



Appeal Decision

Inquiry opened on 20 June 2023

Site visit made on 28 June 2023

by David Wildsmith BSc(Hons) MSc CEng MICE FCIHT MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24th July 2023

APPEAL REF: APP/K3605/W/22/3313510

47 Portsmouth Road, Thames Ditton, Surrey, KT7 0TA

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Aldi Stores Ltd ('the appellant') against the decision of Elmbridge Borough Council ('the Council').
 - The application Ref 2021/3857, dated 5 November 2021, was refused by notice dated 19 August 2022. The development proposed is the demolition of existing buildings on site and the erection of a Class E retail unit alongside access, car parking and associated works.
 - The Inquiry sat for 7 days on 20-23 and 27-29 June 2023.
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Decision

1. The appeal is dismissed.

Application for costs

2. At the Inquiry an application for a partial award of costs was made by the Council against the appellant. This application is the subject of a separate Decision.

Preliminary and procedural matters

3. The Council refused planning permission for 5 reasons, including that the proposed development would have an adverse impact on the vitality and viability of the Thames Ditton and Hinchley Wood local centres. However, in its Statement of Case¹ (SoC) it indicated that having reviewed the appeal submission it did not intend to advance evidence or defend this reason for refusal. The Thames Ditton and Weston Green Residents Association ('the RA'), who appeared at the Inquiry as a Rule 6(6) Party, did, however, maintain an objection on these grounds.
4. The appellant submitted additional plans with its appeal submission, correcting the position of an existing off-site tree and showing some modest landscaping changes. I am satisfied that these changes would have no material impact on the proposed development and would not adversely affect anyone with an interest in this case. I have therefore determined this proposal on the basis of these amended plans.
5. Both the Council and the appellant were intending to call witnesses to deal with the topic of noise. However, on Day 2 of the Inquiry the appellant submitted a letter formally setting out its agreement to a number of noise conditions, amongst other matters². This prompted discussions between the respective noise witnesses which resulted firstly in the submission of revised noise calculations, and then a

¹ Core Document (CD) 7.1

² Document (Doc) 13

Supplementary Statement of Common Ground (SoCG) on noise matters agreed between the Council and the appellant³. Because of this there was no formal presentation of noise evidence⁴ and this matter was not pursued at the Inquiry.

6. I carried out unaccompanied visits to the site and the surrounding area on 19, 21 and 28 June 2023. On this latter date I also undertook an accompanied site visit in the company of representatives of the appellant, the Council and the RA.

Site description, surrounding area and details of the appeal proposal

7. The appeal site comprises vacant brownfield land and was occupied until 2020 by a car sales garage/showroom operated by Guy Salmon (Jaguar). It extends to some 0.36 hectares and is located on the south-eastern side of Portsmouth Road, about 600m walking distance to the south-east of Thames Ditton local centre. Residential properties in Rythe Court and Westville Road abut the site's north-eastern and south-eastern boundaries respectively.
8. A small part of the south-western extent of the site lies within the Giggs Hill Green Conservation Area (CA), and a number of Grade II listed buildings and structures are located in the vicinity of the site. In particular, the Angel Inn Public House sits adjacent to the site to its immediate south-west and the Grade II listed War Memorial is located in the north-eastern corner of Giggs Hill Green. A Significant Unlisted Building, Green Cottage, abuts both the Angel Inn and the south-western part of the appeal site. There are also a number of locally listed buildings in the vicinity of the appeal site, as detailed in the Thames Ditton and Giggs Hill Green CA Character Appraisal & Management Proposals document⁵ ('the Appraisal').
9. The appeal site is located 'out-of-centre' for retail planning purposes and is not allocated in the Council's adopted development plan, although it does form part of a site proposed to be allocated for 25 residential units in the Elmbridge Local Plan 2037, which has reached Regulation 19 Stage. I discuss this matter and the weight to be given to this emerging Local Plan later in this decision. The site does not fall within any ecological/landscape designations but does lie within Flood Zone 2.
10. Under the appeal proposal the existing buildings on the site would be demolished and replaced by a Class E foodstore with associated access, a car park providing 51 spaces and 18 cycle spaces, and landscaping works. The existing site access located within the centre of the site's frontage with Portsmouth Road would be closed and another existing access, situated at the north-western corner of the site, would be improved and utilised as the main site access.
11. Portsmouth Road would be widened along the site frontage to provide ghost island right-turn lanes for traffic accessing the proposed foodstore and Portsmouth Avenue. This would require the removal of 2 lengths of on-highway advisory cycle lane. A new signal-controlled pedestrian crossing would be installed on Portsmouth Road to the south-west of the site access and footway improvements would be implemented in the vicinity of Angel Road, with dropped kerbs and tactile paving crossing points installed in the vicinity of Portsmouth Avenue.

Main issues

12. With the preceding points in mind, and having regard to the evidence submitted by all parties, I consider the main issues in this case to be:

³ Doc 16 & Doc 20

⁴ Noise Proofs of Evidence remained before the Inquiry as written submissions - see CDs 6.8, 6.12, 7.2 & 7.5

⁵ CD4.11

- The effect of the proposed development on the character and appearance of the surrounding area, including on the CA and its setting, and on the setting of the nearby listed Angel Inn and War Memorial;
- The effect on the living conditions of nearby residents, with particular reference to overbearing impact, and noise and disturbance;
- Whether the proposed development would be an effective use of land, and its effect on the vitality and viability of the Thames Ditton and Hinchley Wood local centres;
- The effect on the safety and convenience of users of the adjacent highway network, and on sustainable travel options in the area and to the site; and
- Whether the suggested conditions would satisfactorily address the impacts of the proposed development.

13. Following my assessment of the main issues I look briefly at other matters raised, before moving on to assess the benefits and disbenefits of the proposal, carry out a final planning balance, and reach my overall conclusion.

Reasons

14. I consider it helpful to first outline the planning framework against which this proposal needs to be assessed, before turning to consider the main issues.

The Planning Framework

15. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires planning applications to be determined in accordance with the development plan for the area unless material considerations indicate otherwise. The main SoCG⁶ confirms that the development plan includes the Elmbridge Core Strategy⁷ (CS), adopted in 2011, and the Elmbridge Local Plan Development Management Plan⁸ (DMP), adopted in 2015. The Council's reasons for refusal allege conflict with a number of development plan policies which are detailed below.
16. CS Policy CS1 states, amongst other things, that new development will be delivered in accordance with a clear spatial strategy which provides the most sustainable way to accommodate growth supported by high quality infrastructure, whilst respecting the unique character of the Borough and the local distinctiveness of individual settlements. It further states that new development will be directed towards previously developed land within the existing built-up areas, taking account of the relative flood risk of available sites. The policy explains that Thames Ditton is primarily residential in character and, along with other suburban settlement areas, provides a more limited range of uses and services than the main settlement areas of Walton and Weybridge. Whilst not as sustainable as the main settlement areas, settlements such as Thames Ditton are nevertheless considered to have the capacity to accommodate new development in a sustainable manner.
17. The policy goes on to explain that town and village centres will continue to be the focus for new development, with the spatial strategy taking account of their respective roles and character and supporting their vitality and viability within the context of a clear hierarchy. In this regard Thames Ditton and Hinchley Wood are both defined as local centres, whose existing retail role and function will be safeguarded and consolidated in order to provide easily accessible shopping and meet people's day to day needs. These centres are stated as fulfilling an important

⁶ CD6.3

⁷ CD4.1

⁸ CD4.2

role and will be the focus for more accessible local services, such as small scale community facilities, but are not considered suitable for large scale developments.

18. The policy also requires new developments to be of high quality, well designed and locally distinctive. They should be sensitive to the character and quality of the area, respecting environmental and historic assets and, where appropriate, introduce innovative contemporary designs that can positively improve local character.
19. CS Policy CS8 relates specifically to Thames Ditton, Long Ditton, Hinchley Wood and Weston Green and states that the Council will continue to support the primary role of these areas as attractive and individually distinctive residential neighbourhoods. It explains that opportunities will be promoted on previously developed land within the urban area, taking account of relative flood risk, where new development will be well designed and contribute to local character and a distinct sense of place. It states that specific attention to design and heritage will be given within the 4 CA's, which include Giggs Hill Green. The policy states that measures will be supported which improve the environments and roles of the Thames Ditton and Hinchley Wood shopping areas as valued local centres. Finally the policy explains that the Council will work in partnership with service providers to ensure that access to and within the area is improved for pedestrians, cyclists and public transport users.
20. Amongst other matters CS Policy CS17 requires new development to deliver high quality and inclusive sustainable design which maximises the efficient use of urban land whilst responding to the positive features of individual locations, integrating sensitively with the locally distinctive townscape, landscape, and heritage assets, and protecting the amenities of those within the area. It states that particular attention should be given to the design of development which could have an effect on heritage assets, and requires new development to be appropriately landscaped.
21. CS Policy CS18 explains that town centre uses will be considered within the context of their contribution to the vitality and viability of the centre and their impact on and ability to serve local needs. It goes on to explain that town centre uses located outside of defined town and village centres will be protected where they meet the needs of the local population in conjunction with defined centres and expanded where local deficiencies are identified.
22. Finally from the CS, under Policy CS25 the Council will promote improvements to sustainable travel and accessibility to services. These include directing new development that generates a high number of trips to previously developed land in sustainable locations within the urban area; applying maximum parking standards to all uses; protecting existing footpaths, cycleways and bridleways; delivering new cycling and walking schemes; and supporting development that increases permeability and connectivity within and outside the urban area.
23. From the DMP, Policy DM2 requires all new development to achieve high quality design and explains that the Council will permit development proposals that demonstrate they have taken account of a number of factors, including an understanding of local character and the natural, built and historic environment; the design guidance set out in the Design and Character Supplementary Planning Document (SPD); and the need to preserve or enhance the character of the area. Moreover, in order to protect the amenity of adjoining and potential occupiers and users, development proposals should be designed to offer an appropriate outlook and provide adequate daylight, sunlight and privacy.

24. DMP Policy DM7 sets out criteria dealing with access and parking. These include that the layout and siting of accesses should be acceptable in terms of amenity, capacity, safety, pollution, noise and visual impact; that access to and from the highway should be safe and convenient for pedestrians, cyclists and motorists; that provisions for loading, unloading and the turning of service vehicles should be designed to ensure highway and pedestrian safety; and that the proposal should minimise the impact of vehicle and traffic nuisance, particularly in residential areas and other sensitive areas. In addition, proposed parking should be appropriate to the development and not result in an increase in on-street parking stress that would be detrimental to the amenities of local residents; and the provision of car, cycle and disabled parking should accord with the Council's Parking Standards.
25. Finally from the DMP, Policy DM12 explains that permission will be granted for developments that protect, conserve and enhance the Borough's historic environment. It further explains that development within the vicinity of a listed building or structure should preserve or enhance its setting and any features of special architectural or historical interest which it possesses. Moreover, development within or affecting the setting of a CA, including views in or out, should preserve or enhance the character and appearance of the area, taking account of the streetscape, plot and frontage sizes, materials and relationships between existing buildings and spaces.
26. The National Planning Policy Framework (NPPF) is a material consideration in this appeal. Its paragraph 11(c) explains that development proposals that accord with an up-to-date development plan should be approved without delay. Where the development plan policies which are most important for determining the application are out-of-date, paragraph 11(d) makes it plain that planning permission should be granted unless 2 listed criteria apply. These include situations where the application of policies in the NPPF that protect areas or assets of particular importance provides a clear reason for refusing the development proposed. Annex 1 explains that existing policies should not be considered out-of-date simply because they were adopted or made prior to the publication of the NPPF. In this case I consider that the policies detailed above show a high degree of consistency with the NPPF such that they should carry full weight in this appeal. I address the relevant NPPF policies later in this decision, in my consideration of the main issues.
27. The Planning Practice Guidance (PPG) is also an important material consideration in the determination of this appeal, as are a number of the Council's adopted SPDs, as detailed in paragraph 5.5 of the main SoCG. Moreover, as part of the appeal site lies within a CA and relates to the settings of listed buildings I have had special regard to sections 66(1) and 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 in coming to my decision on this appeal.

