed large leaves in the autumn which cause blockages of gutter, could they be replaced with trees with smaller leaves or shrubs.
- "...no objection to the proposed development of the Olds site and think it will be a major improvement to the appearance of the road".
- "Aldi's proposal would completely transform this site and with the benefit of landscaping make an attractive addition to the hillside terrace entrance to Yeovil Country Park".
- Concern about demolition phase, dust, noise and traffic plus presence of asbestos.
- The site is an eyesore.
- "I am sure most residents who live in the area would welcome Aldi which would be within walking distance from their homes".
- Concern about potential vents and flues impacting on living conditions at Wyndham Court.
- Any vermin should be professionally cleared.
- Car park lighting should be minimised to reduce light pollution.
- The path adjacent to Hill View needs to be repaired.
- The right hand turn out of the site causes safety concerns.
- The application should be determined without delay.

Representations from Carter Jonas on behalf of Benson Elliot (Yeovil), the leasehold of the Quedam Shopping Centre have been received last wrote 12th September 2018 and previously in June 2018 and August 2017 to object on the following grounds:

- BE has secured a 5-year option on the Cattle Market site with an intention to redevelop the site for a mix of uses, including a foodstore, as such concern is raised about any other such proposal and the vitality and viability of that planned investment and on the town centre as a whole.
- Failure against the sequential test, availability of Cattle Market and the now vacant BHS store in Quedam Shopping Centre.
- Lack of flexibility demonstrated by the applicant
- Retail impact on town centre.

Given the Quedam Shopping Centre is the town centre's largest singly owned retail area and the two most suitable alternative sites are with the control of BE then the last two full representations received from BE are appended to this report (See Appendix 3).

A representation from Jigsaw Planning on behalf of Asda Stores Ltd opines that the application fails the sequential test on the basis of not sufficiently discounting a Town Centre site (former BHS store).

## **CONSIDERATIONS**

The proposal raises many issues which will be assessed in turn.

### **Principle of Development**

Policy SS1 of the Local Plan states Yeovil is a Strategically Significant Town and the prime focus for development in South Somerset. Policy SD1 reinforces the message of the National Planning Policy Framework that a proactive approach should be taken to reflect the presumption in favour of sustainable development and to seek development that improves the economic, social and environmental conditions within the District.

Policies SS3 and EP3 seek to deliver new and safeguard existing employment land to assist job

growth/retention. The site was previously in a sui generis use class as a car showroom and is proposed as retail. The application form states 40 full time equivalent jobs will be created which is not insignificant. The creation of jobs means there is no policy conflict here and accords with a prevailing message within the NPPF to support economic development.

The policy issues concerning this development surround the retail impact, sequential test and impact on existing or planned investment. The arguments are complex and intertwined. The published regeneration document 'Yeovil Refresh' is also a material consideration.

It should firstly be pointed out that Yeovil is open to new investment and welcomes new development where it accords with the local plan and guidance documents such as the Yeovil Refresh. The Council will work with developers and investors to bring forward good schemes in a timely manner. In this case on-site issues with Highways and the implications of the numerous policy tests has unduly delayed getting to this recommendation stage. The later caused wholly by the fact the site lies outside the defined town centre and the emergence of the Cattle Market as a potential sequentially preferable site. The defined town centre is afforded significant preference for all retail development, namely the 'town centre first policy'.

There are and have been several retail schemes in out-of-town areas that the LPA has been resistant to. These include the original Yeovil Town Football Club application for a 6,505sqm food store and the erection of an 1,895sqm non-food store at the Peel Centre, Babylon Hill. The latter is within the jurisdiction of West Dorset DC. The basis for these objections was the 'town centre first policy' and the presence of sequentially preferable sites, such as the Quedam Extension (Vincents Yard), Glovers Walk, Cattle Market, BHS and Stars Lane/Box Factory for example. The retail picture locally mirrors that nationally with large retailers going out of business, signalling warnings or contracting their number of stores. Vacancies are high and internet sales continues to grow. The investment in bringing forward an officer led Yeovil Refresh document was to try and manoeuvre the town centre to become more resilient, to provide a specific offer recreationally, residentially and commercially so it remains the focus for the town and its hinterland. Importantly it also tried to refocus attention on the town's most prominent and up-to-now most difficult sites to bring forward, most notably the Cattle Market. As such the Council and the LPA places great weight at holding the town centre line and focusing all attention to these sites in the hope that by carrot and/or by stick they come forward and realise the benefits they could offer. This by implication leads to difficult decisions having to be made.

