

RAPLEYS

**Statement of Common Ground for
Orchard Street Investment Management LLP
and Lidl Great Britain Limited**

**Appeal against refusal of planning permission for the extension,
refurbishment and subdivision of the existing Homebase store
to provide a downsized unit for Homebase and
a new food retail unit.**

**UNIT 1,
ALTRINCHAM RETAIL PARK,
GEORGE RICHARDS WAY,
ALTRINCHAM,
WA14 5GR**

October 2021

Our Ref: 19-00220

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1 INTRODUCTION

1.1 This Statement of Common Ground has been prepared on behalf of Orchard Street Investment Management LLP and Lidl UK, joint Appellants, to support an appeal against the refusal of Planning Application Ref. 98127/FUL/19 for:

'Extension, refurbishment and subdivision of the existing Homebase store to provide a downsized unit for Homebase and a new Class A1 food retail unit. The application also proposes the relocation of the Homebase garden centre, the reconfiguration of the existing car park and associated landscaping, and the creation of a new egress from the site.'

1.2 This Statement addresses the following areas of common ground between the joint Appellants, Trafford Council and Rule 6 Parties:

- Description of the site and surrounding area;
- Site planning history;
- Planning policy; and
- Matters agreed.

1.3 In addition, the Statement sets out matters which are the subject of specific disagreement.

1.4 The Statement should be read alongside other submitted documentation including Statements of Case, proofs of evidence and the list of draft conditions. There is also an emerging 'Scott Schedule' which will set out in tabular format the remaining areas of disagreement.

2 DESCRIPTION OF SITE AND SURROUNDINGS

- 2.1 The appeal site comprises the Homebase store and associated garden centre area at Unit 1, Altrincham Retail Park, George Richards Way, Altrincham, WA14 5GR. The site also includes the area of car park sitting to the front and side of Unit 1, and the servicing area to the rear. The site extends to approximately 1.81ha in size.
- 2.2 The appeal site is located approximately 1.15km north west of Altrincham Town Centre and 3.3km south west of Sale Town Centre. Adjacent to the site is the Currys PC World unit and additional car parking associated with the retail park. To the north lies predominantly residential uses, separated by Huxley Street, while the site is bound to the east by the A56 Manchester Road and to the South by George Richards Way.
- 2.3 Customer vehicular access to the site is via the current main access into Altrincham Retail Park from George Richards Way and then via a mini roundabout associated with the internal road layout of the retail park.
- 2.4 There are four dedicated pedestrian accesses associated with the site - three pedestrian accesses from George Richards Way into Altrincham Retail Park and one to the east from Manchester Road. These provide direct access to the site. Dedicated footways are also provided within the site to allow safe pedestrian movement in the retail park. The two signalised junctions of Manchester Road / George Richards Way and George Richards Way / Altrincham Retail Park Access include pedestrian crossing points.
- 2.5 There is a Grade II Listed public house (The Railway Inn) which is located at the junction of the A56 and George Richards Way and which is included within the application boundary. The site lies within the setting of this listed building. The site also lies within the setting of two other listed buildings:
- The former Canal Warehouse - The building is a Grade II Listed Building located adjacent to Coal Wharf.
 - The former Lloyds Bank (Broadheath branch) and post office - The building is a Grade II Listed Building fronting Manchester Road.
- 2.6 The site is also within the setting of two non-designated heritage assets: the Broadheath Bridge and the Bridgewater Canal.
- 2.7 There are additional retail warehouse units located to the south of the site on both sides of Atlantic Street, known as Atlantic Street Retail Park.

OTHER CONSIDERATIONS

- 2.8 The site is located within Flood Zone 1 and there are no Tree Preservation Orders (TPOs) within the appeal site boundaries. The site is not within, nor adjacent to, a conservation area.

3 PLANNING HISTORY

3.1 The key planning applications in relation to the appeal site comprises:

- H38342 - Outline planning application for the demolition of existing buildings and structures, and redevelopment of site as a retail warehouse park including non-food retail units, garden centre, two restaurants and associated parking employment development and construction of new access road. Approved, 7th October 1994.
- H39892 - Demolition of existing buildings and structures, and redevelopment of site as a retail warehouse park including non-food retail units, garden centre, two restaurants and associated parking employment development, and construction of new access road (details of siting and means of access). Approved, 4th January 1995.
- H39994 - Reserved matters application for the demolition of existing buildings and structures, and redevelopment of site as a retail warehouse park including non-food retail units (140,000 sq.ft), garden centre (13,700 sq.ft), restaurant (3,000 sq.ft) and associated car parking (751 spaces), and employment development and construction of new access road. Approved, 16th November 1994.
- H39995 - Outline application for the demolition of existing buildings and structures, and erection of extension to retail warehouse park was approved in under application ref. H38342 comprising non-food retail unit (39,400 sq.ft). Approved, 15th February 1995.
- H40410 - Variation of condition application to permit outside storage to take place within garden centre area, a condition attached to reserved matters approval (H/ARM/39892). Approved, 29th March 1995.
- H41090 - Erection of retail warehouse development comprising 16,666 sq.m of non-food retail units, a 1,273 sq.m garden centre, a 214 sq.m restaurant with associated car parking, access and servicing facilities, following demolition of existing buildings (details of siting, means of access, design and external appearance following the grant of outline planning permission H/OUT/38342 and H/OUT/39995). Approved, 30th August 1995.
- 78734/CLEUD/2012 - Certificate of Lawfulness application for the installation of mezzanine floors in Units 1, 2-3, 5, 6, 8A, 8B, 9 and 10, for the purposes falling within Class A1 of the Schedule to the Town and Country Planning (Use Classes) Order 1987 (as amended). Approved, 26th July 2012.