Main issue 1 – The effect on character and appearance, and heritage impact

28. The Council's reasons for refusal alleged that the proposed development would be out of keeping with the character of the area due to the intensification of the commercial use, and that by reason of its scale, design and siting it would result in less than substantial harm to the setting of the Giggs Hill Green CA and the Grade II listed Angel Inn. The RA supported the Council's stance with regards to impact on these designated heritage assets and also considered that the proposal would result in less than substantial harm to the setting of the Grade II listed War Memorial.
29. I deal first with the effect of the proposed development on designated heritage assets, and in so doing I have had regard to relevant guidance produced by Historic

England⁹. I begin with the Giggs Hill Green CA which predominantly comprises the large triangular Green, with significant trees along each side, together with the residential properties which lie to the north of Giggs Hill Road and a cluster of properties on Portsmouth Road and at its junction with Angel Road (including the Angel Inn), at the CA's north-east corner. A length of Portsmouth Road and the tree-lined north/south length of Giggs Hill Road lie within the southern part of the CA, but the only additional buildings are the Cricket Club on the north-west side of Giggs Hill Road and a couple of properties at the north-western extent of the CA.

30. A Townscape Analysis Map¹⁰ is included within the Appraisal. Summarising the various townscape features¹¹, the Appraisal describes the CA as '*a large open amenity space enclosed with relatively modest and, for the most part, well designed built form of distinct individual and collective character*'. It states that there are '*skylines dominated by backdrops of mature trees with trees forming some of the most memorable landmarks in the conservation area*', and notes that there is '*an eclectic mix of architectural styles, motifs and focal points*'.
31. It further states that '*the War Memorial is an important local landmark and forms a good group with the buildings to the north-east corner of the green, including the prominent Angel Public House with sixteenth century origins, the oldest building in the conservation area*'. Finally it notes that '*the openness of the boundary treatments to the green is an important part of the enjoyment of the built form which encloses this space. The informal building line and relatively modest scale of the northern edge provides an intimate village green character despite the large scale of this space*'. Elsewhere, the Appraisal states that despite its location on the busy Portsmouth Road the Green is in places a tranquil and well used amenity space. It also notes that cricket has been played on the Green since 1838 and that village functions are still held there.
32. The Appraisal mentions the former car dealership and showroom on the appeal site but these references are almost all negative, including that it had poorly designed signage which, when seen as part of the setting of the Green, detracted from the special character and appearance of this part of the CA. The only positive mention of this site is that there was a large beech tree (now lawfully removed) in its forecourt, providing a focal point for views out of the CA in that direction. The dealership is described as fronting onto Portsmouth Road and forming the setting of a number of important listed and unlisted buildings. Although the Appraisal does not specifically refer to the parked cars associated with this dealership, I note that one aspect of its 'design check list' for new development, is that parking or servicing areas should be concealed behind built frontages of appropriate scale, or by the sensitive use of hard and soft landscaping to provide screening.
33. Having regard to the above points I consider that the CA draws its significance from its traditional village green appearance which is reinforced by the presence of mature trees within and around the Green, together with the attractive and varied collection of modest, generally 2-storey 18th to 21st century domestic-scale buildings which line and enclose the Green. The CA also derives significance from the historic use of the Green for cricket matches and other events, and the use of some of the surrounding buildings in association with communal village activities, as evidenced by the Appraisal and by historic photographs submitted in evidence¹².

⁹ In particular CD4.14 and CD4.15

¹⁰ Page 61 of CD4.11

¹¹ See page 20 of CD4.11

¹² See Figures 13 to 15 in CD6.7

34. The setting of the CA is the whole area in which the CA can be experienced, with much of this comprising the private residential properties which border the CA, with views into the CA also available from Portsmouth Road from both the south-west and the north-east. In this context the appeal site forms a small but important part of the overall setting, lying close to the northern 'gateway' into the CA, as detailed in the Appraisal. When in leaf, as at the time of my site visit, the mature deciduous trees along the Green's boundaries restrict many outbound views, and although the tree canopies would be more permeable in their winter, leafless condition they would still provide some screening to outbound views from the Green.
35. In terms of the 'Important Views' indicated on the Appraisal's Townscape Analysis Map, it is only the view from Portsmouth Road looking to the north-east which could really be said to have an uninterrupted view of the appeal site – and even so, this would only be an oblique view restricted to the very frontage of the site. I do accept, however, that the arrows depicting these 'Important Views' have to be interpreted as covering a range of different positions throughout the CA, with the orientation of the arrows largely encompassing those features highlighted earlier as being of townscape significance. That said, it is clearly also the case that eastbound views along Giggs Hill Road look more or less directly onto parts of the appeal site, especially as one gets closer to Portsmouth Road, and the appeal site can also be seen from northern parts of the Green, albeit in angled views.
36. With these points in mind I consider that the proposed development would have a noticeable effect on both the CA and its setting. The existing development on the site is something of an anomaly in this area, with the vast majority of other, nearby development being relatively modestly-scaled residential buildings. Although the proposed foodstore would have a smaller footprint than the car dealership buildings it would be a much higher and more dominant building than the low, predominantly single-storey structures currently on the site. As such I do not consider that it would accord with the Appraisal's advice that new development should respond to its immediate environment in terms of scale, form, materials and massing.
37. Nor would it comply with the requirement that the basic form of new buildings should be governed by the urban grain, scale, height and massing of existing development. The introduction of such a large and dominant building would be at odds with the generally more modest buildings found within the CA and its setting. Furthermore, although parked cars were clearly a feature of the former car dealership, the car park proposed for the front of the appeal site would not accord with the Appraisal's guidance detailed above. These aspects of the proposed development would be highly visible in views into the CA from this northern gateway area and in my assessment they would detract from the CA's village green character, especially as the Green itself would also be clearly seen in such views.
38. The part of the appeal site which lies within the CA houses the 'L-shaped' brick-built showroom area with pitched, tiled roof which adjoins Green Cottage; the adjacent former glass-fronted showroom development with deep fascia advertising; and part of the car display area. These buildings would be removed as part of the appeal proposal and replaced with an open parking area, a low frontage boundary wall and some frontage landscaping. The existing 1.8m high wall along the Angel Inn's north-western boundary would be retained at the rear of the new parking area.
39. Vehicles would be parking and manoeuvring within this area during store opening hours and I note that the Council's Conservation Officer had requested that these parking spaces be removed and this area be given over to landscaping. But even

though the appellant has not complied with this request, on balance I consider that the effect of this part of the appeal proposal would be positive. Not only are the existing buildings of no particular architectural merit, their positioning close to or immediately at the back of the footway increases their prominence in the street-scene, and by physically adjoining Green Cottage they 'crowd out' and hamper the appreciation of the scale and character of this significant unlisted building. The removal of these existing buildings would provide more space around Green Cottage, thereby improving its setting. I see this as a modest benefit.

40. The proposed foodstore would be set towards the back of the site but it would still be noticeable in views from Portsmouth Road and from parts of Giggs Hill Road as referred to above. On this point, some time was spent at the Inquiry considering the different visual portrayals of the proposed foodstore building when viewed from Giggs Hill Road, as put forward by the appellant¹³ and by Mr Phillips for the RA¹⁴. I consider, however, that both of these attempts have to be viewed with caution.
41. Firstly, I was told that the appellant's portrayal was not verified and should only be considered as 'impressionistic', as it is based on a Google streetview image which pictures the scene from a higher viewpoint than the human eye. Whether this would make a material difference to the visualisation of the proposed building is difficult to say, although it is clearly the case that from a person's viewpoint it would appear somewhat higher against the skyline than shown in the computer generated image (CGI). Furthermore, the RA maintained that the proposed building is wrongly positioned in this CGI and would actually be seen closer to Green Cottage and the Angel Inn, but it is not possible to be certain on this point in the absence of a detailed methodology as to how the CGI had been produced.
42. The image helpfully shows the likely appearance of the rendered building, with its first-floor greenery and the proposed tree planting within the car park, and also gives an indication of the size and bulk of the proposed foodstore. This can, however, be better seen on a second CGI submitted by the appellant¹⁵, showing a view into the site from the proposed car park entrance. It is plain from this second CGI that the proposed foodstore would be larger and bulkier than any of the other buildings in the CA's setting, and with a clear non-domestic appearance.
43. The visual portrayal submitted by Mr Phillips depicted the proposed foodstore from a somewhat different position in Giggs Hill Road and represented the building as solid, featureless, orange 'blocks', with no on-site or on-building greenery shown. For my part, this image represents a somewhat extreme case and cannot be used on its own to assess the likely impact of the proposed building. Moreover, despite some methodology for its production being submitted with the image, there is no clear justification for the heights shown for the different elements of the building.
44. Similar points apply in the case of Mr Phillips' Appendix 2 which shows the proposed building again as a featureless 'orange block', appearing above Green Cottage and the Angel Inn, breaking the green backdrop behind these modest buildings. Again, there is no clear explanation as to how the height of the proposed foodstore has been determined, and the image has taken no account of the existing trees located to the rear of the Angel Inn, outside the appeal site, which the Arboricultural Assessment¹⁶ indicates are maturing ash and sycamore, some 16m high. These

¹³ See the second CGI within CD6.2

¹⁴ See Appendix 3 to CD8.4. Appendix 2 is also of relevance

¹⁵ Within CD6.2

¹⁶ CD2.18

existing trees would clearly provide some shielding or filtering of views of the proposed building, and for all the above reasons I treat this image with caution, although I do acknowledge that some parts of the proposed store may well be seen above the Angel Inn and Green Cottage from some viewpoints.

45. The appellant produced no comparable CGI looking towards the appeal site from the south, or from the Green, but it did submit long-sections indicating that a person would need to be some 70m south of the Angel Road junction, on Portsmouth Road to the south-west, before the top of the foodstore would become visible over the roof of the public house¹⁷. I accept that such views would be filtered and shielded by the trees to the rear of the public house, but having regard to Photos 5 and 6 in Mr Froneman's PoE¹⁸, it is clear to me that any views of a taller, modern building seen above or to the side of the small group of dwellings comprising the Angel Inn and Green Cottage would be noticeable, and in my assessment would detract from the simple, modest form of these dwellings. As such, I consider that such views, albeit glimpsed and from a distance, would have an adverse impact on the character and appearance of the CA.
46. The Council also maintained that the appeal proposal would detract from the 'village green' character and appearance of the CA as a result of, amongst other things, the intensification of activity on the site, and a general increase in traffic. In this regard, no specific figures relating to the activity associated with the previous Guy Salmon use of the site were submitted, but an assessment was carried out in the Transport Assessment¹⁹ (TA) for a car showroom of Guy Salmon's size, using the TRICS²⁰ database. This indicated a likely 2-way trip generation of 28 in the morning peak period, 20 in the evening peak period, and 10 on a Saturday between 1200 and 1300 hours. All of these trips were assumed to be directly generated by the car showroom and were not treated as 'pass-by' trips on the highway network. This information was not disputed by either the Council or the RA.
47. These figures compare to the predicted 2-way trips from TRICS for a Discount Foodstore of the proposed size of 55 in the morning peak period, 111 in the evening peak, and 198 on a Saturday between 1200 and 1300 hours. However, only 40% of these trips were considered to be new to the network, with the remaining trips assumed to be already passing the appeal site on the Portsmouth Road or diverted from other roads such as Giggs Hill Road and Angel Road. This means that the proposed Aldi store is predicted to increase the 2-way traffic on the local road network by some 22 trips in the morning peak period, 45 trips in the evening peak and 80 trips on a Saturday lunchtime.
48. These assessments were considered acceptable by Surrey County Council as local highway authority (LHA), and whilst Mr Thorold questioned the appellant's highways witness, Mr White, regarding the appropriateness of using TRICS predictions in this case, no contrary, expert or authoritative evidence has been placed before me to cause me to doubt these figures.
49. The upshot of this exercise is the likelihood that when compared to the previous use of the site, the proposed development would result in a small reduction of trips on the Portsmouth Road in the morning peak period and relatively modest increases of about 25 additional trips in the evening peak period and about 70 trips

¹⁷ Appendix 6 to CD6.4

¹⁸ CD6.7

¹⁹ See Section 4.5 and Appendix 8 in CD2.8

²⁰ TRICS (Trip Rate Information Computer System) - a database of trip rates for developments used for transport planning purposes, specifically to quantify the likely trip generation of new developments

on a Saturday lunchtime. As the existing 2-way traffic flows on Portsmouth Road were recorded as being about 1,020, 1,020 and 1,160 respectively in these 3 periods²¹, I do not consider that the changes likely to arise from the proposed development in these periods would be particularly noticeable.

