



TOWN AND COUNTRY PLANNING ACT 1990

**Appeal by: Lidl UK/Orchard Street
Investment Management LLP
Site Address: Homebase Ltd, Unit 1
George Richards Way
Broadheath, Altrincham
WA15 5GR**

**LPA reference: 98127/FUL/19
PINS reference: APP/Q4245/W/21/3267048**

**PROOF OF EVIDENCE OF MRS BETHANY BROWN
ON BEHALF OF THE LOCAL PLANNING AUTHORITY**

My name is Bethany Brown and I am a Major Planning Projects Officer within the Planning and Development Service of Trafford Council. I have over twenty years' experience in the field of town and country planning in both the public and private sector. I have previously worked at three other UK Local Planning Authorities and for two private consultancies. During the course of my professional career I have been involved in various aspects of town and country planning, including the assessment and submission of planning applications and the handling of appeals.

I have been in my present role, and employed by Trafford Council, since January 2018. The work of the Major Planning Projects Team is to bring forward through the planning process complex major planning proposals, including strategic and corporate applications (covering a full spectrum of development types). The role also includes strategic planning policy matters. I am the case officer for the appeal proposal.

I hold a Bachelor of Arts honours degree in Urban Studies and Planning from the University of Sheffield together with a post-graduate diploma in Town Planning from the same university. I am a member of the Royal Town Planning Institute.

The evidence which I have prepared and provide for this appeal is true and has been prepared and is given in accordance with the guidance of my professional institution. I confirm that the opinions expressed are my true and professional opinions

CONTENTS

- 1. INTRODUCTION**
- 2. BACKGROUND INFORMATION**
- 3. THE COUNCIL'S RESOLUTIONS**
- 4. CONCLUSIONS AND SUMMARY**

APPENCIDES

- APPENDIX A: DECISION NOTICE LPA REF. 98127/FUL/19**
APPENDIX B: DECISION NOTICE LPA REF. 103414/FUL/21
APPENDIX C: OFFICER REPORT TO PLANNING COMMITTEE 09/09/21
APPENDIX D: SITE LOCATION PLAN
**APPENDIX E: OFFICER REPORT TO PLANNING COMMITTEE
98127/FUL/19**
**APPENDIX F: OFFICER REPORT TO PLANING COMMITTEE
103414/FUL/21**
**APPENDIX G: HIGH COURT RESPONSE ON JUDICIAL REVIEW
103414/FUL/21**
APPENDIX H: NEXUS PLANNING'S RETAIL AUDIT 98127/FUL/19
**APPENDIX I: CONSULTATION RESPONSES OF HERITAGE
DEVELOPMENT OFFICER 98127/FUL/19**
APPENDIX J: NEXUS PLANNING'S RETAIL AUDIT 103414/FUL/21
**APPENDIX K: CONSULTATION RESPONSE OF HERITAGE
DEVELOPMENT OFFICER 103414/FUL/21**

1.0 INTRODUCTION

Overview

- 1.1 The appeal is made against the refusal by Trafford Council (as Local Planning Authority, LPA) of planning application reference 98127/FUL/19 ('the First Planning Application'). This application, made in full and submitted by Lidl UK and Orchard Street Investment Management LLP, proposed 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; and 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 The First Planning Application was presented to Trafford's Planning and Development Management Committee on 16 July 2020 and it carried a recommendation of refusal. The Committee endorsed the officers' recommendation and the application was refused on two grounds which corresponded with those recommended by officers. The refusal reasons, in summary, related to retail and town centre matters (in particular, the sequential test), and highway safety. A copy of the decision notice, which was issued on 17 July 2020, is contained at my Appendix A. The Council was formally notified of the lodging of an appeal against the refusal of the First Planning Application on 18 February 2021.
- 1.3 The Council's position on the appeal scheme (the First Planning Application) has shifted since the application's determination. This follows the submission of substituted highway plans by the Appellants to the Planning Inspectorate on 26 August 2021 (and which have been subject to consultation in the interim). The effect of the plans substitution is that the appeal scheme is identical to a second, revised planning application (ref. 103414/FUL/21, 'the Second Planning Application'). The Second Planning Application proposed a materially different vehicular egress from the site, and was supported by additional evidence. The Second Planning Application was approved, in accordance with the officers' recommendation, by Trafford's Planning and Development Management

Committee on 8 April 2021. A copy of the decision notice, which was issued on 8 April 2021, is contained at my Appendix B.