THE PLANNING APPLICATIONS

3.2 The full planning application to which the appeal relates ('the 1st Planning Application') is for the *'extension, refurbishment and subdivision of the existing Homebase store to provide a downsized unit for Homebase and a new Class A1 food retail unit. The application also proposes the relocation of the Homebase garden centre, the reconfiguration of the existing car park and associated landscaping, and the creation of a new egress from the site.'*

3.3 The 1st Planning Application was received by Trafford Council on 26th June 2019 (LPA Ref. 98127/FUL/19). The application was validated on 5th August 2019. It was given a target determination date of 4th November 2019. An 'extension of time' for the application's consideration was subsequently agreed.

3.4 The planning application was presented to Trafford’s Planning and Development Management Committee on 16th July 2020. The application was refused in line with the officers’ recommendation without modification. The Decision Notice was issued on 17th July 2020. The reasons for refusal are re-produced below:

1. There is a sequentially preferable site which is available within a reasonable period and also potentially suitable to accommodate the proposed foodstore development. When demonstrating flexibility on issues such as format and scale, it has not been adequately demonstrated by the applicant that this alternative site is not suitable. As such, it is considered that the application proposal fails to satisfy the sequential test at paragraph 86 of the NPPF and thus a reason to refuse the application at paragraph 90 of the NPPF applies. The proposal is also contrary to saved Policy S11 of the Revised Trafford Unitary Development Plan and Policy W2 of the Trafford Core Strategy.
2. The proposed development involves the introduction of a new point of egress for customer traffic onto George Richards Way which has the potential to introduce significant vehicular conflict. It has not been adequately demonstrated by the applicant that this would not have an unacceptable impact on highway safety and thus a reason to refuse the application at paragraph 109 of the NPPF applies. The proposal is also contrary to Policy L4 of the Trafford Core Strategy.

3.5 On 15th January 2021, an appeal was lodged by the joint Appellants to the Secretary of State against the refusal of the 1st Planning Application. On 18th February 2021 Trafford Council received formal notification of this from the Planning Inspectorate.

3.6 On 8th February 2021, a revised full application (LPA Ref. 103414/FUL/21) was received by Trafford Council (submitted by the joint Appellants) and validated with the same date (‘the 2nd Planning Application’). This application was for a similar form and description of development, as follows:

Extension and sub-division of existing Homebase store (Unit 1) to create two new retail units (Use Class E(a)) comprising a retail warehouse unit and associated garden centre (Unit 1) and a discount convenience foodstore (Unit 1A), together with associated revised car parking arrangement, landscaping and formation of an additional site egress.

However, it proposed a different vehicular egress from the site, and with additional supporting evidence supplied.

3.7 On 1st September 2020, the Government introduced a new Use Class Order which introduced Use Class E - Commercial, Business and Service. Consequently, retail developments that were formerly Use Class A1 now fall under Use Class E. Therefore, whilst both the 1st Planning Application and 2nd Planning Application propose to extend and sub-divide the existing Homebase store to create two new retail units, the description of the development for the 1st Planning Application (to which the appeal relates) refers to the development as Use Class A1 and the 2nd Planning Application refers to the development as Use Class E.

3.8 The 2nd Planning Application was presented to Trafford’s Planning and Development Management Committee on 8th April 2021.

3.9 The officers’ report regarding the 2nd Planning Application explained the material differences between the two planning applications. This covered the design of the vehicular egress and

the level of safety risk arising. The officers' report presented a new planning balance exercise particular to the 2nd Planning Application. With specific regards to transport matters, the officers' report regarding the 2nd Planning Application stated within the Conclusions and Planning Balance section (paragraph 119):

“The proposed development involves the provision of a new point of egress for customers when exiting the retail park car park onto George Richards Way. The refusal of the last application on highway safety grounds was as a consequence of this new egress feature. It was concluded by the LHA that its presence in close proximity to the major road junction of the A56/George Richards Way was likely to pose a highway safety risk to road users and to increase the potential for collisions, and the applicant had not provided additional information to evidence its position that no unacceptable safety impacts would occur. However, this proposal is materially different; there have been changes to the characteristics of the egress, including its repositioning some 20 metres further westwards and away from the A56 junction, and also a package of further supporting evidence contained within the TA. Whilst the LHA does not fully support the egress proposals and is of the view that the existing access/egress arrangements operate satisfactorily, the adjustments made and information supplied has substantively reduced their concerns to the extent that it is no longer considered that ‘unacceptable’ highway safety impacts would occur. That being the case, there may be some residual safety risk. However, unlike the last application, there is no sustainable reason to refuse the application under paragraph 109 of the NPPF, and the proposal is also no longer at odds with Policy L4.”

3.10 With regard the sequential test, the officers' report within the Conclusions and Planning Balance section (paragraphs 121-124) stated:

*“The NPPF at paragraph 90 is clear that where an application fails to satisfy the sequential test it should be refused. Failure to comply with Policy W2 and Policy S11 of the development plan, which are also directed at the sequential test, would also support a refusal of planning permission. However, relevant and recent case law (see *Asda Stores Ltd v Leeds City Council & Anor* [2019] and *Asda Stores Ltd v Leeds City Council & Anor* [2021]) has held that paragraph 90 does not mandate a refusal as a matter of policy, and also that it does not give rise to a ‘presumption to refuse’ similar to the ‘tilted balance’ evident at paragraph 11 of the NPPF. Pursuant to Section 38(6) of the Planning and Compulsory Purchase Act - and irrespective of conclusions surrounding paragraph 90 and policies W2 and S11 - the decision-taker is still required to consider other material considerations arising from a planning proposal and to undertake a balancing exercise in reaching its decision. In this respect, careful consideration has been given to the particulars of this application and to the consequences of the sequential test being described as failed.*