50. That said, and notwithstanding the fact that the site was formerly in a commercial use, it is clear that on a daily basis there would be significantly more activity associated with a foodstore than the former car showroom, with this activity being more intense and spread over a longer period, as the foodstore would be open until 2200 hours on weekdays and Saturdays. I acknowledge that the site is directly served by what is described as the busy Portsmouth Road, and that no highway or junction capacity concerns have been raised. But notwithstanding its main road location, the surrounding area is predominantly residential, and whilst the proposal may well be acceptable in purely transport terms, I consider that it would clearly have an adverse impact on the 'village green' feel and character of the CA.
51. The Council also argued that queuing along the proposed right-turn filter lane on Portsmouth Road would detract from the village green character. However, right-turn lanes already exist within the CA, serving both Giggs Hill Road and Angel Road, with these lanes being closer to the Green than the lanes proposed as part of the development. There has been no suggestion that traffic using these existing right-turn lanes has any material adverse impact on the CA, and I therefore see no good reason why use of the proposed lanes should have any such impact.
52. Summarising the above points, I consider that the appeal proposal would give rise to a modest heritage benefit by removing buildings which currently 'crowd' out Green Cottage, and by providing a breathing space around this building, and the group of buildings of which it is a part. But there would also be a clear adverse impact on the village green character of the CA as a result of the noticeable increase in activity, over an extended period throughout the day, and through the presence of a large and dominant building with associated large and prominent car park which would be out of keeping with the nearby much more modest buildings. Like the Council I assess the harm so caused to be at the lower end of the less than substantial range, as detailed in paragraph 202 of the NPPF. As such, I weigh this harm against any public benefits of the proposal, later in this decision.
53. I turn now to consider the Angel Inn, which has 16th century origins, with early 19th century additions to the rear and late 19th century additions to the front. The evidence put forward by both Mr Clemons²² for the Council and Mr Froneman²³ for the appellant sets out the history of this public house, with historic maps indicating that it has long stood as part of a small cluster of roadside buildings, serving as a focal point for this village community to meet, on a daily basis, or on special occasions. This appears to be borne out by the historic photographs included as Figures 13 to 15 in Mr Froneman's PoE. Mr Clemons maintained that the public house derives some of its significance from this historical association with the surrounding community and I share that view.
54. The Inn also derives significance from its setting in this prominent location, close to the Green and clearly seen as a modest building against a backdrop of trees. There is, however, general agreement between the parties that this building derives much of its significance from the materials used in its construction and from its form and

²¹ Figures given in Table 4.2 of the TA (CD2.8), taken from automatic traffic counts in 2018

²² See CD7.3 and Appendix 2 to CD7.1

²³ See CD6.7 and CD2.14

construction. In this regard the building is of a vernacular design with its age and periods of construction being recognisable from its external appearance, although some of the external changes which have taken place make it harder to read the current building as a 16th century timber framed building. Nonetheless, the linear nature of the early building remains legible despite the ground floor extensions to the front. The scale of the building is typically small for its period of construction, with the ridge and eaves height being significantly lower than modern buildings.

55. I share the Council's view that the combination of natural clay tiles and rendered walls has a pleasing vernacular aesthetic which complements the character of the village green. That said, the public house does not directly address the Green but faces onto a smaller grassed, triangular area, located on the eastern side of Portsmouth Road, which currently contains the Angel Inn sign and a commemorative drinking fountain. This open area in front of the public house does, however, give the Inn prominence and spatially links it with the Green.
56. The setting of the Angel Inn predominantly comprises the open area to the front of the public house and, by extension, the Green itself. I saw at my site visit that relatively uninterrupted distant views of the Angel Inn, set against a treed backdrop, can be seen from parts of the Green, but it is only when seen from much closer that the design and features of the building can be seen and appreciated. The appeal site also lies within the setting of the public house, abutting part of its north-western and north-eastern boundaries, but this rear part of the Inn, containing a variety of extensions and the surfaced car park, adds no real significance to this listed building.
57. The appeal proposal would make no changes to the fabric of the public house, and therefore no impact would arise to this aspect of the Inn's significance if the proposed development was to proceed. However, in terms of any impact on the setting of this listed building it is undoubtedly the case that from some locations to the south, including from some parts of the Green, the top and/or side of the proposed foodstore would be visible above the Angel Inn. I acknowledge that although a building may be visible in the same view as a listed building, this does not automatically mean that there would be a harm to either setting or significance. But I have already concluded that views of the modern foodstore above or at the side of the modestly-proportioned historic Angel Inn – albeit glimpsed views – would detract from its simple form, uninterrupted against its treed backdrop, and would thereby have an adverse impact on this aspect of its significance.
58. I am satisfied, however, that the proposed development would not impact on other aspects of the Angel Inn's significance. From closer viewpoints it would not affect the prominence of the public house as part of the small group, together with Green Cottage, which abut Angel Road, or its significance as a focal roadside feature, addressing the smaller grassed triangular area and the Green. Moreover, I consider that the proposed development would not change the Angel Inn's association and connection with the Green, and the sporting events and other activities which take place there. I therefore see no reason why the appeal proposal should have any impact on the communal or community aspect of the public house's significance.
59. Furthermore, I have already concluded that the removal of the building currently adjoining Green Cottage would provide space around this significant unlisted building and hence around the small group of buildings of which the Angel Inn is a part. As noted above, I see this as providing an improvement to the setting of Green Cottage and to this group of buildings as a whole. It would also move built-

form further away from the listed building and open up some views of its rear aspect, although as these are not particularly attractive views I do not consider this aspect of the proposal to be of any material benefit to the setting of this listed building. Notwithstanding this latter point, the removal of this building could only be seen as a modest benefit of the proposal.

60. Having regard to the above points I conclude that whilst the appeal proposal would result in some benefits to the setting of the listed Angel Inn, an aspect of its significance would be eroded in medium to distant views from the Green and from Portsmouth Road south, by glimpsed views of the modern foodstore rising above, or to the side of the historic public house. Again I consider, like the Council, that this harm would lie at the lower end of the less than substantial range.
61. The final heritage asset where harm is alleged is the War Memorial sited towards the north-eastern corner of the Green. Neither the Council nor the appellant consider that any harm would arise to the setting of the War Memorial if the appeal proposal was to proceed, but the RA allege that the proposed development would give rise to less than substantial harm to this monument as a result of the likely intensification of commercial use on the site, and consequent increases in traffic, noise and deliveries. Mr Phillips' PoE confirms that as far as the RA is concerned, this harm would lie at the upper end of the less than substantial range²⁴.
62. The War Memorial is a fairly tall and imposing structure, made of granite, in the form of a cross set on an octagonal base comprising 3 rough-hewn steps. It has an inscription on its northern face and a total of 89 inscribed names on the remaining panels around the base. A copper wreath with a large inset sword is fixed to the northern face of the cross. Although the wreath, sword and main inscription point to this northern face being the front of the War Memorial, it is clear that the memorial can be seen and appreciated from all sides. Indeed, as already noted, the Appraisal refers to it as an important local landmark of considerable historic, architectural, and social importance, seen from many vantage points in and beyond the Green.
63. The War Memorial was listed in 2015, and I share the appellant's view that its significance lies in the fact that it was designed as a prominent visual marker on the common area of the Green, with this being a fitting public location for such a commemoration. It has strong links with the village's role and contribution to the outcome of 2 World Wars, and provides a lasting and poignant record of those who died for their country. Its installation at this busy corner of the Green demonstrates the strong link between the memorial and the surrounding settlement. The War Memorial is the focal point for certain events, including Services of Remembrance, as was made clear by photographs submitted by Cllr James²⁵.
64. However, whilst the appeal site can be seen from the War Memorial, and to that extent does form part of its setting, I am not persuaded that the proposed development would have any direct impact on those factors which give the War Memorial significance, as detailed above. It is evident from the submitted photographs that at such memorial events attendees are focussed on the War Memorial itself, and as the entrance to the proposed car park and the foodstore's delivery area would be well over 100m from the memorial, I do not consider that activity or manoeuvring cars at that distance would be particularly noticeable. Accordingly I conclude that the appeal proposal would not have any material impact on the significance of this Grade II listed War Memorial.

²⁴ See page 4 of CD8.4

²⁵ Doc 19

65. As a final point on this issue I have had regard to the consultation response from the Conservation Area Advisory Committee²⁶ (CAAC). Somewhat unusually this provides 2 submissions, described as broadly reflecting 2 positions currently held by the Committee as a whole, '*in order to focus scrutiny on the overall value of the application*'. Mrs Randolph was at pains, when presenting her evidence, to point out that what had been referred to as '*the collective views of those members of the Committee inclined to support*' were, in fact the views of the Chair alone²⁷. Mrs Randolph's comments on this point were not disputed, and whilst they do not appear to accord with what was stated in the formal CAAC response, it is not necessary to make any further comment on this matter, other than to say that I have had regard to all points of view in my assessment of this main issue.
66. Summarising all the above points, my overall conclusion is that whilst the proposed development would have some beneficial effects in heritage terms, it would have an adverse impact on the character and appearance of the surrounding area by failing to preserve the village green feel and character of the CA. It would also give rise to less than substantial harm to an aspect of the Angel Inn's significance. In both cases I consider the harm to be at the lower end of the less than substantial range, and I return to this matter later in this decision. I do not consider that any harm would arise to the significance of the Grade II listed War Memorial. My conclusions mean that in my opinion, the appeal proposal would be at odds with CS Policy CS17, DMP Policy DM12, and the relevant parts of Section 16 of the NPPF.

Main issue 2 – the effect on living conditions

67. In its reasons for refusal the Council alleged harm to the living conditions of neighbouring residents on 2 counts. Firstly it maintained that the height and proximity of the proposed development to the rear boundary, in conjunction with the removal of trees along this boundary, would result in an overbearing impact and loss of amenity to occupiers of the adjoining residential dwellings at Nos 36-40 Westville Road. Secondly it maintained that intensification of the commercial use would harm the amenity of surrounding neighbours, particularly in the evening. The Council's SoC elaborated on this second concern, explaining that the harm would arise from noise and disturbance from the position of the proposed loading bay.
68. I deal first with the allegation of overbearing impact which relates to occupiers of the 2-storey residential properties which lie in Westville Road and abut the site to the south-east. The Council's reasons for refusal only referred to Nos 36-40, but I also visited No 34 and the garden area of properties at Rythe Court as part of my accompanied site visit. The gardens of Nos 36-40 Westville Road back directly onto the south-eastern boundary of the appeal site, which is currently formed by a wooden fence in generally poor condition, and a row of mixed cypress leylandii trees on the appeal site, which have now attained a height of some 10m, as detailed in the aforementioned Arboricultural Assessment.
69. Appendix 8 in Mr Phillips' PoE²⁸ is an email dated 16 March 2023 from the previous Head of Business at Guy Salmon. Amongst other matters this email indicates that Guy Salmon had agreed to trim back the leylandii trees to a height of around 6m about every 3 years, with the last trimming assumed to be in Spring 2019. It is not clear whether this trimming was undertaken as stated, as the height of the trees is now at least 10m, as noted above.