- 1.4 The consequence of the plans substitution in this appeal and for the Council's case at the inquiry is significant since it no longer advances an objection to the scheme. The decision of the Council to no longer contest the appeal (consistent with its resolution on the Second Planning Application) was formally confirmed at a meeting of the Planning and Development Management Committee on 9 September 2021. A copy of the officers' report, and additional information report, prepared for the meeting is contained at my Appendix C.
- 1.5 The Council's decision on the Second Planning Application is subject to ongoing judicial review proceedings, launched by Tesco Stores Ltd (Tesco). The High Court refused permission on the papers for the judicial review to proceed on 15 July 2021. However, Tesco subsequently applied to renew its application for permission at a hearing and this is due to take place on 7 December 2021.

Purpose of this Evidence

- 1.6 I have been the Council's case officer for the appeal proposal since the First Planning Application's submission and I was also the case officer for the Second Planning Application.
- 1.7 The Council's case is set out in my proof of evidence together with a proof of evidence prepared by Mr Alan Davies on highway matters. The Council's evidence has been prepared in an effort to assist the appeal process. The submitted Statement of Common Ground (SoCG), drafted in conjunction with the interested parties, is also a significant inquiry document in explaining the Council's

position, together with the draft list of conditions to be imposed on any grant of planning permission.

- 1.8 The evidence of Mr Davies describes the differences between the First Planning Application and the Second Planning Application (in terms of the design of the vehicular egress).
- 1.9 My evidence deals with general planning matters and its key purpose is to confirm that the Council no longer takes issue with the appeal scheme on the basis of the plans substitution since the development now mirrors the extant permission ref. 103414/FUL/21. Leading on from Mr Davies' position, it reports that the two application proposals were materially different and that the removal of potentially unacceptable highway safety impacts represented a significant alteration. My evidence also covers the relevant decision-taking and planning policy framework that should be applied in the determination of the appeal proposal.
- 1.10 In weighing up the relevant factors arising from the appeal proposal, my evidence explains how the Council found in favour of the development now proposed despite the continued failure of the sequential test.

2.0 BACKGROUND INFORMATION

The Appeal Site

- 2.1 The appeal site comprises part of the existing Altrincham Retail Park located in the Broadheath area of Altrincham. Specifically the site relates to an existing Homebase unit (known as Unit 1) and its adjacent garden centre. The site also includes the surface-level car park which serves the unit (as well as serving other retailers within a wider terrace).
- 2.2 The Altrincham Retail Park is accessed from George Richards Way, situated to the south, which leads from the route of the A56 Manchester Road. A site location plan is contained at my Appendix D and a full description of the site is included within the SoCG.

The Proposed Development

- 2.3 The appeal proposal, through extension, refurbishment and subdivision, would create two Class A1 retail units (known as Unit 1A and Unit 1). The discount food retailer, Lidl, would be introduced to Unit 1A whilst Homebase would move to Unit 1 (and with an adjacent, replacement garden centre).
- 2.4 The reconfigured Unit 1A (for Lidl) would provide a gross internal area (GIA) of 1,858 square metres and a net sales area of 1,272 square metres. The Homebase unit (Unit 1) would reduce in size from 5,016 square metres GIA to 3,612 square metres GIA. The floorspace of the relocated Homebase garden centre would reduce from 1,295 square metres GIA to 1,231 square metres GIA. The SoCG contains a detailed description of the proposed development.
- 2.5 Vehicular access to the retail units (for customers) would continue to be taken from George Richards Way and then via an existing mini-roundabout which forms part of the internal road layout of the retail park. However, a new vehicular (left-turn only) egress is proposed onto George Richards Way eastbound between the retail

park entrance and the junction of George Richards Way with the A56 Manchester Road.