Indeed, the situation is unusual in that Lidl, as joint applicant, has influence over both the application proposal and the emerging development at the sequentially preferable Altair site. This departs from the more typical scenario in which the more central site could be under the control of a third party who has legitimate concerns that the approval of an out-of-centre competing development could prejudice their town centre scheme. It is to be recalled that no issue has been taken in respect of the test of impact, and no objections have been received on the part of Lidl's delivery partner at Altair (Nikal). Lidl has stated within its application submission that it is contractually committed to both Altrincham sites, and there is no evidence to the contrary. The timings of the two schemes are different, however. The Altair unit is not expected to be ready for occupation for at least 3 to 4 years, whilst the retail park foodstore could

be open and trading within 12 months from a grant of planning permission (and with the applicant stating that it would be happy to accept a reduced, one year time limit for the implementation of any permission at the retail park). It is fully recognised that the purpose of the sequential test is to guide main town centre uses towards town centre locations first. Approval of the application proposal would be contrary to the logical sequence of development underpinned by the sequential test. Furthermore, despite the applicant's assurances and references to contracts, there is some acknowledgement that there can be no firm guarantee that the Lidl at Altair will come about, within the expected timeframe or indeed at all. The retail market, and Lidl's corporate priorities, could well change. However, Lidl's firm expressions of commitment to Altrincham as part of its submission are taken at face value, and thus there is sufficient confidence at this stage that two stores would be delivered.

In the earlier discussions regard heritage impact, an overview of the public benefits accruing to the application proposal was provided. These were principally economic focussed and were afforded weight, especially when having regard to the current economic climate. They included investment in the retail park and its locality, and the creation of new (permanent) jobs at the foodstore and the preservation of existing jobs at Homebase. There would also be some temporary construction employment and the potential for investment in local supply chains during this period. Added to this would be improved consumer choice and competition in the local grocery market, and the retention of retail expenditure in the local area. The effect, in practice, of preventing a new Lidl foodstore at the application site until such time as the Lidl at Altair is advanced would in fact be to delay the aforementioned benefits for the locality for the three to four year period (minimum) that has been stated.

Notwithstanding there being no mandatory requirement to refuse planning permission under the terms of paragraph 90, nonetheless it is considered that a clear failure to comply with the sequential test should be afforded appropriate weight. However, what this 'appropriate weight' entails in this case should have regard to what is likely to occur in practice and the nature and extent of the likely resulting harm. Further, the cited benefits of the development would be deferred and with no evidence that the Altair foodstore would be jeopardised in a manner attributable to the approval of this application. These are considered to be important material considerations to be factored into the decision-taking process."

- 3.11 The officers' report, in its final paragraph (paragraph 127) concluded that: "Overall, in drawing final conclusions, whilst paragraph 90 of the NPPF advises that planning permission should be refused if the sequential test is failed (and similarly in respect of policies W2 and S11), it is considered that there are good reasons to depart from it. This is when having regard to the likely outcome of the application of the sequential test specific to this case, and also in considering the collection of benefits which are considered sufficient to outweigh the scheme's harms. These are considered to amount to material considerations under the terms of Section 38(6) which would displace the conflict with individual development plan policies and with a test of the NPPF."
- 3.12 The application was approved, subject to conditions, in line with the officers' recommendation without modification. The Decision Notice was issued on 8th April 2021.
- 3.13 Tesco Stores Limited (Tesco) lodged a Claim for Judicial Review of the decision into the 2nd Planning Application on 19th May 2021. The Claim for Judicial Review was refused on 15th July 2021. The Deputy High Court Judge also awarded full costs against the claimant.

3.14 Notwithstanding this, Tesco sought to renew the Claim and an oral (renewal) hearing was initially set for 13th October 2021. The date has subsequently been changed to 7th December 2021 and is now to be heard at the Manchester Administrative Court.

3.15 On 26th August 2021, the joint Appellants submitted revised highway plans to the Planning Inspectorate in respect of the appeal scheme. On 7th September 2021, these were accepted by the appointed Inspector as substitute plans (subject to the necessary consultation). These show the same revised vehicular egress that was proposed in the 2nd Planning Application. The effect of the plans' substitution is that the proposed development within the 1st Planning Application (the appeal scheme) and the 2nd Planning Application is identical. The consequence of this is that the Council no longer objects to the appeal scheme (in accordance with the resolution in the 2nd Planning Application) subject to the imposition of conditions. The decision of the Council to no longer contest the appeal scheme was formally confirmed at a meeting of the Planning and Development Management Committee on 9th September 2021.

3.16 The consultation that has been undertaken on the substituted plans has involved:

- All those who objected to the appeal scheme (the 1st Planning Application) have been advised of the proposed amendment by letter and/or email and advised where they can view the amended plans. Those without access to the internet have been provided with the opportunity to request a hard copy of the amended plans;
- A site notice has been posted, drawing attention to the proposed amendment and notifying where the plans can be inspected;
- An advertisement has been placed for two consecutive weeks in a local newspaper giving the above information; and
- The Council has identified the proposed amendment on its website under the appeal case reference.

4 PLANNING POLICY

ADOPTED DEVELOPMENT PLAN

- 4.1 The adopted Development Plan for Trafford Council for the purposes of this appeal comprises:
- The Revised Trafford Unitary Development Plan (2006);
 - Trafford Core Strategy (2012); and
 - Altrincham Town Centre Neighbourhood Business Plan (2017).
- 4.2 The Revised Trafford Unitary Development Plan (UDP) was adopted in June 2006 and guided development within the borough until the policies were partly, and in some cases entirely, superseded by the adoption of the Core Strategy in January 2012.
- 4.3 Core Strategy was adopted on 26th January 2012 and covers the period up to 2026. The document sets out the overarching spatial strategy relating to economic, social and environmental issues in order to deliver sustainable growth across the Borough.
- 4.4 The Altrincham Town Centre Neighbourhood Business Plan was adopted on 29th November 2017. The document forms part of the Development Plan within the defined neighbourhood plan area.
- 4.5 The appeal site is not located within the Altrincham Town Centre Neighbourhood Business Plan area. However, the contested sequential site bound by Oakfield Road, Thomas Street and Altrincham Interchange (also commonly referred to as the ‘Altair site’) falls within the Neighbourhood Plan area.
- 4.6 In accordance with paragraph 219 of the National Planning Policy Framework (NPPF) (2021), weight should be given to relevant policies in existing plans according to their degree of consistency with the NPPF. The closer the policies in the adopted Development Plan to the policies in the NPPF, the greater the weight that may be given.