²⁶ CD3.8

²⁷ See Doc 15

²⁸ CD8.4

70. In addition, Mr Phillips' Appendix 7 is a 'High Hedge complaint' submitted to the Aldi Head Office on 15 May 2023 by the residents of 34–40 Westville Road. It comments that the row of conifers within the appeal site has been allowed to grow in an uncontrolled manner to a height in excess of 10m, and that this causes serious harm to the amenity of these residents through the unacceptable loss of daylight and sunlight. Accordingly, the residents request that the hedge is reduced in height by at least 5m, and maintained at that level in the future.
71. On this point I note that with reference to boundary treatments, the guidance in the Council's Design and Character SPD states that designs should not rely on screening with fast growing conifers, such as leylandii, since these are intrusive features requiring regular maintenance and which often create shade problems for adjacent properties²⁹. This point was highlighted by Ms McCleod for the appellant³⁰.
72. These leylandii trees have been assessed by an arboriculturist who considers that they *'exhibit poor structural forms with low levels of overall vitality and are not considered to present a viable long term sustainable boundary feature'*³¹. The Arboricultural Assessment, submitted in October 2021, recommends their removal. A more recent examination of these trees took place in November 2022, with the arboriculturist noting that there had been several instances of trees within this group fracturing and falling into the appeal site, with the remaining trees having multiple further areas of structural weakness. As such it is expected that further structural failures will occur, potentially into the adjacent residential gardens, if no management intervention is undertaken.
73. In light of these issues the arboriculturist reaffirmed that the most appropriate management option would be for the trees to be removed and for a more sustainable form of boundary treatment to be established. On the basis of this information it seems clear that reducing the height of these trees to around 5m, as requested by the neighbouring residents, is not a realistic or viable option.
74. I saw at my site visit that the residential properties I visited all have well-vegetated rear gardens areas, with grassed areas close to the dwellings, and fences, trees and shrubs along the boundaries separating the gardens from each other. Some of the properties have sheds or similar outbuildings in the rear gardens, and some also have tall trees close to their rear boundaries. The leylandii trees on the appeal site have encroached into the residential gardens of Nos 36-40, above the existing wooden fence, forming a tall, continuous and impenetrable barrier across the rear of these gardens.
75. The situation with No 34 is slightly different as the far end of this property's garden, which contains a shed and is separated from the grassed area closer to the house, extends past the eastern extremity of the appeal site to meet the River Rytte as it emerges from the culvert through which it traverses the appeal site. There are some sycamore and ash trees in the vicinity of the river bank, rising to about 12m in height. This garden does not back onto the row of leylandii trees, although they can be seen in angled views across No 36's garden.
76. I note that in its reasons for refusal the Council does not refer specifically to any impact on daylight and sunlight, although it does refer to a loss of amenity. For my part, in considering the likely impacts of the appeal proposal I have had regard to

²⁹ Paragraph 5.82 of CD4.5

³⁰ Paragraph 4.9 of CD6.4

³¹ Paragraph 1.3 of CD2.18, and letter dated 7 December 2022 in Appendix 7 to CD 6.4

the Daylight and Sunlight Assessment submitted to support the application³². This has been carried out in accordance with the methodology proposed by the Building Research Establishment³³, and has assessed how the proposed development would affect the amount of daylight and sunlight received by neighbouring properties. It has involved a Vertical Sky Component Assessment; a No Sky Line Assessment; and an Annual Probable Sunlight Hours Assessment.

77. In summary it concluded that any changes to the daylight received by the habitable rooms of the neighbouring buildings would not be significant and would be unlikely to be noticeable by the occupants. Similarly, it concluded that the proposed development would have a negligible impact on the amount of sunlight received by neighbouring dwellings. It also concluded that the appeal proposal would not result in a noticeable increase in overshadowing of the neighbouring properties. These conclusions were reported in the Officer's Report (OR) to Committee³⁴.
78. However, my reading of this Daylight and Sunlight Assessment is that the effects of the existing belt of dense evergreen leylandii trees have been taken into account in the baseline assessments. If this is correct, it means that the conclusions of the Assessment relate to comparisons of the existing situation with the unneighbourly trees in place, and a future situation which assumes the proposed foodstore has been constructed. As the existing leylandii are the subject of complaint from the Westville Road residents, as just noted, I do not consider this to be a fair and appropriate comparison. It is self-evident that the residential properties in question would receive more daylight and sunlight if the leylandii were trimmed to a 5m or 6m height, or even removed, and it is therefore unclear to me whether the same conclusions would have been reached in such situations.
79. Turning to other likely effects, I consider that the outlook from these residential properties, primarily Nos 36-40, would change appreciably if the appeal proposal was to proceed. The elevation of the foodstore which would be adjacent to the rear boundaries of Nos 36-40 would extend almost the full length of these properties' boundaries, and would be positioned relatively close to the boundary. The elevation would be articulated both in the horizontal and vertical frames and would vary in height between about 6.1m above finished floor level (FFL), and 10m above FFL, with a small part rising to about 10.9m above FFL. Planting would be incorporated behind the ground floor parapet to help to further break up the massing.
80. A 1.8m high close-boarded wooden fence would be erected on the boundary, with a continuous hedge of native natural species planted in a mature state at 1.75m high, and thereafter maintained at 2.2m. This would break up the outlook and provide further greenery but it plainly would not screen the foodstore to any material extent. Moreover, whilst existing tall trees in the gardens of Nos 38 and 40 would continue to provide screening and/or filtering of views, they would be of limited effect in the context of the overall size and height of the proposed foodstore.
81. In terms of proposed development layout and separation distances to the Westville Road properties I have had regard to the undisputed dimensions and diagrams provided in Ms McCleod's PoE and Appendices³⁵, which have taken account of the Council's Design and Character SPD. These indicate that for No 34, no rear-facing windows would look directly onto the new foodstore, which would only be visible in

³² CD2.11 – see, also Appendix 5 in CD6.5

³³ Building Research Establishment: 'Site Layout Planning for Daylight and Sunlight – a Guide to Good Practice' Second Edition 2011

³⁴ Paragraphs 68-71 in CD3.2

³⁵ CD6.4

angled views. Moreover, the foodstore would be sited a minimum of just over 21m from the closest part of No 34, with this part of the building having a first-floor parapet height of about 9.5m above FFL. Whilst closer views would be obtained from within No 34's garden these would only be possible over the neighbouring garden, with any such views broken up by the new planting of 4 native trees and a new evergreen tree proposed between the boundary of this property and the proposed building. With these points in mind I am not persuaded that the resultant impact on outlook from this property would be unacceptably overbearing.

82. No 36 has a much shorter garden than No 34, and occupiers of this property would look out onto a corner of the proposed foodstore. Whilst this means that the elevations would 'move away' to both the north-east and the north-west, this part of the building would have a first-floor parapet height of around 9.5m above FFL, with part of the slightly higher building element, rising to about 10.9m above FFL, also visible. Moreover, the Context Section CC drawing in Ms McCleod's Appendix 6 indicates that there is a noticeable slope upwards of No 36's garden, such that the proposed building would appear even higher.
83. Although the foodstore is shown to be a minimum of 17.2m from the rear elevation of No 36, the building at this point would be rather featureless, without any meaningful vertical articulation, and in my assessment would appear unacceptably oppressive. The impact would be greater from positions further to the north within this garden, and whilst the garden is of reasonable size I consider that the overbearing nature of the proposed foodstore would be unneighbourly and would adversely affect the occupiers' reasonable enjoyment of this area. I acknowledge that the proposed building would be further away from the property and garden than the existing leylandii trees, but as the trees are already the subject of objection I am not persuaded that replacing them with equally tall and fairly featureless building elevations would represent any meaningful improvement.
84. I note that the Council's Design and Character SPD does not contain specific guidance on separation distances in circumstances like this, and although it does contain some guidance in its 'garden space' and 'amenity' sections³⁶, I do not consider this information to be particularly helpful in the current case. I say this because the 'garden space' section makes no reference to outlook, and whilst the 'amenity' section does refer to outlook from windows and amenity spaces, it also makes it clear that new development should be neighbourly and that the character of the area and the context of the site will influence the siting of buildings. In this case it seems to me that neither of these points have played any great part in the proposed design and siting of the proposed foodstore.
85. Moreover, the SPD's example of the application of the '45 degree rule' does not reflect the situation here. The example shows a single-storey garage as acceptable at 8m from an existing dwelling's habitable window, and what appears to be a 2-storey pitched roof house being acceptable 15m away. I do not think such a tool can be reasonably applied in the current situation where the proposed building would be flat-roofed, some 2m or so higher than the ridge height of the adjacent houses, and plainly more bulky and massive than the Westville Road dwellings.
86. I have also noted the appellant's reference to Figure 32 in Part 1 of the National Model Design Code³⁷ (NMDC), which indicates that a distance of 10m could be appropriate to ensure private amenity in residential layouts in situations where

³⁶ See paragraphs 5.56 to 5.58 and 5.59 to 5.61 in CD4.5

³⁷ CD4.3

windows of one dwelling face onto a blank wall of another. However, the example shown appears to relate to acceptable separation distances when considering the layout of dwellings of similar size and style. I do not regard it as particularly helpful in the current case, with the different building types and sizes involved, as detailed above. With these points in mind I consider that the proposed development would result in an unacceptable overbearing impact on the residents of this dwelling.

87. A broadly similar, but somewhat more overbearing situation would arise in the case of No 38. Rear-facing windows of this dwelling would look more or less directly onto a corner element of the tallest part of the proposed foodstore, with a height of about 11m above FFL, with other 2-storey elements rising to about 10m above FFL extending the full width of this property's rear boundary. This can helpfully be seen, in diagrammatic form in Appendix A2 to the Daylight and Sunlight Assessment. Whilst I note that these diagrams are marked 'not to scale', I consider that they must be a reasonable representation of the proposed building, otherwise it makes the output of the daylight and sunlight assessments very questionable.
88. Much of the foodstore's elevation would comprise a ground floor element with a parapet height of 6.1m above FFL, with a 2.6m set-back to the higher first-floor element which would rise to some 10m above FFL. But again it is the case that the Context Section BB drawing in Ms McCleod's Appendix 6 indicates that ground level on the appeal site is higher than that of the Westville Road dwelling, thereby increasing the disparity in heights. Planting is proposed above the ground floor parapet, and 2 evergreen trees are proposed to be planted between the dwelling's rear boundary and the proposed building. I acknowledge that this would provide some limited softening of the elevation and some shielding.
89. The proposed foodstore would be a minimum of 19.4m from first floor habitable windows of this dwelling, and this elevation would be further away from the rear elevation of No 38 than is the case with the current row of leylandii. But for reasons already given I again consider that such a tall and massive building, in such close proximity to the private amenity space of this dwelling, has to be seen as overbearing. Although there is a shed and a large tree within this garden, neither of these would fully shield or filter views of the proposed foodstore. For the above reasons I conclude that the appeal proposal would result in an unacceptable overbearing impact on the residents of this dwelling.
90. The situation would be somewhat different in the case of No 40 as the majority of the foodstore's south-eastern elevation alongside this property's boundary, would only be of single-storey height, with a parapet level of 6.1m above FFL. There would be a separation distance of about 17.9m from the main rear elevation of No 40 to the closest part of the proposed building, increasing to some 20.4m in the case of the higher, first-floor element of the foodstore. The new building would be further away from the rear elevation of No 40 than the current row of leylandii, and views of the proposed foodstore would be filtered, at least to some degree, by the large tree present in this dwelling's garden. In view of the separation distances involved, and the fact that the direct outlook from this dwelling and garden would be primarily onto the single-storey part of the proposed building, I conclude that in this case the proposed development would not have an unacceptable overbearing impact on the living conditions of occupiers of this dwelling.
91. A final point on this aspect of living conditions is the suggestion contained in the appellant's letter dated 21 June 2023, that a living green wall could be installed along the south-eastern elevation of the proposed foodstore to provide further

screening of this building, once the leylandii trees have been removed³⁸. However, in view of the overbearing impact I have concluded would arise in the case of Nos 36 and 38, I am not persuaded that this could be acceptably alleviated by the installation of a living green wall. In any case, there was a clear difference of opinion between the parties regarding the effectiveness and the likely longevity of such walls. Whilst this matter may well be capable of being addressed by an adequate and well-planned maintenance regime, as such a feature would not address my main concern on this issue I take this matter no further.