- 2.6 This egress was a feature of the First Planning Application, and concerns held by the local highway authority (LHA) regarding the potential for vehicular conflict led to the highways reason for refusal. The egress remained in the Second Planning Application but with significant and material changes in respect of supporting evidence, design and location, as explained by Mr Davies.
- 2.7 For completeness, I note that in the period between the First Planning Application and the Second Planning Application being made there were significant changes to the system of 'use classes' (the Town and Country Planning (Use Classes) (Amendment) (England) Regulations 2020 which amended the Town and Country Planning (Use Classes) Order 1987). This impacted upon the description of development. The appeal scheme (the First Planning Application) retains the old reference to Use Class A1.

Planning Policy Overview

- 2.8 Further detail regarding planning policies and guidance relevant to this appeal is contained in the SoCG.
- 2.9 The statutory development plan for the purposes of this appeal comprises the Trafford Core Strategy (adopted on 25 January 2012) together with those policies of the Revised Trafford Unitary Development Plan ('UDP', adopted on 19 June 2006) that were saved in either September 2007 or December 2008. The statutory development plan also includes the Altrincham Town Centre Neighbourhood Business Plan which was made on 29 November 2017.
- 2.10 A new development plan for Trafford is currently being prepared, which 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. The emerging 'Places for Everyone' joint development plan document (for nine Greater Manchester authorities) is currently

subject to Regulation 19 consultation (concluding on 3 October 2021). Its relevant policies should be afforded only limited weight.

- 2.11 The National Planning Policy Framework (NPPF) sets out the Government's planning policies for England and how they are expected to be applied. The current version of the NPPF was published on 20 July 2021. The NPPF is supplemented by the National Planning Practice Guidance (NPPG) which is a web-based resource containing further planning guidance on various topic areas and which is subject to regular updates. The National Design Guide (published in 1 October 2019) also forms part of the Government's planning practice guidance. The Government's policy and guidance are material considerations in planning decisions.
- 2.12 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.
- 2.13 Within the two reasons for refusing the First Planning Application, Core Strategy policies W2 (Town Centres and Retail) and L4 (Sustainable Transport and Accessibility) were referred to, together with saved Policy S11 (Development Outside Established Centres) of the Revised Trafford UDP. These remain key policies central to the determination of the appeal. Other applicable development plan policies, referred to in this evidence and which informed the Council's conclusions on the two planning applications comprise Core Strategy policies L5 (Climate Change), L7 (Design), L8 (Planning Obligations), R1 (Historic Environment) and R3 (Green Infrastructure). Revised SPD1: Planning Obligations (adopted on 7 July 2014) and SPD3: Parking Standards and Design (adopted on 27 February 2012) are also of some relevance.

Decision-taking Framework

- 2.14 Section 38(6) of the Planning and Compulsory Purchase Act 2004 states that planning applications should be determined in accordance with the development plan unless material considerations indicate otherwise.
- 2.15 The NPPF, at paragraph 11, introduces ‘the presumption in favour of sustainable development.’ For decision-taking purposes, paragraph 11c 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 11d 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.
- 2.16 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.
- 2.17 Core Strategy policies L4 and R1 – which are relevant to this appeal – have been formally recognised by the Council as not being wholly consistent with corresponding NPPF policies, specifically in relation to the key tests to be applied (covering highways impact and heritage impact respectively). In both cases, it has become standard practice to revert to the test in the NPPF, in treating it as a material consideration, and with lesser weight applied to the development plan policy. However, for the purposes of decision-taking for the two planning applications to date, the position of the Council is that policies L4 and R1 are not

'most important policies' which are 'out-of-date' in the manner envisaged by paragraph 11d of the NPPF.

- 2.18 Therefore, paragraph 11c and paragraph 12 provide the decision-taking framework for this appeal. My evidence proceeds on this basis, in accordance with Council resolutions to date.