What follows is an examination of the impact test and the sequential test.

#### Impact Assessment

Policy EP12 sets the Council's impact threshold for retail impact assessments for proposed retail development in excess of 2500sqm. This proposal is 1743sqm and so some 750sqm below the threshold. Policy EP12 states that for retail developments up to and including the floorspace threshold will generally be regarded as being of a scale that would not result in significant adverse impacts.

It should be noted however that the Council did commission GVA to undertake an independent review of the potential retail impact of another retail led application and that required by implication an assessment of this proposal. Whilst a minor impact may occur the report did not conclude that this scheme alone would have any significant adverse impact.

Given our own local plan threshold alone it is not considered appropriate, despite the representation of Carter Jonas, to progress a reason for refusal on retail impact.

#### Sequential Test

The delay in reaching this recommendation stage has largely been due to the promotion of potential sequentially preferable sites. The Yeovil Refresh document had the effect of ruling out Stars Lane and Box Factory for retail development; over the last 5 years there has been little activity regarding Glovers



Walk despite its condition and vacancy rate, however the Council understands that the site is currently under offer, which may lead to new ideas for investment. As such, right now, the two sites that emerged as being potentially available for this development were Cattle Market and the vacant former BHS unit. Both sites are in the control of Benson Elliot, leaseholders of the Quedam Shopping Centre. This forms the basis of their objection to this scheme. As such an examination is required as to whether the sites are truly sequential preferable, noting the criteria of suitable and available

The vacant BHS store is still under lease until December 2020 and rent will continue to be paid until then despite the shop not trading. As such Benson Elliot has a perverse financial incentive to leave the shop unoccupied until and unless the lease expires and the shop and its liabilities is handed back or another tenant agrees to a longer lease on similar or better terms or Benson Elliot is sufficiently incentivised by the current leaseholder Morrisons to cancel the lease early. So what we do know is that the store will be available in Dec 2020. Anything earlier will because it suits Morrisons and Benson Elliot financially. The availability of the former BHS store within 2 years is reasonable to resist the development, given 1 year will be taken to build any permission at Olds Garage. As such one can conclude it is available.

When first built the store was a supermarket, then Safeway, before moving to Lysander Rd, hence the lease is still in the control of Morrisons. As such it cannot be argued it is unsuitable for food retail and requires flexibility on the part of the retailer. It may not suit the very specific requirements of the intended end user but this has to be a land use based decision and as such the unit is suitable and available for the proposal.

In conclusion it can be demonstrated that the former BHS store is sequentially preferable; the proposal fails against Policy EP11.

The Cattle Market has been derelict for longer than many would wish to recall and is a symbol of an intransigent remote landowner who has not had sufficient incentive or motivation to bring the site forward for development despite several attempts by third party's that the Council is aware of. Challenging sites (levels, contamination, access etc) cost more to develop into a viable scheme and that should suppress the land value. If a landowner does not have to sell and has a value from the site they wish to achieve then any interest in the site by third party's is frustrated.

The Yeovil Refresh aimed to breakdown the technical issues surrounding the Cattle Market and set a vision for how the Council would like to see the site developed. Directly or indirectly in July 2018 Benson Elliot secured an option on the site and in the last few months have been marshalling discussions with a view of bringing forward a supermarket led scheme, see Appendix 3.

The timing of this announcement severely undermines the case for this proposal at Olds Garage. The case for the Cattle Market is long-standing and of town-wide interest, it is within the town centre and would comprise a retail policy compliant scheme. The onwards benefits of a scheme at the Cattle Market and the adjacent Vincents Yard linking to the Quedam would be transformational and worth the negative message refusing this application would send out.