92. The second strand of the Council's concerns on living conditions, namely noise and disturbance from the proposed loading bay, was expected to be supported at the Inquiry by the evidence of Mr Peckham. Put simply, the Council and appellant were in agreement that noise from plant and services, and from car parking and access/egress activity could be suitably controlled by the imposition of planning conditions, such that it would not cause significant adverse impact. However, there was no such agreement with regards to deliveries to the store, with the Council maintaining that the proposed location of a heavy goods vehicle loading bay at a distance of around 10m from existing residential development would be likely to result in significant adverse impact, a position which the appellant disputed.
93. The Council took this stance in light of its assessment of the difference between background noise levels and rating noise levels, calculated in accordance with the methodology set out in BS4142:2014+A1:2019³⁹, as detailed in Mr Peckham's rebuttal PoE⁴⁰. This showed values in excess of 10 decibels (dB), for some of the appellant's requested delivery time periods. The concerns related to receptors in both the gardens and the residential properties at Rythe Court.
94. This situation changed, however, as a result of further discussions between Mr Peckham and the appellant's noise witness Mr Metcalfe, and concessions from the appellant regarding matters such as the use of delivery vehicle reversing alarms, on-board delivery vehicle refrigeration units, and allowable delivery hours, as well as an offer to install noise absorptive panels to the proposed delivery bay. This resulted in a Supplementary SoCG⁴¹ covering the above points being agreed and signed by the appellant and the Council, meaning that the Council no longer pursued its objections on noise matters at the Inquiry, subject to the points detailed in the SoCG being covered by appropriately-worded conditions.
95. In light of these points and the appellant's changed position, and in the absence of any other authoritative evidence on this topic before the Inquiry, I accept that noise and disturbance associated with deliveries to the proposed foodstore could be satisfactorily addressed and controlled by planning conditions – a matter which I discuss briefly, later in this decision.
96. Drawing all the above points together, I conclude that the appeal proposal would not have an unacceptable impact on the living conditions of nearby residents by reason of noise and disturbance, but would have an unacceptable overbearing impact on occupiers of 36 and 38 Westville Road. Moreover, in view of my conclusions regarding the methodology involved in the Daylight and Sunlight Assessment, it is not clear whether or not the appeal proposal's impact in terms of the daylight and sunlight received by the Westville Road properties has been

³⁸ Doc 13

³⁹ CD4.25 – 'Methods for rating and assessing industrial and commercial sound'

⁴⁰ CD7.5

⁴¹ Doc 20

properly assessed. With these points in mind I find the appeal proposal to be in conflict with CS Policy CS17 and DMP Policy DM2, and the relevant parts of the Design and Character SPD. The proposal would also be at odds with the relevant parts of Section 12 of the NPPF, which seek to achieve well-designed places.

Main issue 3 – effective use of land, and effect on vitality and viability

97. As noted above, the Council indicated in its SoC that it did not intend defending its original second reason for refusal, and made it clear in its opening statement to the Inquiry that it does not object to the principle of a new supermarket on this site⁴². This matter was, however, one of the main areas of concern of the RA, who maintained that the proposed Aldi foodstore would reduce the footfall to and therefore imperil the financial viability of the local greengrocers, bakery and mini-supermarket Budgens, which is also the local Post Office, all of which lie about 600m away from the appeal site in Thames Ditton High Street⁴³. The RA argued that the concentration of small shops and cafes in the High Street area constitutes the heart of this community, and that its vitality depends on a cluster effect with businesses relying on one another's presence.
98. As such, the RA contended that the proposed development would have significant adverse impacts in retail terms, thereby conflicting with both the development plan and the NPPF. In particular it disputed that there is a need for a new supermarket to serve Thames Ditton arising from a deficiency in local supermarket provision, as claimed by the appellant. In support of such views the RA argued that the appellant had based its assessment of retail need on an out-of-date retail assessment which does not reflect the considerable changes in retail patterns of recent years, and on false assumptions and selective information in its Planning, Retail and Economic Statement⁴⁴ (PRES) submitted to support this proposal.
99. The first matter to clarify is that notwithstanding the views put forward by the RA and expressed by others who spoke at the Inquiry and/or submitted written representations, there is no policy requirement at either local or national level to demonstrate a quantitative need for a retail development such as this. Rather, at the national level there is simply the need to comply with the sequential test (ST) set out at paragraph 87 of the NPPF which, in summary, states that main town centre uses should be located in town centres, then in edge of centre locations, and only if suitable sites are not available should out of centre sites be considered.
100. As previously noted, the appeal site is considered to be out of centre for retail planning purposes, and the PRES provides details of the ST undertaken in this case⁴⁵, the scope of which was discussed and agreed with Council Officers as part of the pre-application process. The ST showed that there are no sequentially preferable sites within or to the edge of Thames Ditton local centre, or indeed any other identified centre within the surrounding area. Nor are there any allocated development sites in the catchment area capable of accommodating the proposed Aldi foodstore. These points were not disputed by any party to the Inquiry. In carrying out the ST I note that the appellant has shown flexibility on issues such as format and scale, as required by paragraph 88 of the NPPF, through such measures as planning the store over 2 storeys with the amenity space and part of the warehouse area at first floor, along with a reduced-size sales area.

⁴² Paragraph 1 in Doc 2

⁴³ Paragraph 9 of Doc 3

⁴⁴ CD2.6

⁴⁵ Section 6 of CD2.6

101. The appellant's case is that there is a qualitative need for a new main foodstore in this area, and in particular a discount foodstore, to improve consumer choice as referred to in paragraph 90(b) of the NPPF. In support of this view the appellant draws on the findings of the Elmbridge Retail Assessment⁴⁶ (ERA) and its own PRES, which show that foodstore provision for main or 'weekly shops' in the wider area surrounding Thames Ditton is limited. The closest major supermarkets are Sainsbury's and Waitrose in Surbiton (about 2km away) and Waitrose in Esher (about 3.5km away), with the nearest Limited Assortment Discounter (LAD) being the Aldi store in Kingston-upon-Thames, some 3.7km away.
102. Indeed, the submitted evidence shows that the existing convenience offer in the area is characterised by smaller convenience stores which principally provide a 'top-up' shopping function, for example Budgens in Thames Ditton and Hinchley Wood. Moreover, the appellant points out that Zone 6 of the ERA, which includes Thames Ditton, contains no town or district centres, just the local centres of Thames Ditton, Hinchley Wood and Claygate, and retains by far the lowest amount of convenience expenditure of any of the surveyed zones, at just 19.0%. The proposed development would increase the level of retention to some 28%, but this would still be the lowest level within the ERA study area.
103. As such, the appeal proposal would be in line with the ERA's conclusion that between 1,000 sqm and 1,900 sqm of net additional convenience floorspace is likely to be needed within the Borough by 2035⁴⁷, although I note that the ERA specifically states that the majority of this requirement would be arising post 2025. The ERA also states that as forecasts become increasingly open to margins of error over time they should be refreshed throughout the Plan period, but there is no evidence before me to suggest that this has been done.
104. The RA was very critical of many aspects of the ERA, not least that it has to be considered out of date as it was published in 2016 and based on survey information collected in 2015, with significant changes having taken place in the economy and in shopping patterns since that time, including the effects of the Covid-19 pandemic. The RA also pointed out that the particular characteristics and convenience shopping retention rate for Zone 6, detailed above, are dependent on the way the ERA study zones were set up, with plenty of areas being further away from a district centre than Thames Ditton is from East Molesey.
105. To my mind there is some merit in this latter point. Not every area will be close to a main-shop foodstore, and clearly residents within Thames Ditton and Zone 6 as a whole are able to satisfy their main shopping needs without excessively long journeys, based on the information set out above. Nevertheless, it remains the case that residents of Zone 6 do either have to travel outside of the area or shop online to undertake a main food shop. As such it seems clear to me that the Aldi foodstore proposed through this appeal would increase consumer choice, both for general main food and discount shopping, and as a result could well reduce travel distances for some shoppers from this local area.
106. On this latter point I have noted the Council's comments that Thames Ditton is an area of affluence, with wages higher than the national average and unemployment lower than the national and London average, such that if the appeal proposal was to proceed, people could travel from less affluent areas to access the new Aldi

⁴⁶ CD4.13

⁴⁷ Table 8.2 in CD2.6

foodstore, promoting less (rather than more) sustainable travel patterns⁴⁸. There is, however, no firm, authoritative evidence to support this view, and in the absence of any such evidence I find it difficult to believe that providing improved choice for consumers would have an overall adverse impact on sustainable travel.

107. On other criticisms raised by the RA, it is indeed the case that the ERA was prepared some time ago but the Council is still relying on it as part of the evidence base for the emerging Local Plan. Furthermore, I understand that there have been no major 'on the ground' retail changes which would make fresh survey data necessary, and in the case of 'special forms of trading' (SFT) – essentially online sales - updated forecasts based on 2023 information provided by Experian indicate very little change from forecasts made in 2015, at the time the ERA was prepared⁴⁹. Using this updated information SFT are forecast to account for 7.0% of trade by 2030, compared to the 2015 forecast for 2030 of 5.7%. To my mind this very modest change in SFT is unlikely to materially impact on the ERA's findings. Having regard to these points I consider that the ERA should still carry weight in this appeal, certainly in the absence of any firm, contrary retail evidence.
108. Although the NPPF does not require an impact assessment for retail proposals of less than 2,500 sqm gross floorspace, as here, the appellant explained that it agreed during pre-application discussions to carry out a proportionate assessment showing from where the proposed foodstore would be expected to draw the majority of its trade. This assessment⁵⁰ showed that having regard to the existing main food market shares for Zone 6, the turnover of the proposed Aldi store, and the principle that impact should be considered on a like-for-like basis in respect of any particular sector⁵¹, the new store would be expected to draw most of its turnover from the other main established food destinations that influence shopping patterns within the localised catchment. No contrary, expert retail evidence was put forward on this matter, and I therefore see no reason to doubt that this fairly represents the likely future impact of the proposed foodstore.
109. The assessment estimated that there would be limited trade diversion from stores located in designated centres within Elmbridge Borough, with no evidence that the presumed levels of diversion would have a significant adverse impact on the trading position of any stores. Indeed, the appellant points out that the ERA already identified that a number of stores within the Borough were overtrading to a significant extent⁵², arguing that this shows there to be latent capacity for a new foodstore entrant to the local market. The appellant also maintained that this shows that introducing a main food offer to the Thames Ditton area would not result in a significant adverse impact on town centre vitality and viability elsewhere.
110. In particular, the appellant argued that the evidence shows the proposed Aldi would not directly compete with existing businesses within Thames Ditton but would draw trade from trips already being lost from Zone 6 to the existing larger established foodstores referred to above. Again, I have no reason to doubt these views, and on this latter point I note that just 5% of the Aldi turnover is predicted to come from 'other stores' which would include other convenience stores in the Thames Ditton and Hinchley Wood local centres.

⁴⁸ Paragraph 46(c) of Doc 25

⁴⁹ See Table 2 in Appendix 3 to CD6.5

⁵⁰ See Section 6 of CD2.6

⁵¹ PPG Paragraph: 015 Reference ID: 2b-015-20190722

⁵² See Table 6 in Appendix 3 to CD4.13

111. The appellant's Health Check Assessments of these local centres⁵³ show that they both appear to be trading well, providing shops and services to cater for the everyday needs of their local communities, but that they also have some diversity of other uses with a good level of independent representation, as well as the presence of some national multiples. But insofar as convenience retailing is concerned, the appellant maintained that both centres only offer a 'top-up' shopping role, as evidenced by the ERA which indicates that local residents are having to travel outside of the local area to satisfy their main/weekly shopping needs. I share that view.
112. Having regard to the survey evidence that the local centres only attract a small amount of convenience trade, the appellant argued that the proposed Aldi foodstore would not result in any meaningful trade draw from the Thames Ditton or Hinchley Wood local centres. Whilst this is very strongly disputed by the RA and other objectors, including by the manager of the Thames Ditton Budgens who spoke at the Inquiry, the fact remains that no firm, authoritative contrary evidence has been placed before me to show that the appellant's assessments are not reliable.
113. In this regard it is relevant to note that a further criticism levelled at the appellant's PRES by the RA was that it was selective in the information it contained, in particular that it failed to acknowledge the existence of other local supermarkets in the relevant area of study. However, it seems to me that part of the problem could well be how the terms 'supermarket' and 'convenience store' have been used by the parties. Mr Close, for the appellant, has had regard to definitions in the now superseded PPS4⁵⁴ national guidance, namely that supermarkets are '*self-service stores selling mainly food, with a trading floorspace less than 2,500 sqm, often with car parking*'; while convenience retailing is '*the provision of everyday essential items, including food, drinks, newspapers/magazines and confectionery*'.
114. In contrast, Mrs Randolph's Appendix 1 used definitions from Wikipedia, and on this basis argued that the Budgens stores in Thames Ditton and Hinchley Wood and the Co-Op at Weston Green should be regarded as supermarkets⁵⁵.
115. I understand the RA's position on this matter, and consider that the wording on this point within the PRES could have been clearer. However, Mr Close clarified in his PoE that the Retail Provision Plan within the PRES shows the distribution of existing principal convenience retail destinations within and around Thames Ditton⁵⁶. I consider this to be important, having regard to the PPG's guiding principle, already referred to above, that impact should be considered on a like-for-like basis in respect of any particular sector. Moreover, having noted the size of the Thames Ditton Budgens on my unaccompanied site visit, and being mindful of the manager's comment that the store just has 2 trolleys for customer use, this shop has to be considered as a convenience 'top up' store in the context of this appeal and not a competitor to the proposed Aldi for main food shopping.
116. Furthermore, in my view the RA's point that there may be a number of smaller convenience stores within Zone 6, not included in the PRES assessments, simply means that the assumed 5% trade draw from the 'other' convenience stores within Zone 6 is likely to be spread more widely, thereby having a smaller impact on any one store. In any case, as the appellant has pointed out, some minor trade

⁵³ See Appendix 2 to CD6.1

⁵⁴ PPS4: Planning Policy Statement 4 'Planning for Sustainable Economic Growth' – superseded by the NPPF

⁵⁵ Appendix 1 to CD8.3

⁵⁶ Figure 2.4 of CD2.6

diversion from one store does not mean a significant adverse effect upon a centre as a whole – which is what the NPPF’s paragraphs 90 and 91 are concerned about.