EMERGING PLANNING POLICY

Places For Everyone (Formerly Greater Manchester Spatial Framework)

- 4.7 Trafford Council was one of the 10 Greater Manchester authorities involved in the preparation of the Greater Manchester Spatial Framework (GMSF). A first draft of the GMSF was consulted upon in 2016 with a further consultation on the second draft in 2019. A Regulation 19 consultation was expected to take place in the early part of 2021; however, this has been delayed following Stockport Council voting against the GMSF on 4th December 2020.
- 4.8 Following the decision of Stockport Council to withdraw from the GMSF, the remaining nine authorities agreed to progress a joint Development Plan, known as Places for Everyone. A Publication Draft version of Places for Everyone was published on 9th August 2021 and is currently out for public consultation until 3rd October.
- 4.9 Given the plan’s current status, it is considered that the document can only be afforded limited weight in the decision-making process with respect to this case.

Trafford New Local Plan

- 4.10 A new development plan for Trafford is currently being prepared which, upon its adoption, will replace the Trafford Core Strategy and the Revised Trafford UDP. A Regulation 18 version of the emerging Trafford Local Plan was published for consultation in February 2021. However, it is at a stage where only very limited weight can be afforded to it in the decision-taking process.

Relevant Policies of the Development Plan

- 4.11 The key policies of relevance in determining this appeal are:

The Revised Trafford UDP:

- S11 - Development Outside Established Centres

The Trafford Core Strategy:

- L4 - Sustainable Transport and Accessibility
- L5 - Climate Change
- L7 - Design
- L8 - Planning Obligations
- W2 - Town Centres and Retail
- R1 - Historic Environment
- R3 - Green Infrastructure

NATIONAL PLANNING POLICY AND GUIDANCE

- 4.12 The NPPF (2021) is the Government's expression of planning policy and how this should be applied, is an important material consideration. This is further supported by the National Planning Policy Guidance (NPPG).

Supplementary Planning Guidance

- 4.13 Supplementary planning documents (SPDs), which are non-statutory documents, are also capable of being material considerations. Trafford Council has a series of SPDs which have been subject to consultation, and which have been formally approved. Relevant SPDs for the purposes of this appeal comprise:

- Revised SPD1 - Planning Obligations
- SPD3 - Parking Standards and Design

Decision-taking Framework

- 4.14 The NPPF, at paragraph 11, introduces 'the presumption in favour of sustainable development.' For decision-taking purposes, paragraph 11(c) explains that 'the presumption in favour' means approving development proposals that accord with an up-to-date development plan without delay. However, where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, paragraph 11(d) advises that planning permission should be granted unless:

- i. The application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development

proposed; or

- ii. Any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.

4.15 Where a planning application conflicts with an up-to-date development plan, planning permission should not normally be granted, paragraph 12 of the NPPF explains.

4.16 It is considered that paragraph 11(d) of the NPPF is not engaged in the determination of this appeal proposal as this describes a position where the 'most important policies' are considered to be 'out of date'. Consequently, it is considered that paragraphs 11(c) and 12 of the NPPF provide the decision-taking framework for this appeal.

5 MATTERS AGREED

5.1 Agreed matters fall under the following headings:

- Sequential Test
- Retail Impact;
- Development Benefits;
- Highways;
- Impact on Heritage Assets;
- Design;
- Archaeology;
- Trees and Landscaping;
- Deliveries and Opening Hours, and Noise Impacts;
- Lighting;
- Air Quality;
- Flood Risk and Drainage;
- Ecology; and
- Crime Prevention and Security Measures.

SEQUENTIAL TEST

5.2 It is agreed that the appeal site is out-of-centre in retail planning terms and as such the proposed retail development is required to demonstrate compliance with the sequential test set out in paragraph 87 of the NPPF. Annex 2 of the NPPF indicates that the ‘town centre’ for the purpose of retail planning policy is determined with reference to the relevant centre’s primary shopping area.

5.3 In this case, the Main Shopping Frontages and Mixed Use Frontages identified by Plan 6 of the Altrincham Town Centre Neighbourhood Business Plan 2015 to 2030 provide a *de facto* primary shopping area for Altrincham town centre.

5.4 The joint Appellants and the Council disagree as to the potential availability and suitability of the land bound by Oakfield Road, Thomas Street, and Altrincham Interchange (known as the Altair development site) to accommodate the proposed foodstore use.

5.5 Whilst the joint Appellants and Council agree that the form of development provided for at Altair by extant outline planning permission Ref. 81115/O/2013 (and Ref. 86661/VAR/15) could be revised in order to accommodate a grocery operator, the two parties disagree as to whether this means that the opportunity comprises an available and suitable site with reference to the appeal proposal.

5.6 However, the joint Appellants and the Council are in agreement that the Altair development proposals have a delivery timeframe of at least 3 to 4 years. The two parties are also in agreement that Lidl is committed to securing representation at the Altair scheme.

RETAIL IMPACT

5.7 It is agreed that the site is out-of-centre, in retail planning terms and as such, the proposed retail development is required to demonstrate compliance with the retail impact tests set out in paragraph 90 of the NPPF.

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- 5.8 It is agreed that there is unlikely to be a ‘significant adverse impact’ on any town centre within Trafford as a result of the application proposal and that the retail impact test set out within paragraph 90 of the NPPF is passed.
- 5.9 Conditions to confirm the size and operational characteristics of the foodstore and DIY/garden centre have been suggested by the Council and have been accepted by the joint Appellants.
- 5.10 In addition, a condition requiring a reduced timeframe for implementation of the development has been agreed by the Council and the joint Appellants. The joint Appellants and the Council recognise that the likely effect of the condition is to ensure that development of the appeal site would commence in advance of development of the Altair site and that the benefits arising from the appeal scheme would be realised more rapidly.