3.0 THE COUNCIL'S RESOLUTIONS

Overview

- 3.1 The planning system manages the built environment and balances competing environmental, economic and social needs. The NPPF (at paragraph 8) refers to three overarching objectives (an economic objective, a social objective and an environmental objective) which are interdependent and need to be pursued in mutually supportive ways. Pursuant to Section 38(6), the decision-taking process must commence with the development plan but has regard to other material considerations. The weight to be attached to a material consideration is a matter for the decision-taker.
- 3.2 As case officer for both the First Planning Application and the Second Planning Application, my assessment included the exercise of weighing relevant factors, forming a view as to the outcome of the planning balance, and providing a recommendation to the Planning and Development Management Committee.
- 3.3 For both applications the recommendation was supported by a comprehensive officers' report. The officers' reports (including the additional information reports which captured late information) are contained at my Appendix E for the First Planning Application and my Appendix F for the Second Planning Application. Each contained a detailed description of the proposed development and a 'Planning Balance and Conclusions' section. Members were fully and properly advised of the material differences between the two planning applications. I note that the order of the High Court refusing Tesco's application for permission to apply for judicial review concluded that the officers' report (on the Second Planning Application) '*...distinguished the previous application from the instant application, in particular in relation to the highway proposals*'. The Court's order, dated 15 July 2021, is contained at my Appendix G.

The First Planning Application

- 3.4 The officer report regarding the First Planning Application reported the concerns of the LHA (as statutory consultee) and Transport for Greater Manchester (TfGM,

acting in an advisory capacity), regarding the proposed vehicular egress. These concerns are explained by Mr Davies in his evidence and amount to potentially unacceptable highway safety risks. Further survey information requested by the LHA from the joint applicants to support their proposal was not forthcoming ahead of the Council's determination. The officers' report, at paragraph 58, explained that the proposal generated conflict with paragraph 109 of the NPPF (now paragraph 111), and it was also contrary to Policy L4 of the Core Strategy on the matter of highway safety.

3.5 The officers' report also covered retail and town centre matters, and recorded that this was a proposal for additional Class A1 retail floorspace in an out-of-centre location. The application submission included a Planning and Retail Statement which had been reviewed by the Council's retained retail consultant, Nexus Planning (Nexus). The audit of Nexus regarding the First Planning Application is contained at my Appendix H. The report referred to Lidl's expressed commitment to securing representation at Altair (the longstanding redevelopment opportunity in Altrincham town centre) as part of a revised planning application. The report set out officers' conclusions that this more central site was available to accommodate the foodstore element of the proposal, and also that the applicants had not adequately demonstrated that Altair was not a suitable site when applying flexibility on format and scale. Accordingly, the officers' report (at paragraph 44) explained that the proposal also generated conflict with paragraph 90 of the NPPF (now paragraph 91), and contravened the provisions of Core Strategy Policy W2 and Revised Trafford UDP Policy S11 in so far as they relate to the sequential test. This was in spite of the applicants seeking to provide assurance that Lidl was contractually obliged and committed to bringing forward both sites, as referred to at paragraph 27 of the officer report.

3.6 The officers' report, within the Planning Balance and Conclusions section, reiterated that the proposal was contrary to Government guidance in paragraph 109 (now 111) and also to development plan Policy L4. It also repeated the conclusion that the test at paragraph 90 (now 91) of the NPPF had not been passed and that the proposal was at odds with policies W2 and S11 of the development plan. Within this section of the report other harms arising from the proposal were also summarised. This included harm of a less than substantial

nature to the significance of the Grade II listed Railway Inn. Whilst it was reported that the public benefits stemming from the proposal would sufficiently outweigh the harm arising to heritage interests (in accordance with the test at paragraph 196 of the NPPF, now paragraph 202), some heritage harm would nonetheless arise, to be accounted for in the overall planning balance. As a consequence of this, the proposal would also be contrary to Core Strategy Policy R1 (albeit that policy does not contain the equivalent balancing exercise appearing in the NPPF). Furthermore, whilst not sufficient to generate an independent design reason for refusal, it was explained that the proposed development did not fully meet all expectations, as set out in Core Strategy Policy L7 and the National Design Guide, intended to ensure that a proposed new development would be respectful of context, including local heritage. My Appendix I contains the consultation responses of the Council's Heritage Development officer which informed these conclusions regarding heritage impact and the appropriateness of scheme design.