117. On other matters raised, the appellant has been quite clear that Aldi stores are modest-scale supermarkets selling a deliberately restricted product range compared to many other grocery stores and supermarkets⁵⁷. They sell only a limited range of branded goods and do not have in-store kiosks for tobacco sales, or specialist concessions such as an in-store butcher, fishmonger, bakery, delicatessen, or a chemist, which are commonplace with larger supermarket chains. As such, Aldi stores do not act as ‘one-stop-shops’.
118. This means, as rightly pointed out by the RA, that people could well have to also visit other shops to fulfil their weekly shopping needs. But it does not automatically follow that a shopper would have to go to one of the larger ‘out of area’ stores to purchase the items which could not be purchased in Aldi. This is not to make a case for ‘linked trips’ in association with the proposed foodstore, as Mr Close indicated that any such trips were not being relied upon in this case. But noting the range of existing shops available in the Thames Ditton and Hinchley Wood local centres, I see no good reason why at least some of these ‘additional’ items could not be purchased locally.
119. A further strand of the Council’s original second reason for refusal was that the appeal site occupies an unsustainable location outside of a town, district or local centre and would not be an effective use of land. However, as set out at in the submitted TA, the site benefits from good access to several local bus services, and is in an accessible location being just about 600m (around a 10 minute walk) from Thames Ditton local centre. It is also surrounded by an accessible residential walk-in catchment area. Moreover, the appeal scheme proposes a new pedestrian crossing on Portsmouth Road which would improve local connectivity and would be available not just to Aldi customers but to all users of the network.
120. Finally, I have noted that the RA has highlighted the fact that some 662 letters of objection were submitted to this proposal, which was stated to be highly unusual for a case such as this. I am aware, however, that there were also in excess of 240 representations submitted in support of the proposed development⁵⁸, with Appendix 2 of Mrs Randolph’s PoE indicating that much of this support came from the local area, reinforcing my view that this proposal would improve consumer choice and potentially lead to some reduced journey lengths for shoppers.
121. Drawing all the above points together I conclude that the appeal proposal would represent an effective use of land, and would not have a significant adverse effect on the vitality and viability of the Thames Ditton and Hinchley Wood local centres. Accordingly I find no material conflict with CS Policies CS1, CS8 or CS18, nor with relevant paragraphs of Section 7 of the NPPF.

Main issue 4 – sustainable travel, safety and convenience, and parking

122. I have already concluded, as part of the previous main issue, that the appeal site lies in an accessible and sustainable location. However, the Council’s particular concern in its fifth reason for refusal is that the loss of lengths of existing cycle lane as a result of the appeal proposal, and the lack of any replacement cycle lane, would fail to encourage sustainable travel to the site and the local area. The Council’s case hinges on what it sees as a breach of CS Policy CS25, specifically

⁵⁷ Paragraph 4.12 in CD6.5

⁵⁸ See paragraph 5.24 of CD6.1

Part 4 which indicates that one of the ways in which the Council will promote improvements to sustainable travel, and accessibility to services, is through *'protecting existing footpaths, cycleways and bridleways; delivering new cycling and walking schemes; and supporting development that increases permeability and connectivity within and outside the urban area'*.

123. The lengths of cycle lane at issue here are advisory on-carriageway lanes, delineated at the edge of the highway by dashed painted white lines. Taken at face value there is clearly some merit in the Council's argument that the removal of a 110m length of north-east bound cycle lane and a 90m length of south-west bound cycle-lane across the appeal site's frontage cannot be described as 'protecting' an existing cycle lane. In this regard the appeal proposal clearly has to be seen as being at odds with this particular aspect of CS Policy CS25.
124. However, in the particular circumstances of this case I do not consider the matter at issue to be quite so simple, for several reasons. Firstly, it is necessary to view this proposed loss in context, having regard to the type of cycle lane involved and the extent and nature of this cycle facility along the wider length of Portsmouth Road. The appellant's highways witness, Mr White, explained in his PoE that the Portsmouth Road cycle lanes extend for over 4km, from the Scilly Isles junction about 1.6km to the south-west of the appeal site, to High Street some 2.75km to the north-east⁵⁹. These advisory lanes are narrower than both the recommended width of 2m, and the absolute minimum width of 1.5m⁶⁰. This applies along the whole length of the cycle lanes, with the width of the lanes ranging between about 0.95m and 1.25m in the general vicinity of the appeal site.
125. A drawing of these existing cycle lanes is contained in Mr White's Appendices⁶¹. This shows that there are extensive lengths of continuous cycle lane in both directions, but that there are also several sections where no cycle lane is provided, such as underneath a railway bridge and at side road junctions. One of these sections is close to the southern junction of Giggs Hill Road with Portsmouth Road where there are gaps of about 70m in the north-east bound direction and about 110m in the south-west bound direction, to allow for side road junctions and the presence of a signalised pedestrian crossing. Furthermore, just to the south-west of the appeal site there is a gap of about 50m in the north-east bound direction and about 100m in the south-west direction, to accommodate the junctions with Giggs Hill Road (north) and Angel Road, at which right-turn lanes are provided.
126. Then, to the north-east of the site there are appreciable gaps in both directions, to accommodate side road junctions and the traffic signal junction at Winters Bridge. Moreover, as I saw at my site visits, there are several sections of Portsmouth Road, including just to the north-east of the appeal site, where vehicles park half on the footway and half in the cycle lane, significantly reducing the available width for cyclists. In light of all these points these existing cycle lanes can best be described as discontinuous and substandard in width, and it is in this context that the loss of the 2 lengths of cycle lane proposed through this appeal has to be considered.
127. A further point of note is that this matter has been fully assessed by the LHA, who have commented that substandard infrastructure such as these short lengths of narrow cycle lane tend to encourage cyclists to keep to the far left-hand side of the lane, typically where drainage and detritus can be present, and potentially

⁵⁹ Section 5.3 of CD6.6

⁶⁰ Section 5.4 of CD6.6

⁶¹ Appendix CCL/1 in CD6.6

encourage dangerous overtaking manoeuvres by vehicles. Both of these matters are cited as dangerous practices for cyclists using such facilities.

128. The LHA further commented that the first choice solution would be to install a compliant cycle lane, but as is explained in Ms McCleod's Appendices this would not be possible without the removal of 2 category B trees, of public amenity value, in and close to the highway verge just to the north-east of the appeal site⁶². The appellant has therefore chosen an option which allows the retention of these trees, but would result in the removal of the aforementioned lengths of cycle lane. Importantly, the LHA has not objected to this approach but has taken the view that cyclists using this part of Portsmouth Road would have to form part of the normal traffic stream, commenting that the integration of cycle and vehicular traffic is simpler and safer in situations where vehicle speeds have been slowed by features such as a new signalised crossing, as proposed here.
129. A final point of note, as reported by Mr White, is that despite the discontinuous and substandard nature of the existing cycle lanes, this section of Portsmouth Road still carries appreciable numbers of cyclists on a daily basis, with around 470 cyclists recorded passing the appeal site on a weekday in November 2022, rising to over 690 on both a Saturday and Sunday in November 2022⁶³. I fully accept that it is not possible to say whether these numbers would be materially different if the cycle lanes were continuous and of a recommended width – but equally, it cannot be shown that some further, relatively small gaps in the overall length of cycle lane on Portsmouth Road, would serve to discourage cyclists from using them.
130. In summary, it is clear that there are already some gaps in the cycle lanes along this stretch of road; that the substandard cycle lane width is seen as dangerous by the LHA; that the LHA considers the introduction of a new signalised crossing would result in lower vehicle speeds and hence safer conditions for cyclists; and that a reasonable number of cyclists use the Portsmouth Road cycle lanes in their current condition. Having regard to all of these points I find it very difficult to accept that the loss of these 2 lengths of substandard cycle lane would have any material impact on the number of people who would choose to cycle on this stretch of road.
131. I accept that the purpose of local and national policy is to encourage cycling – not merely to retain the status quo. But part 4 of CS Policy CS25 does not just refer to cycle schemes, it also seeks the delivery of new schemes which would improve conditions for walking and increase permeability and connectivity within urban areas. To my mind that would be achieved by the appeal proposal, which would deliver widened footways, additional tactile paving crossing points, and provide a signalised crossing on Portsmouth Road just outside the appeal site.
132. Whilst it is correct that this crossing is required by the LHA to mitigate the impact of the proposed development, it would also be available to other people who wish to cross this road, unconnected with any future foodstore. I acknowledge that there is an existing pedestrian refuge to the south of the Angel Road junction, to assist people crossing Portsmouth Road at this point, and that there is a pedestrian phase at the Winters Bridge traffic lights some little distance away to the north-east. But it is clear from the survey information contained within Mr White's PoE that significant numbers of people already cross this road in the vicinity of the appeal site, and the proposed signalised crossing could only make such actions safer⁶⁴.

⁶² Appendix 7 in CD6.4

⁶³ Table 2 in CD6.6

⁶⁴ See Section 5.2 in CD6.6

133. Moreover, CS paragraph 7.61, specifically referred to by the Council in its closing submissions, makes it clear that one of the ways new development can encourage cycle provision is through additional cycle parking provision. In this case the appellant is proposing that 18 cycle parking spaces be provided as part of the development, to cater for both staff and customers. Similarly, national policy in the NPPF does not simply require the creation or retention of cycle lanes, but requires planning policies to provide for attractive and well-designed walking and cycling networks with supporting facilities such as secure cycle parking⁶⁵.
134. I have noted that this section of Portsmouth Road forms part of a longer route planned for cycle improvements⁶⁶ as part of Phase 1 of the Council's Local Cycling and Walking Infrastructure Plan⁶⁷ (LCWIP). These improvements could well address the current situation referred to above, of cars parking within the cycle lanes, but I note that the LCWIP is referred to as a long-term plan (10+ years) to enhance active travel in the Borough, and so any such improvements on Portsmouth Road are not likely to be soon addressed. In any case, no firm evidence has been placed before me to show that this proposed cycling route improvement would be prejudiced if the appeal proposal was to proceed.
135. Similarly, no firm evidence has been submitted to indicate that the appeal proposal would be at odds with any aspect of DMP Policy DM7, and insofar as CS Policy CS25 is concerned the proposed development would accord with all other relevant parts of this policy, with the only conflict being with one element of part 4, as referred to above. But as this conflict, in effect, amounts to the removal of a small part of cycle lane considered by the LHA to be unsafe, I am not persuaded that this breach should be seen as significant in this case.
136. Taking the above points into account I conclude that the appeal proposal would not have an adverse impact on sustainable travel options in the area and to the site. Accordingly I find no material conflict with CS Policy CS25 when taken as a whole, or with DMP Policy DM7.
137. The second transport-related matter of concern – but only to the RA, not the Council – was whether any overspill parking on local roads would result in unacceptable inconvenience for local residents. The starting point for consideration of this issue is the size of the proposed car park, and whether it can reasonably be considered adequate to cope with the expected parking demand.
138. DMP Policy DM7 requires new development to provide for car, cycle and disabled parking to accord with the Elmbridge Parking Standards⁶⁸. These are maximum standards, and indicate that the maximum number of parking spaces that could be provided is 81, as detailed in the OR. However, the LHA's pre-application response to this proposal indicated that it would support reduced parking provision in areas where sustainable transport opportunities are available⁶⁹. In this case the LHA commented that the site is located on Portsmouth Road in a relatively densely populated part of Surrey, where public transport opportunities are available and walking/cycling options are also possibilities for future users of the site. As such, the LHA stated that it would be preferable for site management to be the focus rather than car parking provision.