DEVELOPMENT BENEFITS

- 5.11 It is agreed that the development will deliver the following benefits:
- The proposal represents investment by the joint Appellants in the retail park and its immediate surroundings;
 - The proposed food store will provide approximately 40 new job opportunities, and with Lidl’s employment arrangements typically supporting the hiring of local people. The positions will range from managerial to store assistants and cashiers;
 - The proposal will ensure the retention of jobs at the Homebase unit, with the joint Appellants submission suggesting that 50 in-store jobs will be protected;
 - The proposal will support some construction jobs, although for a temporary period only, and there could be some investment in local supply chains during construction; and
 - The proposed development will enable the introduction of a new food retailer, not currently represented, to the local grocery market. This would ensure some retention of trade and would provide for improved consumer choice and competition (albeit the introduction of a Lidl at Altair is expected in a 3 to 4-year period and the Altrincham area is already well provided for in terms of grocery choice and supports a discounter in the form of Aldi).

HIGHWAYS

- 5.12 The 2nd Planning Application was submitted following the refusal of the appeal scheme. The key amendment from the appeal scheme and the scheme proposed through the 2nd Planning Application, was an alternative approach to the proposed new site egress onto George Richards Way with additional supporting evidence provided. The 2nd Planning Application was subsequently approved by Trafford Council.
- 5.13 The amendments are summarised as follows:
- The egress is positioned approximately 20m further west and therefore further away from the start of the left turn lane to Manchester Road north;
 - The central traffic island has been extended to the west to prevent right turns into and out of the egress; and
 - The design of the ramp has been reconfigured and lengthened to provide a gradient of no more than 1:20.
- 5.14 In addition to the physical changes which went with the access, additional cycle parking and 2no. EVC bays were also provided.

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- 5.15 Further design amendments were made during the application process including the setting back of an existing knee rail fence and replacement tree planting in the area of the egress to maintain appropriate visibility splays.
- 5.16 The joint Appellants and the Council are in agreement that the substituted plans provide an improved egress solution to that originally proposed. This is on the basis of a number of conditions being imposed which relate to the proper functioning of the egress. These conditions have been accepted by the joint Appellants.
- 5.17 With regard to the assessment of the appeal proposals in terms of their wider transportation-planning considerations, it is agreed that the submitted Transport Assessment provides a comprehensive review of the current accessibility levels of the site and that the Appeal Site is accessible by all modes. Conditions are proposed by the Council, and accepted by the joint Appellants, regarding the provision of car parking, cycle parking, motorcycle parking, and the implementation of a Travel Plan.
- 5.18 It is agreed that the traffic surveys which were undertaken on Friday 13th March 2016 between 16:00 and 19:00, and Saturday 14th March 2016 between 11:00 and 17:00 are fit for the purpose of baseline and with-development capacity assessment at the retail park and Manchester Road junctions with George Richards Way.
- 5.19 It is agreed that there are no committed developments to take into account and that the use of the TRICS database is appropriate for the estimation of trip generation for the Appeal Site.
- 5.20 It is agreed that the proposals include a proposed left-turn only, priority-controlled egress from the eastern car park onto George Richards Way and that the original comments from a Road Safety Audit undertaken on 21st November 2019 have been fully addressed by virtue of the submission of the revised plans to support the 2nd planning application.
- 5.21 It is agreed that a 5m “flat” section with a gradient of no more than 4% from the edge of the carriageway would be provided at the proposed egress to overcome concerns in terms of drivers having to undertake a hill start to emerge onto George Richards Way. The gradient of the ramp beyond the back of footway into the site is agreed as being acceptable by virtue of the plans approved at the 2nd planning application.
- 5.22 It is agreed that the proposed egress will only be used by vehicles up to and including a standard transit van and that a visibility splay of 2.4m x 43m is achievable from the proposed egress back to towards the retail park signalised junction along George Richards Way.
- 5.23 It is agreed that the layout of the proposed egress and central island will eliminate right turning movements out of the egress and deter pedestrians from crossing George Richards Way. The egress will be subject to a S278 Agreement between the joint Appellants and Trafford Council, and it is agreed that the scheme will be subject to further technical scrutiny and road safety audits at that detailed design stage.
- 5.24 A number of highway-led conditions which are required to support the Council’s position on the delivery of the revised egress have been proposed by the Council. These are acceptable to the joint Appellants.

IMPACT ON HERITAGE ASSETS

- 5.25 It is agreed that the proposed development would cause ‘less than substantial’ harm to the significance of the Grade II Listed Railway Inn by virtue of the impact on its setting. Other heritage assets would experience no harm or negligible harm. The harm caused to the Railway Inn would be outweighed by the cumulative public benefits that are expected to arise from the proposal.

DESIGN

- 5.26 It is agreed that, when taken as a whole, the proposal constitutes a reasonable design response. A number of design-led conditions have been recommended by the Council, which are acceptable to the joint Appellants (for example, regarding materials of construction).

ARCHAEOLOGY

- 5.27 There are no known archaeological interests at the site and no requirement for archaeology-led conditions (as confirmed in the consultation response from the Greater Manchester Archaeological Advisory Service).

TREES AND LANDSCAPING

- 5.28 As part of the 2nd Planning Application, a revised Landscaping Plan (Drawing Ref. V14366 L01M) was submitted to accommodate the egress solution. The revised Landscaping Plan is included in the schedule of plans to be substituted.
- 5.29 Both the joint Appellants and the Council are in agreement that the revised Landscaping Plan shown on the substitute plans is acceptable, having regard to the proposed impact on trees and the extent of replacement planting. Conditions to secure the implementation of the soft landscaping proposals, and to request replacement planting, if necessary, have been suggested by the Council and are acceptable to the joint Appellants.