- 3.7 The fact that the proposal would result in some public benefits was also explained. The Council accepted (and continues to accept) that the development would bring benefits by virtue of it constituting investment in the retail park which would support the objectives of the NPPF to help build a strong, responsive and competitive economy. The Lidl store would provide approximately 40 new job opportunities, according to the applicants with Lidl's employment arrangements typically supporting the hiring of local people. 50 instore jobs at the Homebase store would also be protected, as reported in a letter of support by Homebase. The proposal would also support some construction jobs, albeit only for a temporary period, and there could be some wider economic benefits during construction associated with investment in local supply chains. It was also acknowledged that the proposal was consistent with NPPF principles supporting the utilisation of suitable brownfield land in existing settlements and in promoting a more efficient use of land, particularly in sustainable locations.
- 3.8 The report concluded by performing the necessary balancing exercise. I gave considerable weight to the scheme's benefits. On the negative side of the balance, I afforded moderate weight to the heritage and visual amenity harm caused by the scheme. Significant weight was attached to the failure to comply with the sequential test in acknowledgement that paragraph 90 (now 91) of the NPPF –

whilst not giving rise to a tilted balance – directs that planning permission should be refused where a proposal fails the test. This significant weight also took into account the conflict with policies W2 and S11. Very significant weight was ascribed to the potential for unacceptable highway safety impacts, as informed by paragraph 109 (now 111) of the NPPF, and to the breach of Policy L4 as it relates to highway safety. This very significant weight took into account the potential ramifications of an unsafe vehicular egress.

- 3.9 In summing up, the officers' report in respect of the First Planning Application put forward a recommendation of refusal based on two reasons: highway safety, and retail and town centre matters (the sequential test). The Planning and Development Management Committee resolved (by a vote of 6/4) that planning permission should be refused on the two grounds. For the avoidance of any doubt, I have not altered my position as set out in the officers' report regarding the First Planning Application in its unamended form. I address below the consequences of the amendments to the scheme.

The Second Planning Application

- 3.10 I prepared the officers' report regarding the Second Planning Application some nine months later. Despite this proposing a similar form of development and with a similar description, this was a materially different proposal, with the overriding difference being in relation to the vehicular egress onto George Richards Way. Whilst the egress feature was retained, its location and design changed. Additional supporting information was also supplied by the applicants. Those changes, in terms of physical characteristics and the supporting evidence, are described by Mr Davies.
- 3.11 The changes to the egress resulted in a change in the position of the LHA in its role as statutory consultee. Whilst it still did not fully support the provision of the proposed egress in this location, the LHA view (as informed by the expanded application material) was that this revised proposal would not give rise to an impact on highway safety which could be deemed unacceptable. It followed that the conclusion was reached that a reason for refusal on unacceptable highway safety grounds was not justified for the Second Planning Application (see paragraph 46

of the officers' report). For the avoidance of doubt it was reported that TfGM maintained its position of objection.