The problem.....despite the July press release and the signalled intentions it would be remiss not to balance the potential with the reality that in response to several out-of-town retail scheme in the past agents on behalf of Benson Elliot have objected on the basis of "something is about to happen", "if you approve this we cannot go ahead with planned investment", and the reality is since 2009 when they took over the shopping centre nothing really has happened of the scale promised. To refuse this pending application on the basis of a press release from July and to give the benefit of the doubt to Benson Elliot is a risk, a significant risk. However every week is crucial and the situation on committee day will be different to the situation weeks prior as this report is written. Collectively officers and members need the confidence that Benson Elliot will follow through with their intentions and trust that they deliver within the timescales that case law and NPPF indicate are reasonable when considering retail schemes. Without that Members can legitimately conclude the Cattle Market is not sequentially preferable.

Clearly the applicant takes issue with the claims from Benson Elliot and their final representation setting out that argument is attached as Appendix 4.

Taken in isolation on policy grounds and with an absolute expectation that the clarity regarding the intentions for the Cattle Market are set out by Benson Elliot in the coming weeks it is concluded the proposal fails against Policy EP11.

### Discussion

The committee has grounds therefore to consider refusing the application.

Importantly however national and local policy is capable of being displaced if the planning committee consider that it is outweighed by other material considerations. What amounts to a material consideration is a matter of law, the weight to be given to such considerations is a question of planning judgement; the part any particular material consideration should play in the decision-making process, if any, is a matter entirely for the planning committee.

It is opined that there are material considerations that should be taken into account, these include:

- creation of jobs
- significant contribution to public realm/sustainable transport linkage
- some certainty regarding inward investment to the town and the positive message this brings
- the site is immediately adjacent to the town centre boundary (edge-of-centre) and visually and experientially feels part of the 'town centre'
- the site is within walking distance of a large residential hinterland and on a direct route from the majority of that area to the town centre

Matters concerning the use of a derelict 'brownfield site' should be factored in, although again the site could look tidier if the landowner was minded, and the fact it does look untidy should not be an overriding factor in displacing retail policy or the aspirations of the Yeovil Refresh..

The brand of the supermarket features in many of the positive representations from the public and Members should be careful in attributing too much weight to the named operator. This is consent for an A1 retail unit with food. The named operator cannot be secured or maintained in perpetuity, the neighbouring site shows us that fact. Would members of the public feel so excited if the shop was to be occupied by another retailer, perhaps selling household appliances, clothes or carpets for example?

The evidence suggests Yeovil is well provided for in terms of supermarkets both in terms of floorspace, variety and capacity; additional retail is encouraged in the town centre but there is no need for additional capacity outside the town centre.

What would a refusal mean for Yeovil? Yes in the short term it looks like the Council does not want investment and is happy to see a prominent site remain derelict. We know that is far from the truth and if the proposal was in the town centre it would have been under construction by now. The site is prominent and is a supermarket with prominent frontage parking the right gateway to the town? The site would be equally preferable for housing that would add to the streetscene and add less of a concentrated traffic impact at this particular spot.

If ultimately the site is refused permission, then the LPA, backed by the intent of the Yeovil Refresh document and local plan policy would fully support the principle of housing, community, health or commercial development on the site and would endeavour to facilitate this as much as possible.

A refusal would be met by a rebuttal from the applicant that Aldi will not come to the town unless it is to

this specific site and that they will not go to the Cattle Market or BHS. Previous comments regarding supermarket capacity and brand inflexibility apply. The challenge for Benson Elliot would be to ensure Aldi has all they require on any scheme at BHS or Cattle Market.

What would an approval mean for Yeovil? That the easier decision has been made and the potential for a scheme at the Cattle Market hampered. That the Council has given weight to the benefits of this specific scheme over and above local plan policy and the aspirations of the Yeovil Refresh to revitalise the Cattle Market.

In addition to the above factors Members will need to consider whether to restrict the range of product and services which can be sold/offered from the store via legal agreement akin to other deep discount approvals in the town. The applicant has offered potential conditions relating to the net tradable area, the percentage of that floor area to be used for convenience good sales and to limit use to deep discount retailing with no more than 2000 product lines. At the Lidl store on Lysander Rd other services were restricted so as not to compete with the town centre, but this site may require a more relaxed approach.

It is a complex weighing process that will have implications known and unknown; on balance it intuitively feels now is the time to hold the line, back the Yeovil Refresh, back the town centre and back the Cattle Market aspirations. As such the proposal fails to accord with policy EP11 of the Local Plan and the updated NPPF.