DELIVERIES AND OPENING HOURS, AND NOISE IMPACTS

- 5.30 In accordance with consultation undertaken at planning application stage, the following delivery and opening hours, as proposed by the Council to be secured via conditions, have been accepted by the joint Appellants:

Foodstore - Opening Hours

- 0800 to 2200 hours Mondays to Saturdays; and
- 1000 to 1600 hours on Sundays.

Foodstore - Deliveries and Refuse Collections

- 0800 to 2000 hours Mondays to Saturdays; and
- 1000 to 1600 hours on Sundays.

Homebase - Store opening

- 0800 to 2000 hours Mondays to Saturdays, and
- 1000 to 1600 hours on Sundays.

Homebase - Deliveries and Refuse Collections

- 0730 to 2000 hours Monday to Saturday; and
- No deliveries or collections on Sundays.

- 5.31 A further condition is proposed by the Council, and which is accepted by the joint Appellants, which would involve the installation of an acoustic barrier to the boundary of the service yard.
- 5.32 Conditions have been recommended by the Council, and accepted by the joint Appellants, regarding the submission of a Servicing Management Plan and a Construction Environmental Management Plan to ensure that the delivery process is appropriately managed by the retailers and that potential environmental effects arising during the construction stage are mitigated.
- 5.33 A further agreed condition seeks to limit the noise levels from any fixed plant to be installed.
- 5.34 It is concluded by the Council and the joint Appellants that the proposed development would not have a significant adverse impact on standards of residential amenity in the locality, subject to the imposition of appropriately worded conditions. It is considered that the requirements of Development Plan Policy L7 on this topic have therefore been met.

LIGHTING

- 5.35 In accordance with consultation undertaken at planning application stage, the submitted external lighting report has been found to be acceptable by the Council since it would not cause light overspill to the detriment of surrounding residential properties. A condition has been recommended by the Council, and accepted by the joint Appellants, which would ensure that the lighting is installed in accordance with the submitted details.

AIR QUALITY

- 5.36 The Council has no overriding concerns in respect of the potential for adverse air quality impacts. However, the agreed condition regarding the Construction Environmental Management Plan should include measures to control the emission of any dust and dirt from the demolition and construction processes.
- 5.37 There is also a requirement for low emission vehicle charging infrastructure to be installed within the development (which would be secured via a condition). This has been accepted by the joint Appellants.

FLOOD RISK AND DRAINAGE

- 5.38 In accordance with consultation undertaken at the planning application stage (with the Lead Local Flood Authority), the Council has no overriding concerns in respect of flood risk. However, a condition is suggested to ensure that an appropriate drainage strategy is implemented and to ensure mitigation measures identified in the submitted Flood Risk Assessment and Outline Drainage Strategy are implemented. This condition is accepted by the joint Appellants.
- 5.39 A further agreed condition, in accordance with the comments of United Utilities, seeks the installation of separate drainage systems for the disposal of foul and surface water.

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- 5.40 Subject to the imposition of these conditions, it is agreed by the Council and the joint Appellants that the proposal is compliant with the NPPF on the matter of flood risk and also meets the terms of Development Plan Policy L5.

ECOLOGY

- 5.41 In accordance with consultation undertaken at planning application stage (with the Greater Manchester Ecology Unit), the Council has no overriding concerns in respect of ecological impacts. However, a number of ecology-related conditions have been proposed by the Council and accepted by the joint Appellants. This includes a requirement for an updated bat survey dependent on when works take place.

- 5.42 Subject to the imposition of these conditions, the Council and the joint Appellants agree that the proposal is compliant with Development Plan Policy R2 and the relevant provisions of the NPPF.

CRIME PREVENTION AND SECURITY MEASURES

- 5.43 It is agreed that the proposed development has been satisfactorily designed when having regard to the objective of minimising the potential for crime through design (and thereby meeting the requirements of Development Plan Policy L7 and the NPPF on this matter). However, this is subject to a condition (as proposed by the Council and accepted by the joint Appellants) that the development would be constructed to include the recommendations contained in the Crime Impact Statement.

6 MATTERS SUBJECT TO SPECIFIC DISAGREEMENT WITH THE COUNCIL

THE SEQUENTIAL TEST

6.1 Trafford Council consider that the proposed development fails the sequential test set out at paragraph 87 of the NPPF. This is because the Council believes that the Altair site comprises an available and suitable sequentially preferable site. As such, the following reason for refusal was placed upon the planning application Decision Notice (for the 1st Planning Application):

‘There is a sequentially preferable site which is available within a reasonable period and also potentially suitable to accommodate the proposed foodstore development. When demonstrating flexibility on issues such as format and scale, it has not been adequately demonstrated by the applicant that this alternative site is not suitable. As such, it is considered that the application proposal fails to satisfy the sequential test at paragraph 86 of the NPPF and thus a reason to refuse the application at paragraph 90 of the NPPF applies. The proposal is also contrary to saved Policy S11 of the Revised Trafford Unitary Development Plan and Policy W2 of the Trafford Core Strategy.’

6.2 Whilst both the joint Appellants and the Council recognise that Altair is edge of centre in retail planning policy terms, the joint Appellants disagree with the Council’s assessment of the Altair site being a sequentially preferable site. This is on the basis that the joint Appellants consider that the Altair site is not likely to be available within a reasonable period and is also unable to accommodate the development proposed, including allowing for reasonable flexibility. As such, the joint Appellants consider the appeal proposal passes the sequential test in accordance with paragraph 87 of the NPPF.

6.3 In summary, the principal matters of difference between the joint Appellants and the Council in respect of Altair relate to:

- The appropriate timeframe of relevance in determining whether the Altair site is available to accommodate the proposed foodstore use;
- The level of flexibility that should be applied when considering the potential of sequential alternative sites to accommodate the appeal proposal.