⁶⁵ Paragraph 106(d) of CD4.24

⁶⁶ Referred to as Cycling Route 8: Portsmouth Road North

⁶⁷ CD4.19

⁶⁸ See CD4.2 and CD4.8

⁶⁹ CD2.2

139. The appellant used TRICS data for discount retail stores to assess the likely parking accumulation on this site. This indicated a maximum weekday parking demand of 40 spaces, and a maximum Saturday demand of 50 spaces⁷⁰. Based on this analysis the proposed parking area of 51 spaces would therefore accommodate the anticipated parking demand and would accord with the Council's parking standards. 3 spaces for disabled users would be included, in line with the standards, along with 18 cycle parking spaces which would exceed the standards' requirement.
140. Although the RA queried and disputed the use of TRICS data to determine the appropriate amount of on-site parking, no authoritative contradictory or alternative figures were put forward by any party. All that was submitted was a variety of Google reviews, provided by the RA⁷¹, commenting on traffic conditions and parking arrangements/provision at nearby Aldi stores. These reviews are almost exclusively critical of the car parking provision at the relevant stores, but the comments have not been verified in any meaningful way and there is no indication of the extent of parking overspill at any of the relevant stores. Nor is there any indication of how many of the comments logged did not criticise the parking provision. In these circumstances I can only give these comments limited weight.
141. In the current case the appellant considered that the 51-space car park would be adequate to cater for the required shopping demand. Nevertheless, it carried out a 'Parking Stress Assessment' in February 2022, at the request of the Council, to understand the availability of existing on-street parking opportunities in the event that the proposed car park were to be over-subscribed⁷². Although this indicated that there would be a significant number of available and convenient unrestricted on-street parking spaces which could accommodate any overspill parking if necessary, both the methodology and findings of this assessment were criticised by the RA, which undertook its own assessment⁷³.
142. This prompted the appellant to submit a further, revised assessment, concentrating on the likely availability of on-street, unrestricted parking spaces within about 200m of the proposed store, on River Avenue and Portsmouth Avenue⁷⁴, and providing a comparison with the RA's survey results. The RA was still critical of some aspects of the appellant's survey, and on the basis of information submitted by Mr Corcoran⁷⁵ it does seem to me that in certain areas the appellant has over-estimated the number of available parking spaces on the roads in question.
143. Nonetheless, based just on the RA's survey figures there would be an appreciable number of available on-street parking spaces to cater for any overspill from the Aldi car park. These figures show that on a weekday the number of available spaces would range from some 31 around the middle of the day to about 70 in the evening, whilst Sunday figures indicate a general availability of about 70 spaces. The RA did not provide survey information for a Saturday, on the assumption that without the weekday commuter parking it would be similar to Sunday's results and this is broadly borne out by the appellant's own Saturday survey which indicated a general availability of about 60 spaces throughout the day.
144. On this topic I have noted the parking problems described by Mr Glasgow, which have arisen in the past in association with events on the Green, unconnected with

⁷⁰ See Section 3.4 in CD2.8

⁷¹ See CD8.2 & Doc 18

⁷² CD2.20

⁷³ See CD8.2

⁷⁴ CD6.13

⁷⁵ Doc 17

the Cricket Club⁷⁶. I have also had regard to the difficulties encountered by Mr Fraser as a result of inconsiderate parking⁷⁷. But on the basis of the submitted evidence, it seems unlikely to me that any overspill parking from the proposed Aldi car park would be of such an extent as to cause similar problems.

145. In summary, whilst I understand and appreciate the concerns expressed by the RA and by others who either spoke at the Inquiry or submitted written representations, the parking stress survey information detailed above indicates that there would be an appreciable number of safely located and reasonably convenient on-street parking spaces available to deal with any overspill from the proposed car park. I therefore conclude that any such overspill parking arising from the appeal proposal would not result in an unacceptable adverse impact on the safety or convenience of residents in the surrounding area, or users of the nearby highway network. Accordingly I find no conflict with any of the development plan policies referred to above, nor with any aspect of Sections 8 or 9 of the NPPF.

Main issue 5 – Whether the suggested conditions would satisfactorily address the impacts of the proposed development

146. A range of suggested planning conditions had been agreed between the appellant and the Council, to be imposed if planning permission was to be granted. Most but not all of these were also agreed to by the RA. I have considered these suggested conditions against the guidance in paragraphs 55 and 56 of the NPPF, and consider that the vast majority of them would satisfy the requirements of being necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects. In particular, the suggested noise conditions would address many of the concerns raised under the living conditions main issue.
147. However, for reasons already detailed under this same living conditions issue, I do not consider that the suggested living green wall condition could adequately address my concerns regarding the overbearing impact of the proposed foodstore building. As such, I have to conclude that the suggested conditions, as a whole, would not satisfactorily address the impacts of the proposed development.

Other Matters

148. The emerging Elmbridge Local Plan 2037. The appeal site forms part of a larger site, proposed to be allocated for 25 residential units under Site Reference US443 in the emerging Elmbridge Local Plan 2037, which has reached Regulation 19 Stage and undergone public consultation. I understand that this Local Plan was expected to be considered by the Council's Cabinet in early July 2023, and then be recommended for submission to the Secretary of State (SoS), for examination.
149. Site US443, as shown in the Elmbridge Land Availability Assessment⁷⁸, appears to consist of the former Guy Salmon car dealership site, Green Cottage and a property on the northern side of Portsmouth Road, just to the east of its junction with Portsmouth Avenue. The site is allocated for 25 dwellings at a density of 69 dwellings per hectare. The RA, and others, argued that residential would be a far better use of this site, and that without the use of brownfield sites such as this, there would be increased pressure on the Green Belt to find much needed land for housing. As such, the RA argued that in line with paragraph 48 of the NPPF this draft Local Plan site allocation should be given some weight in this appeal.

⁷⁶ Doc 9

⁷⁷ Doc 10

⁷⁸ CD4.22 – Site US443 can be seen at page 114

150. However, I do not share that view. Whilst part (a) of NPPF paragraph 48 does indicate that the more advanced an emerging plan is in its stage of preparation, the greater the weight that may be given to it, this has to be tempered by part (b), which explains that the extent to which there are unresolved objections to relevant policies also has to be taken into account when considering weight. As part of the Regulation 19 consultation process the appellant lodged an objection to the allocation of this site for residential purposes⁷⁹ pointing out, amongst other things, that it is a site which has been in long-standing commercial use, and that paragraph 81 of the NPPF states that significant weight should be placed on the need to support economic growth and productivity.
151. The appellant also maintained that whilst the provision of land for housing is clearly important, there is also a need to plan positively for the provision of community facilities, such as local shops, in line with paragraph 93(a) of the NPPF, in order to promote healthy and safe communities. The appellant alleged that there are other matters which point to the preference for this site to continue in a commercial use, and whilst I do not repeat them here they reinforce my view that there can be no certainty at all, at this stage, that this proposed allocation will be retained in the new Local Plan, when adopted. Accordingly I do not consider that I can give any weight to this draft allocation, and I therefore do not regard it as a material consideration in this appeal. I note that the Council shares this view⁸⁰.
152. The 1994 Tesco proposal. The RA, and others, drew my attention to a proposal made by Tesco in 1993 for the development of land to provide a new supermarket on the former Milk Marketing Board site, located to the west of the southern part of the Green, west of Giggs Hill Road, and partly within the CA⁸¹. This was refused planning permission in 1994 by the SoS, on appeal⁸². The RA highlighted the SoS's concerns that the openness of the proposed site and the commercial activity it would generate would '*contrast adversely with the character and appearance of the other frontages of the Green*' and ultimately would '*fail to preserve or enhance the character or appearance of the CA*'. In the RA's view the same concerns are relevant in the current appeal⁸³.
153. However, the information contained in Mr Close's Rebuttal PoE⁸⁴ makes it clear that this earlier Tesco proposal was of a completely different scale to the current Aldi proposal, with a site area over 12 times the size of the appeal site, a net sales area over 4 times that of the current proposal and with over 11 times the number of parking spaces proposed for Aldi – and a proposed Petrol Filling Station. Moreover, this much larger supermarket would have had a completely different relationship to the Green than is the case with the current proposal. Although I have reached a similar conclusion regarding the impact of the current proposal on the character of the CA, for the reasons just stated I do not consider that this earlier proposal, or its outcome, can have any material bearing on the current appeal proposal which I have, in any case, considered on its own merits.
154. Air Quality. Whilst not raised as a main issue by any party, Mrs Randolph's PoE does contain a passing reference to the RA's view that increased queuing traffic attracted to an Aldi, particularly at weekends, would inevitably worsen the air quality for those in close proximity. It goes on to state that those enjoying the

⁷⁹ Appendix 4 to CD6.5

⁸⁰ See paragraphs 2.3 and 2.4 of CD7.4

⁸¹ See paragraphs 2.1 and 2.1 of CD6.11, and Annex 1 to this document

⁸² CD5.1

⁸³ See paragraphs 7 and 8 of Doc 3

⁸⁴ CD6.11

Green, especially if in proximity to Portsmouth Road, would be vulnerable to the resulting pollution. However, the appellant has made it clear that as the appeal site is not within an Air Quality Management Area, and as this matter was not raised by Council Officers as an area of concern during pre-application discussions, the application was not accompanied by an Air Quality Assessment.

155. Nevertheless, in response to the comments in Mrs Randolph's PoE the appellant submitted an Air Quality Technical Note⁸⁵, which considered the potential impacts of air pollution associated with the appeal proposal on sensitive locations within the vicinity of the site. This concludes that any air quality impacts, including to users of the Green, would be insignificant. As this is the only firm, authoritative evidence on this topic before the Inquiry I have no reason to doubt these findings.
156. Fallback position. The appellant pointed out that although the previous use on the site is no longer active, it has not been abandoned and such a use could resume without the requirement to secure planning permission. Indeed, agents acting for Aldi have indicated that the site would be of interest to independent second-hand car sales and repair businesses⁸⁶. But whilst this may indeed be the case, and whilst I understand that such a use could resume on the site without specific planning controls, I do not consider that this matter lends any material weight either for or against the appeal proposal.
157. Biodiversity Net Gain (BNG). The appeal site is almost entirely covered by buildings and hardstanding, with trees and hedging along its rear boundary. The application was, nevertheless, supported by an Ecological Assessment⁸⁷ which was informed by a desk study and on-site surveys. These found no evidence of protected species, and the absence of any ecological constraint to development was agreed with relevant consultees⁸⁸. The appeal proposal would, however, deliver new planting and additional opportunities for biodiversity. Overall, these would result in a BNG of 491.34% habitat units and 100% hedgerow units, based on an assessment of the proposed landscape strategy. This was not disputed by any party to the Inquiry. I therefore share the appellant's view that the proposed development would be acceptable from an ecology and biodiversity perspective, being compliant with objectives of CS Policy CS15 (Biodiversity), DMP Policy DM21 (Nature conservation and biodiversity), and paragraph 174 of the NPPF.
158. Sustainable design. A Renewable & Low Carbon Energy Statement⁸⁹ submitted with the application indicates that the proposed foodstore would incorporate heat recovery systems and air source heat pumps, with all of its heating requirements being generated from onsite recovery. The development would also include active and passive EV charging infrastructure, photovoltaic panels and cycle parking, all of which the appellant maintains represent a considerable net gain compared to the existing baseline position on site. These points were not disputed by any party to the Inquiry and I see no reason to question them.