### **Design and Layout, Residential Amenity and Heritage**

The context to the site is varied as described in the site description section to this report.

The proposal seeks a departure from the historic built form of this site and obviously now only a single low rise building is proposed. The predominant materials of anthracite grey and metallic silver cladding with grey brickwork plinths, grey powder coated metal shopfronts under a grey composite panel mono-pitched roofing system invokes a more contemporary approach. Whilst this perhaps does not invoke the local vernacular it is within a context where it would not be overtly out of place.

It is worth acknowledging that from a design perspective, given the location the site the proposed building design does not make the landmark statement that perhaps a residential/office based scheme could have otherwise offered. Attempts were made to seek alternative site layouts and positions for the building on the site, i.e.: nearer the road to provide a frontage but the design of the store and its car park is key to the retailer and the offer it wants to make its customers. It is not considered appropriate to pursue a design reason for refusal given its setting.

The remaining aspect that can help unify the site with its context and perhaps enhance its overall appearance compared to the neighbouring retail site is the scheme of soft landscaping. The proposal includes significant tree planting. This will ensure the prominent roadside perimeter of the site receives trees which will provide in time a visual softening of the built form and structure to the streetscape. A streetscape which itself, through the public realm contribution, will be enhanced and greened-up through a separate Council project. The small retaining wall to the frontage of the site will be rebuilt and will be topped by railings. The levels on the site will be manipulated a little to create a flatter car parking area.

It is considered with suitable and reasonable conditions in place to agree the specific facing/landscaping materials and some tweaking to species choice within the soft landscaping scheme the proposal would accord with the relevant criteria of policies EQ2 and EQ5 of the Local Plan and the NPPF.

Aspects relating to pollution control are covered in the next section but in terms of residential amenity it is generally felt that the removal of the derelict buildings and the former garage use and the construction of a low rise retail building will improve the amenity of residents at Wyndham Court. As such a good standard of amenity would be safeguarded or indeed enhanced by the proposal in accordance with policy EQ2 of the Local Plan and the NPPF.

There are no immediately adjacent heritage assets to the site; the nearest listed building is the Dental Practice (Osborne House) further along Sherborne Rd and it is considered its setting will not be harmed by this development. The public realm works will in fact improve and enhance the immediate public highway to that site in accordance with policy EQ3 of the Local Plan.

### **Pollution Control/ASB**

The particular issue of contaminated land is considered in a later section. The proposed retail unit could bring rise to noise disturbance through its initial construction and on-going operation and it is noted there are residential properties close by to the north-east. In terms of the construction phase a Construction Management Plan could be requested by condition and a separate condition could control construction hours in accordance with policy EQ7 of the Local Plan.

The application is supported by a Noise Report which sets out the potential sources of noise from the on-going operation and how they can be mitigated. A noise mitigation scheme condition could be imposed.

After an air quality assessment was requested, its findings were accepted with the dust control measures suggested. The air quality impact assessment during the operational phase was also seen to be satisfactory based on an agreed methodology. As such no mitigation measures are seen to be required.

It is considered with suitable and reasonable conditions in place the proposal would accord with policy EQ7 of the Local Plan and the NPPF.

The Police Architectural Liaison Officer has also reviewed the plans and his recommendations included in revised plans where possible to accord with policy EQ2 of the Local Plan. Whilst it is acknowledged the management of the site is one for the site owner in other similar schemes an access barrier to prevent unneighbourly use outside of business hours has been requested. In this case it is noted that neither the adjacent retail site nor the application site when operating as car sales have had barriers.

It would be considered reasonable to agree details of all external lighting via condition to accord with policies EQ2 and EQ7 of the Local Plan and in the context of existing street lighting. Lighting of advertisements/signage will require separate consent on which the merits can be assessed.

### **Highways**

Vehicular access to the site is proposed off Sherborne Road via an arrangement that has caused some concern to officers, members of the public and indeed the Highway Authority. Through the receipt of amended plans the Highway Authority has however withdrawn its objections and advised of suitable conditions.