- 3.12 The officers' report also covered retail and town centre matters, again having regard to the advice received from Nexus (my Appendix J contains the Nexus audit of the Second Planning Application). The report reiterated concerns regarding the sequential test in respect of the Altair development opportunity, and concluded that the sequentially superior site was both available and suitable for the foodstore development proposed. The report confirmed, at paragraph 39, that the sequential test was again failed, and that the proposal remained contrary to policies W2 and S11.
- 3.13 The report, in responding to a proposal which – in design terms – was not materially different from the First Planning Application, drew very similar conclusions regarding the impact on the significance of the designated heritage asset of the Railway Inn and the proposal's design merits. It was again deemed that the less than substantial harm to the significance of the public house would be outweighed by public benefits, but that Policy R1 would - irrespective of benefits - be contravened. The consultation response of the Heritage Development officer regarding the Second Planning Application is contained at Appendix K.
- 3.14 Having found that the Second Planning Application was in conflict with development plan policies and elements of the NPPF guidance, the officers' report that I prepared then proceeded to the Planning Balance and Conclusions section.
- 3.15 The First Planning Application was materially different from the Second Planning Application as a consequence of the egress change, and the shift in the position of the LHA and the absence of a highways objection from the LHA was regarded as significant. The potential for the development proposed in the First Planning Application to have unacceptable highway safety risks was given very significant weight, for reasons previously explained. On the issue of the sequential test, the officers' report again considered the relevance of Lidl's commitment to operating a foodstore from a future revised Altair development. At paragraph 122, the report acknowledged the unusual circumstances with Lidl (as joint applicant) having influence over both the application proposal and an emerging development at the

sequentially preferable Altair. It reported that no issue had been taken in respect of the test of impact, and that no objections had been received to the application on the part of Lidl's delivery partner at Altair (Nikal). It stated that Lidl had confirmed that it was contractually committed to both Altrincham sites, and that there was no evidence to the contrary. It reported, however, that the timings of the two schemes were different, with the Altair unit 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 a condition offered by the applicants intended to encourage a truncated implementation period).

- 3.16 I fully recognise that the purpose of the sequential test is to guide main town centre uses towards town centre locations first in order to support vitality and viability. Indeed, the officers' report continued (at paragraph 122) by acknowledging that approval of the Second Planning Application would be contrary to the logical sequence of development underpinned by the sequential test. Furthermore, it drew attention to the fact that there was no firm guarantee that the Lidl at Altair would come about within the stated timeframe or at all. The retail market and/or Lidl's corporate priorities could well change. However, Lidl's firm expressions of commitment to Altrincham town centre were taken at face value, and thus there was some confidence that two stores would be delivered.
- 3.17 The officers' report (at paragraph 123 and earlier at paragraph 70 in the context of the heritage balance) outlined the scheme benefits. Reference was again given to investment in the retail park, to job creation (including for local people) and to job protection. Temporary employment during the construction process was also referred to and also to potential knock-on benefits during this period. Also covered were the benefits arising from the introduction of a new food retailer which would provide for improved consumer choice and competition, and which could lead to some retention of trade within the local area. It was further noted, again, that the proposal would be in line with NPPF objectives regarding making as much use as possible of previously-developed land in sustainable locations. Reference was made to the over-provision of cycle parking (a feature of the scheme in the Second Planning Application and which could have some positive influence on travel choices).

- 3.18 Again, the benefits of the development were given considerable weight. Furthermore, the applicants' suggestion of a reduced timeframe for implementation (to be secured via condition) would result in these benefits being realised relatively swiftly.
- 3.19 Significant weight, however, was again given to the sequential test failure, and to the implications of being in breach of the NPPF and development plan policies on this basis. Whilst paragraph 90 (now 91) of the NPPF may not give rise to a tilted balance, it was fully recognised that the sequential test (and any breach of it) is a component of national policy that should attract significant weight given the advice in the NPPF to refuse an application where the test is not satisfied. However, in this instance, that significant weight was moderated when having regard to the likely outcome of the application of the sequential test in this case; namely, the benefits of developing the less central site at the retail park would take time to achieve delivery (after a revised Altair scheme had been progressed), and with no evidence that the delivery of a foodstore on the Altair site would be jeopardised in any event (i.e. even if the Second Planning Application was approved and its development progressed).
- 3.20 Harm was nevertheless recognised. This included: heritage and visual amenity harm; harm stemming from conflict with individual policies of the development plan, including with the development plan when read as a whole, and with the NPPF; and technical harm from sequential test failure and the possibility that the Altair Lidl may not in fact happen as a consequence of this out-of-centre development. However, there were no longer any significant highway safety concerns associated with the George Richards Way egress and expressed by the LHA to which very significant weight was previously ascribed.
- 3.21 Overall, when having regard to the consequences of applying the sequential test to this specific situation, the collection of benefits was considered sufficient to outweigh the harm and associated policy breaches generated by the scheme. These benefits amounted to material considerations which overcame the conflict with development plan policies and the NPPF. In putting forward a recommendation of approval, the Planning and Development Management

Committee was made fully aware of the reasons for taking a different decision when compared with the First Planning Application (as confirmed by the Court's order contained in my Appendix G).