6.4 In respect of the second of the above bullet points, it is agreed that the joint Appellants’ Planning and Retail Statement of July 2019 considered sequentially alternative sites on the basis of whether they could accommodate the additional land use introduced by the application proposal (i.e. the new foodstore operation). However, it is the joint appellants’ case that any sequential alternative site should be able to accommodate the proposal in its entirety (i.e. both the re-configured DIY store and proposed foodstore). The Council disagrees with this assessment.

7 MATTERS OF SPECIFIC DISAGREEMENT WITH THE RULE 6 PARTIES

TESCO STORES LIMITED

7.1 Tesco disagrees with respect to the following:

Paragraph	Comments
2.1	Tesco notes that the Railway Inn Public House is also included within the site boundary.
3.9	Tesco notes that matters other than that quoted paragraph of the officers' report are discussed in the Conclusions and Planning Balance section.
3.10	Tesco states that the Committee Additional Information Report Ref. 103414/FUL/21 provided additional clarity in relation to whether the proposed development would be contrary to the development plan when taken as a whole.
3.11	Referring to comments made at paragraph 3.9, Tesco states that the final paragraph (paragraph 127) of the officers' report includes a final concluding sentence.
3.12	For clarity, Tesco states that the recommendation proposed altered wording to some of the proposed conditions. This includes the addition of a net floorspace figure for the reconfigured Homebase store and two additional conditions as per the Additional Information Report.
3.14	Tesco would like the word "has" to be included in the sentence so that it reads as follows: <i>'Notwithstanding this, Tesco <u>has</u> sought to renew the Claim...'</i> Additionally, Tesco states that the Defendant has resulted in the case being transferred to the Manchester Administrative Court.
4.2	Tesco notes that some of the policies of the Revised Trafford UDP were "saved".
4.3	Making reference to paragraph 1.2 of the Core Strategy, Tesco disagrees with the purpose of the adopted Core Strategy agreed between the joint Appellants and the Council.
4.6	Referring to the text included in paragraph 219 of the NPPF, Tesco would like the paragraph to be reworded such that it reads: <i>'In accordance with paragraph 219 of the National Planning Policy Framework (NPPF) (2021), weight should be given to <u>existing</u> policies in existing plans according to their degree of consistency with the NPPF. The closer the policies in the adopted Development Plan to the policies in the NPPF, the greater the <u>due</u> weight that may be given.'</i>
4.9	Tesco states that it should be limited, if any, weight is afforded during the decision-making process.
4.10	Tesco states that some weight may be afforded depending on the matter being considered.
4.11	Tesco states that the key policies of relevance are should be Policies L4, W2, L7 and R1.
4.14	Tesco notes that nothing has been agreed.

4.16	Tesco states that the starting point of consideration should be Section 38(6) of the Planning and Compulsory Purchase Act 2004.
5.2	Tesco states that Annex 2 of the Glossary provides definitions for “Town Centre” and “Edge of Centre”. The reference to the primary shopping area extends to areas ‘adjacent to the primary shopping area’.
5.3	Tesco claims that Plan 6 does not exist. Making specific reference to paragraph 5.1, Tesco states that Plan 5 defines the Character Areas.
5.5	Tesco contends that the approach is not appropriate or the necessarily appropriate means to test suitability or availability.
5.6	Tesco would like the fifth bullet point set out in paragraph 5.11 of the Statement of Common Ground to also be applied in this paragraph. Tesco also contends that the Council is not in agreement that Lidl is committed to bring forward the Altair scheme based on the references made in the Statement of Case and officers’ report.
5.7	Tesco disagrees with this paragraph.
5.8	Tesco states that impact on planned investment may arise if the sequential test sequence is not followed.
5.10	Tesco disagrees as there is no certainty that the Altair site would come forward as stated in the Council’s Statement of Case and officers’ report.
5.11	Tesco disagrees with the benefits of the development both in terms of scale and/or relevance. However, Tesco does not contend with the last bullet point which states the Altrincham area is already well provided for in terms of grocery choice and supports a discounter in the form of Aldi.
5.13	Tesco notes that there are matters and issues other than that listed to be addressed by way of planning conditions.
5.16	Tesco states that the Local Highway Authority maintains concern over safety issues.
5.18	Tesco is unable to provide comments at present.
5.19	Tesco is unable to provide comments at present.
5.20	Tesco is unable to provide comments at present but has requested that the Road Safety Audit be provided for review.
5.21	Tesco is unable to provide comments at present.
5.22	Tesco is unable to provide comments at present.
5.23	Tesco is unable to provide comments at present but notes the need for further technical scrutiny and road safety audits.
5.25	Within less than substantial harm, Tesco states that “moderate” harm has been assessed and that there may be harm, whether negligible or otherwise.
5.26	Tesco contends whether the design proposed constitute a reasonable design response.
5.29	Tesco disagrees that planning is acceptable.
5.32	Tesco is unable to provide comments at present.
5.34	Tesco contends whether ‘significant adverse impact’ is the correct means of assessing impact on residential amenity.
6.3	Tesco states that the first bullet point regarding timeframe should relate to whether it is considered a reasonable period in the circumstances. Tesco does not understand the third bullet point and states that there is no proposal yet. Flexibility on formats will also have to be applied.