The proposal would provide 104 car parking spaces and dedicated cycle and motorbike parking. This is considered to be an appropriate level of car parking based on maximum standards in the Local Plan (policy TA6) and the Parking Strategy

The site is already easily accessible by foot given its location on the edge of a large residential area however given the edge of town centre location it was agreed with the applicant that an enhanced connection to the town centre allied to other schemes being developed by the Yeovil Refresh Project would be a positive aspect of any approval, hence the development of a scheme of public realm enhancement in Sherborne Road from the site towards the Wyndham St/Newton Road junction, inclusive of an on-road cycle linkage and a bus stop. The cycle linkage would extend that indicative scheme secured as part of the development of the Old Creamery on Newton Road. Whilst there is a notional bus stop in the vicinity of the former Western Gazette offices and the Dental practice, this is not even flagged let alone benefitting from a shelter and level access kerbing.

It is acknowledged this is not being asked for by the Highway Authority who instead seek a full travel plan with £2,000 (plus VAT) monitoring fee and £44,875 safeguard sum plus the on costs of green travel vouchers. A Travel Plan of course seeks to promote a greater choice to use more sustainable transport modes and reduce the need and desire to use the car but fundamentally fails to secure the hard infrastructure to facilitate those sustainable modes. It was recognised by the case officer that here was an opportunity to secure a cycle linkage and a bus stop plus the public realm improvements that would not only benefit the development being considered but also the wider area, rather than ringfencing circa £47,000 for green travel vouchers via a Travel Plan that lasts only for five years and seeks to achieve a small amount of modal shift within a relatively small workforce. It was considered appropriate in this instance to set aside the Highway Authority request for Travel Plan to be secured by s106 and instead secure an enhanced financial payment for the hard infrastructure and public realm that would enable sustainable transports trips to be made more easily. The applicant has agreed to this approach. The agreed sum of £157,000 would sit alongside the sum already secured via the Old Creamery scheme contribution and monies held by the Council for Lower Middle Street.

Conditions suggested by the Highway Authority have been considered and some are not felt to be necessary or could be covered by other conditions. A CEMP and marked out parking could be secured by condition.

Whilst it is acknowledged the application fails to satisfy policy TA4 because a Travel Plan will not be secured by s106, there are other benefits that it is considered outweigh that matter. In every other regard the proposal would satisfy the requirements of policies SS6, TA1, TA3, TA5, TA5 and TA6 of the Local Plan, the Parking Strategy and the NPPF.

### **Flooding and Drainage**

The site lies within Flood Zone 1 and so at low risk from fluvial flooding. The development of the site offers an opportunity to improve surface water drainage arrangements with on-site attenuation and controlled release. The LLFA, after considering additional information withdrew their objection and propose a condition to seek full details of the scheme based on the intended approach. Wessex Water raised no objections.

### **Contaminated Land**

The application is supported by a Geo-Environmental Report which assesses the geo-environmental aspects of the site, including the site's historical land use, potential resulting contamination and associated risks.

The comments of the Environmental Protection Unit are noted. In this regard a condition is suggested to determine what, if any, remediation is required. It is considered that with a suitable and reasonable condition in place the proposal would accord with policy EQ7 of the Local Plan and the NPPF.

### **Wildlife**

The application is supported by an Ecological Appraisal and after comments made by the Council's Ecologist a further Bat Survey was undertaken.

Due to the presence of a bat roost, the applicant will require a licence from Natural England (to be applied for after the grant of planning permission) before demolition of buildings used by bats can proceed. Outline mitigation measures have been suggested and a condition could secure full details to be agreed.

The Conservation of Habitats and Species Regulations 2010 requires this report to consider the following tests. The tests are:

1. the development must meet a purpose of 'preserving public health or public safety or other imperative reasons of overriding public interest including those of a social or economic nature

- and beneficial consequences of primary importance for the environment'
2. 'there is no satisfactory alternative'
  3. the development 'will not be detrimental to the maintenance of the population of the species concerned at a favourable conservation status in their natural range'.

Consideration of test 1 - The primary objective is to redevelop a brownfield, vacant and derelict site for the benefit of the area, for job creation and to facilitate inward investment in the town in the public interest. Surveys have been undertaken to ensure the impact on bats is adequately mitigated and compensated for in the proposal.