- 3.22 The Planning and Development Management Committee resolved by a vote of 10/3 to grant planning permission in accordance with the officer recommendation. I maintain the position set out in the officers' report regarding the acceptability and the merits of the Second Planning Application.
- 3.23 Following amendments to the proposed egress, the appeal scheme now corresponds with the development proposed in the Second Planning Application. Consistent with its position on the Second Planning Application, the Council does not object to the amended appeal scheme, subject to conditions being applied (including relating to the egress).

4.0 CONCLUSIONS AND SUMMARY

- 4.1 The appeal was made against the refusal by Trafford Council of planning application reference 98127/FUL/19, now referred to as the First Planning Application. In summary, this proposed the extension, refurbishment and subdivision of an existing Homebase store to provide a smaller unit for Homebase (Unit 1) and then a new retail unit - a foodstore – to be operated by Lidl (Unit 1A). The site is the existing Altrincham Retail Park, an out-of-centre location. The application was refused on two grounds relating to highway safety, and to retail and town centre matters (the sequential test).
- 4.2 At a similar time to the lodging of this appeal a new, revised planning application was submitted (reference 103414/FUL/21), now referred to as the Second Planning Application. This proposed a materially different vehicular egress onto George Richards Way and with further supporting evidence supplied. This application was approved, although is subject to an outstanding legal challenge by Tesco.
- 4.3 Further to a recent process of plan substitution, undertaken by the Appellants, the proposed development subject of the planning appeal is identical to the scheme which the Council approved (the Second Planning Application). This has meant that the Council no longer opposes the appeal. Some evidence, for the purposes of assisting the inquiry, has nonetheless been prepared.
- 4.4 My evidence is intended to be read in conjunction with the evidence of Mr Davies on highway matters. His evidence identifies how the First Planning Application and the Second Planning Application were different (in terms of the design of the vehicular egress). This difference addressed the LHA's significant highway safety concerns.
- 4.5 My evidence has outlined the exercise of undertaking the planning balance. Its purpose is to pull together the main areas of contention arising from a proposed development, along with the benefits, and to draw overall conclusions regarding a proposal's acceptability when having regard to the development plan and other material considerations (in accordance with Section 38(6)). The planning balance

is a case-specific exercise and the weight to be attached to a material consideration is a matter for the decision-taker. My evidence has identified that the removal of potentially unacceptable highway safety impacts in the Second Planning Application represented a significantly altered position, leading to a change in the planning balance.

- 4.6 The sequential test was still failed. Significant weight was afforded to this in reflecting the advice of paragraph 90 (now 91) of the NPPF and policies W2 and S11 of the development plan. However, regard was had to Lidl's connection to the sequentially preferable site and to its commitment to operating a foodstore at Altair within an approximate 3 to 4 year time period. The absence of an objection from Nikal (Lidl's delivery partner at Altair) was also regarded as material. When taking account the consequences of applying the sequential test specific to this situation, the collection of benefits stemming from the Second Planning Application was considered sufficient to outweigh the scheme's harms, including the failure of the sequential test.
- 4.7 As case officer for both the First Planning Application and the Second Planning Application, I uphold my recommendation in both cases, which was accepted each time – on balance - by the Planning and Development Management Committee.
- 4.8 Whilst the Council does not oppose the appeal scheme in accordance with its resolution on the Second Planning Application, this is subject to a series of important conditions being imposed (including concerning the provision of the egress).