ALTRINCHAM NEIGHBOURHOOD BUSINESS PLAN

7.2 Altrincham Neighbourhood Business Plan (ANBP) disagrees with respect to the following:

Paragraph	Comments
1.1	ANBP does not agree to the inclusion of “food” in the description.
2.7	ANBP notes that planning applications for major factory and warehousing developments on Atlantic Street are being considered by the Council. These developments will use George Richards Way to and from the A56, Altrincham and Sale.
3.2	ANBP does not agree to the inclusion of “food” in the description.
3.3	ANBP does not contend but states that there are no records of any public consultation being held.
3.6	ANBP does not contend but states that there are no records of any public consultation being held.
3.9	ANBP notes that matters other than that quoted paragraph of the officers’ report are discussed in the Conclusions and Planning Balance section, specifically matters relating to the sequential test.
3.10	ANBP states that the Committee Additional Information Report Ref. 103414/FUL/21 provided additional clarity in relation to whether the proposed development would be contrary to the development plan when taken as a whole.
3.12	For clarity, ANBP states that the recommendation proposed altered wording to some of the proposed conditions. This includes the addition of a net floorspace figure for the reconfigured Homebase store and two additional conditions as per the Additional Information Report.
3.14	ANBP states that the claim for Judicial Review should have been heard as originally planned so a third party is able to review key information and thereby provided guidance.
3.15	ANBP’s request to speak on the 9 th of September Planning Committee was refused.
4.3	Making reference to paragraph 1.2 of the Core Strategy, ANBP disagrees with the purpose of the adopted Core Strategy agreed between the joint Appellants and the Council.
4.5	ANBP states that the accepted Town Centre is approximately between the former Rackhams store and Oxford Street with the Altair site being peripheral to the Town Centre. ANBP also states that the Altrincham Town Centre Neighbourhood Business Plan addresses the development of the Altair site.
4.6	Referring to the text included in paragraph 219 of the NPPF, ANBP would like the paragraph to be reworded such that it reads: <i>‘In accordance with paragraph 219 of the National Planning Policy Framework (NPPF) (2021), weight should be given to <u>existing</u> policies in existing plans according to their degree of consistency with the NPPF. The closer the policies in the adopted Development Plan to the policies in the NPPF, the greater the <u>due</u> weight that may be given.’</i>
4.7	ANBP notes that this paragraph is of little relevance to the appeal.
4.9	ANBP contends that the plan should be considered in the decision-making process at its current stage.

4.10	ANBP states that the plan should not be afforded any weight until it is formally adopted.
4.11	ANBP states that the key policies of relevance are should be Policies L4, W2, L7 and R1.
4.14	ANBP disagrees with the proposed development being sustainable on the basis that prospective customers will be travelling by car.
4.16	ANBP states that the starting point of consideration should be Section 38(6) of the Planning and Compulsory Purchase Act 2004.
5.2	ANBP states that Annex 2 of the Glossary provides definitions for “Town Centre” and “Edge of Centre”. The reference to the primary shopping area extends to areas ‘adjacent to the primary shopping area’.
5.3	ANBP claims that Plan 6 does not exist. Making specific reference to paragraph 5.1, Tesco states that Plan 5 defines the Character Areas.
5.5	ANBP contends that the approach is not appropriate or the necessarily appropriate means to test suitability or availability. ANBP also notes that the developer of the Altair site has yet to agree with the Council an overall plan for the site due to the Council’s decision to keep the Leisure Centre.
5.6	ANBP disagrees with the delivery timeframe of at least 3 to 4 years as the developer has development rights to the site since 2007. As such, ANBP states that Class A1 food retailing was intentionally excluded from the Altrincham Neighbourhood Business Plan so as to direct such developments towards the Town Centre. ANBP also contends that the Council is not in agreement that Lidl is committed to bring forward the Altair scheme based on the references made in the Statement of Case and officers’ report.
5.7	ANBP disagrees with this paragraph.
5.8	ANBP states that impact on planned investment may arise if the sequential test sequence is not followed.
5.10	ANBP disagrees, as there is no certainty that the Altair site would forward as stated in the Council’s Statement of Case and officers’ report.
5.11	ANBP disagrees with the benefits of the development both in terms of scale and/or relevance. Whilst ANBP does not contend with the last bullet point, they consider Broadheath area to also be well provided for in terms of grocery choice and supports a discounter in the form of Aldi.
5.13	ANBP notes that there are matters and issues other than that listed to be addressed by way of planning conditions.
5.14	ANBP would like more EVC bays to be provided due to the rapid adoption of electric vehicles amongst people.
5.16	ANBP states that the Local Highway Authority maintains concern over safety issues.
5.17	ANBP notes that the Travel Plan is primarily aimed at employees and the majority of vehicle movements would be by shoppers during busy periods.
5.18	ANBP contends whether the traffic surveys were done in 2016 are fit for purpose as the large Asda store and filling station has since been developed.
5.19	ANBP states that the former Cartwright site on Atlantic Street is currently at the approval stage and should therefore be considered as a committed development.
5.20	ANBP requests that the Road Safety Audit is provided for review.

5.21	ANBP disagrees and states that the existing George Richards Way access should be utilised, albeit with improvements.
5.22	ANBP disagrees with this paragraph on the grounds of highway safety.
5.23	ANBP contends on the grounds of highway safety and notes the need for further technical scrutiny and road safety audits.
5.26	ANBP contends whether the design proposed constitutes a reasonable design response.
5.29	ANBP disagrees that planning is acceptable.
5.34	ANBP contends whether 'significant adverse impact' is the correct means of assessing impact on residential amenity.
6.3	ANBP states that the first bullet point regarding timeframe should relate to whether it is considered a reasonable period in the circumstances. ANBP does not understand the third bullet point and states that there is no proposal yet. Flexibility on formats will also have to be applied.
6.4	ABCS states that an updated sequential site assessment should be undertaken.

8 SIGNATURES

Signed on behalf of the joint Appellants:

[REDACTED]

Name: Jonathan Harper MA (Hons) MTCP MRTPI AssocRICS

Position: Partner, Rapleys LLP on the joint Appellants

Date: 14.10.21

Signed on behalf of Trafford Borough Council:

[REDACTED]

Name: Bethany Brown BA (Hons) DipTP MRTPI

Position: Major Planning Projects Officer

Date: 14.10.21

Signed on behalf of the Rule 6 Party - Tesco Stores Limited:

[REDACTED]

Name: Martin Guy Robeson BA FRTPI FRICS

Position: Managing Director, MRPP

Date: 14.10.2021

Signed on behalf of the Rule 6 Party - Altrincham Neighbourhood Business Plan:

[REDACTED]

Name: Leslie Cupitt

Position: Working Group - Altrincham Neighbourhood Business Plan

Date: 25.10.2021