Consideration of test 2 - The location of the bat roost would require the retention of a building that would severely compromise the amount of developable land and that would bring the viability of a scheme into question and would not be the best solution for the bats themselves. A new purpose built roost located on the site would remain undisturbed and provide a more sheltered roosting environment than what currently exists.

Consideration of test 3 - It is considered that favourable conservation status is likely to be maintained due to only low numbers of bats being present on this site and the securing of appropriate mitigation by condition.

Assessment of this matter ensures the proposal is compliant with The Conservation of Habitats and Species Regulations 2010, the NPPF and policy EQ4 of the Local Plan.

Recommendations from the ecological appraisal are still offered to increase biodiversity; these could be covered by a condition. It is considered with suitable and reasonable conditions in place the proposal would accord with policy EQ4 of the Local Plan and the NPPF.

### **Archaeology**

There is no known archaeological interest in the site.

### **Sustainable Construction**

Policy EQ1 states the Council will support proposals for new development where they have demonstrated how climate change mitigation and adaption will be delivered. Policy EQ1 aims for a BREEAM rating of 'excellent' for non-domestic buildings.

Whilst the proposal appears not to meet these standards the Design and Access Statement sets out the applicants' corporate aspirations in waste reduction and energy efficiency so it is clear it will go some way to meeting the policy requirements and will meet Buildings Regulations which may involve the use of PV panels. The building will also be built in such a way that it can be adapted and extended easily meaning it will have flexibility for future use.

The scheme technically falls short of the requirements of Policy EQ1 of the Local Plan.

### **Public Consultation**

Prior to the submission of the planning application there was pre-application discussion undertaken with the LPA. The applicants also held a public exhibition. The approach to the application on the part of the applicant and agent cannot be faulted.

## **ENVIRONMENTAL IMPACT ASSESSMENT**

The development falls on land more than 0.5ha in size, so under Schedule 2, Part 10(b) a screening opinion should be sought. The site is not sensitive and so with the benefit of the reports submitted with the application and the subsequent consultation responses raising no significant issues it is likely an opinion will be issued prior to the committee meeting stating that environmental effects are unlikely and

an EIA is therefore not required.

## **PLANNING OBLIGATION UNDER SECTION 106**

If approved the applicant would be required to enter into an agreement to secure the £157,000 towards the environmental/sustainable transport improvements in and around Sherborne Rd.

In addition Members will need to consider whether to restrict the range of product and services which can be sold/offered from the store via legal agreement akin to other deep discount approvals in the town.

## **SECRETARY OF STATE CONSULTATION**

On the basis of a floor area of 1,743sqm, and therefore less than the 5,000sqm threshold for development outside town centres, no referral is required.

## **CONCLUSION**

This case boils down to Cattle Market versus Olds Garage, one fast emerging scheme in the town centre and one more definitive application on the edge of the town centre.

In the context of the Cattle Market a long-term eyesore and albatross around the neck of the Council and the town could finally be moving towards a positive outcome in line with the Council's aspirations set out in Yeovil Refresh. The picture in the town is changing and keeping to clear policy objectives and the setting of direction is part of breeding confidence for inward investment. Approving anomalies or low hanging fruit creates confusion for those wanting to invest; the Council needs to let the new direction settle and become established. We can have it all.

There has been time for exchange of views, the evidence is there to question or accept. Only time will tell. The ball is now firmly in the court of Benson Elliot to justify this recommendation to Members and the general public.

## **RECOMMENDATION**

### **Refuse planning permission for the following reason:**

01. The proposal represents a main town centre use on an edge-of-centre site. Paragraph 86 of the National Planning Policy Framework (2018) and Policy EP11 of the South Somerset Local Plan indicate main town centre uses should be located in town centres if suitable sites are available or are expected to become available within a reasonable period. Evidence submitted indicates there are two town centre sites that are suitable and available in a reasonable period and therefore are deemed sequentially preferable if flexibility is applied.

Paragraph 90 of the National Planning Policy Framework (2018) states an application that fails the sequential test should be refused.

Whilst the proposal has tangible benefits, the benefits of developing one of the sequentially preferable sites, namely Yeovil Cattle Market, where investment is planned, would have significant other overriding, long-term and knock-on benefits that represent a significant material consideration to this case.