Summary, planning balance and overall conclusion

159. Summarising the various points detailed above, it is first necessary to highlight my conclusion that the appeal proposal would result in less than substantial harm to the significance of both the setting of the Giggs Hill Green CA and the setting of the

⁸⁵ Annex 3 to CD6.11

⁸⁶ See Appendix 1 to CD6.5

⁸⁷ CD2.10

⁸⁸ See paragraph 90 of CD3.2

⁸⁹ CD2.12

Grade II listed Angel Inn. For reasons set out under the first main issue I consider this harm to be at the lower end of the less than substantial range in both cases. I attach considerable importance to the conservation of the setting of the Angel Inn, and therefore having regard to paragraph 199 of the NPPF I give **great weight** to each of these incidences of harm. These harms are disbenefits of the proposal and in accordance with paragraph 202 of the NPPF they have to be weighed against the public benefits of the proposal.

160. It is therefore necessary to assess any further benefits and disbenefits likely to arise if the appeal proposal was to proceed. Notwithstanding the heritage harm I have found, I also consider that some modest heritage benefits would also arise from this proposal, with the removal of the existing showroom buildings attached to Green Cottage, as this would give more space for this significant unlisted building to be appreciated and would also open up views of this small group of buildings, mentioned in the CA Appraisal, which include the listed Angel Inn. I consider that this modest benefit to the setting of the listed Angel Inn warrants **moderate weight**. The removal of these buildings would be beneficial to the appearance of the CA, but as the area concerned is only a very small part of the overall CA I again consider that this benefit only warrants **moderate weight**.
161. Turning to the NPPF's 3 overarching objectives for achieving sustainable development, set out in its paragraph 8, in economic terms the appellant argued that the proposed development would bring back into use a vacant, brownfield, commercial site and in so doing it would provide economic benefits as a result of the construction and subsequent operation of this foodstore. However, whilst NPPF paragraph 120(c) indicates that substantial weight should be given to the value of using suitable brownfield land within settlements for homes and other identified needs, paragraph 119 indicates that this should not be at the expense of ensuring safe and healthy living conditions. As I have already concluded under the second main issue that this proposed development would give rise to harm to the living conditions of nearby existing neighbours, any weight to be given to this aspect of the proposal needs to be markedly tempered.
162. The same point applies to the weight to be given to any jobs created by this proposal, be they temporary jobs during the construction period or permanent full-time and part-time jobs once the foodstore is operational. Although paragraph 81 of the NPPF states that significant weight should be placed on the need to support economic growth and productivity, I do not take this to mean that the creation of any jobs have to be given significant weight. It seems self-evident that any acceptable and policy-compliant commercial development on this site would give rise to jobs, so in that regard there is nothing special about the jobs which would be delivered here. I have noted the Council's and RA's point that there would be no guarantee that any jobs created would be taken by local people, but I do not see that as weighing against the proposal if all other factors had been in its favour. In light of the above points I consider that **limited to moderate weight** should be given to the economic benefits.
163. One aspect of the NPPF's social objective of sustainable development is the need to foster well-designed, beautiful and safe places, with accessible services that reflect current and future needs and support communities' health, social and cultural well-being. The appeal proposal would respond to some aspects of this objective by improving consumer choice and potentially reducing travel distances, by providing a facility not currently available in the local area. As such it would help to support peoples' need for day-to-day shopping and would assist those who have limited

access to larger centres, as stated in paragraph 7.24 of the CS. Moreover, the appellant maintains that the appeal proposal would introduce a LAD offer to help to deliver more affordable convenience shopping to this area at a time when such facilities are most needed, although there is, however, nothing to guarantee that it would be Aldi who would develop this site if planning permission was granted.

164. Furthermore, there is no firm evidence before the inquiry to demonstrate that residents of Thames Ditton experience problems undertaking their weekly shopping, with a choice of main food supermarkets just about 2km away in Surbiton, and a LAD not too far away at Kingston. The ERA indicates that a modest amount of additional convenience floorspace is needed by 2035, but that most of this would not be needed until after 2025. Finally, the proposed footway and road crossing improvements would improve pedestrian provision generally in the vicinity of the appeal site, with such improvements not simply being limited to future Aldi customers. That said, no specific pedestrian safety concerns had been identified at this location. Taken together I consider that these social benefits only warrant **moderate weight**.
165. More importantly, however, the proposal would significantly fail to achieve other aspects of this objective. Insofar as residents of the aforementioned Westville Road properties are concerned, the proposal would not result in a well-designed, beautiful place, and would not support this communities' health and well-being. Because of this I consider that, on balance, the appeal proposal would fail to comply with this social objective of sustainable development.
166. With regard to the NPPF's environmental objective, I cannot say, without carrying out the NPPF paragraph 202 balance, whether or not this proposal should be seen as protecting and enhancing the historic environment. I carry out that balance shortly. It is the case, however, that the proposal would make effective use of land and would, in an admittedly modest way, give rise to BNG, and would also have further sustainability credentials in terms of energy efficiency and other matters as detailed above. These aspects of the appeal proposal respond positively to the NPPF's requirement for improving biodiversity, using natural resources prudently, minimising waste and pollution, and mitigating and adapting to climate change, including moving to a low carbon economy.
167. There is nothing to suggest, however, that such benefits would not arise from any comprehensive redevelopment of this site which did not adversely impact upon residents' living conditions, and was otherwise policy-compliant. Again it is my view that this harm to living conditions and the consequent conflict with policy means that these environmental benefits have to be tempered. In my assessment they again only warrant **moderate weight**.
168. Having assessed the likely public benefits of this proposal I now undertake the NPPF paragraph 202 balance. On the harm side of the balance, the low level of less than substantial harm to the setting of the listed Angel Inn and the setting of the CA both carry **great weight**. On the benefit side, the heritage benefit to the CA as a whole, and to the setting of the listed Angel Inn would both carry **moderate weight**. The social and environmental public benefits would also both carry **moderate weight**, and for reasons already given I consider that the economic benefits of this proposal should carry **limited to moderate weight**.
169. In my assessment, with regards to both the setting of the listed Angel Inn, and the setting of the CA, these public benefits would not outweigh the heritage harm. This means that the proposed development would fail to preserve both the setting of the

listed Angel Inn and the setting of the CA. As such it would be in conflict with CS Policy CS17, DMP Policy DM12, and the relevant parts of Section 16 of the NPPF. This also means that the proposal would not fully meet the environmental objective of sustainable development as set out in the NPPF.

170. Turning to the overall planning balance, I have found against this proposal on the first 2 main issues. The proposed development would have an adverse effect on the character and appearance of the surrounding area and would fail to preserve the setting of both the listed Angel Inn and the CA. It would also have an unacceptable overbearing impact on occupiers of 36 and 38 Westville Road. It is also unclear whether the appeal proposal would result in a material worsening of the daylight and sunlight received by these Westville Road properties. But notwithstanding this latter point, both of the above matters have to carry significant weight against the appeal proposal. As such, the appeal proposal would be in conflict with a number of adopted development plan policies, as detailed earlier.
171. Some benefits would arise from the proposal, as set out above, but the failure to accord with the social and environmental objectives set out in paragraph 8 of the NPPF mean that this proposal does not represent sustainable development. Taking all of these points together, and having regard to paragraph 11(c) of the NPPF, my overall conclusion is that this appeal should not succeed.
172. I have had regard to all other matters raised, including other points put forward in support of the proposal by interested persons, but find nothing sufficient to outweigh the considerations which have led me to conclude that this appeal should be dismissed.

David Wildsmith

INSPECTOR

APPEARANCES

FOR THE COUNCIL

Dr Ashley Bowes of Counsel instructed by Agnes Krofah, Legal Services,
Elmbridge Borough Council

He called:

Mr Jason Clemons *BA(Hons) Executive Director, Vitruvius Heritage Ltd*
DipUD MA MSc MRTPI IHBC

Ms Carol Ann O’Kane Senior Planning Officer, Elmbridge Borough
BSc(Hons) PG(Dip) MRTPI Council

Mr Reuben Peckham Principal Consultant and Director, 24
BEng MPhil CEng MIOA Acoustics Ltd

NOTE: Mr Peckham was not called to present oral evidence

FOR THE APPELLANT

Mr Paul Tucker KC and instructed by Alastair Close of Planning
Mr Philip Robson of Counsel Potential

They called:

Mr Ignus Froneman Director, Cogent Heritage
BArch Stud ACIFA IHBC

Mr Colin White Director, Connect Consultants
BEng(Hons) CMILT MCIHT

Ms Tanya McCleod *BArch MSc Associate and Architect, Harris Partnership*
Urban Design ARB RIBA RIAS

Mr Alastair Close Director, Planning Potential
BSc(Hons) MRTPI

Mr Keith Metcalfe Director, Sharps Redmore
BSc(Hons) MIOA,

NOTE: Mr Metcalfe was not called to present oral evidence

FOR THE THAMES DITTON & WESTON GREEN RESIDENTS ASSOCIATION (‘the RA’) (RULE 6(6) PARTY)

Mr Jake Thorold of Counsel instructed by Ian Hunter, Hunter Peddell
Solicitors

He called:

Mr Adrian Corcoran Local resident and Member of the RA
Mr Michael Phillips Director, Phillips Tracey Architects
MA RIBA

Mrs Karen Randolph Local resident and member of the RA and the
BA Thames Ditton CAAC

INTERESTED PERSONS OPPOSING THE APPEAL PROPOSAL

Mr Kuki Grewal Manager, Budgens, Thames Ditton Village

Cllr Caroline James Local Ward Councillor – Thames Ditton

Cllr Alex Batchelor Local Ward Councillor – Thames Ditton

Cllr Janet Turner Ward Cllr for Hinchley Wood & Weston Green

Mr Edwin Glasgow CBE KC Local resident

Mrs Jacqui Joseph Local resident - on behalf of residents of Nos
34, 36, 38, 40 & 42 Westville Road

Mr David Fraser Local resident

Mrs Shweta Kapadia Resident of Long Ditton

CORE DOCUMENTS REFERRED TO IN THIS DECISION

Planning Application Supporting Documents	
CD2.2	SCC Highways Pre-application Response dated 17 June 2021
CD2.6	Planning, Retail and Economic Statement - Nov 2021
CD2.8	Transport Assessment - Nov 2021
CD2.10	Ecological Assessment - Oct 2021
CD2.11	Daylight and Sunlight Assessment - Oct 2021
CD2.12	Renewable & Low Carbon Energy Statement - Oct 2021
CD2.14	Heritage Assessment - Oct 2021
CD2.18	Arboricultural Assessment & Method Statement - Oct 2021
CD2.20	Parking Stress Assessment - 14 March 2022
Planning Application Committee Report and Consultation Responses	
CD3.2	Officer's Report to Committee – Ref 2021/3857 – Aug 2022
CD 8.2.3	Thames Ditton and Giggs Hill Green CAAC Response - Jan 2022
Planning Policy Documents	
CD4.1	Elmbridge Borough Core Strategy (2011)
CD4.2	Elmbridge Borough Development Management Plan (2015)
CD4.3	National Model Design Code (2021)
CD4.5	Elmbridge Borough Design and Character SPD (2012)
CD4.8	Elmbridge Borough Parking SPD (2020)
CD4.11	Thames Ditton and Giggs Hill Green CA Character Appraisal & Management Proposals (October 2009)
CD4.13	Elmbridge Retail Assessment (2016)
CD4.14	Historic England's Historic Environment Good Practice Advice in Planning Note 3: The Setting of Heritage Assets (GPA 3) (2017)
CD4.15	Historic England's Managing Significance in Decision -Taking in the Historic Environment (2015)
CD4.19	Elmbridge Local Cycling and Walking Infrastructure Plan
CD4.22	Elmbridge Borough Assessment of Local Housing Needs (2020)
CD4.24	National Planning Policy Framework (NPPF) 2021 (and associated Planning Policy Guidance, as set out in the SoCG)
CD4.25	British Standard (BS) 4142:2014+A1:2019 Methods for rating and assessing industrial and commercial sound
Appeal Decisions and Case Law	
CD5.1	Tesco appeal, 1994 (3789987) - Milk Marketing Board site, Portsmouth Road - APP/K3605/A/93/226167 & APP/K3605/A/93/226166
Appellant's Appeal Documents	
CD6.1	Statement of Case
CD6.2	Additional Plans submitted with the Appeal
CD6.3	Statement of Common Ground (SoCG)
CD6.4	Ms McCleod's PoE (Design)
CD6.5	Mr Close's PoE (Planning & Retail)
CD6.6	Mr White's PoE (Transport)
CD6.7	Mr Froneman's PoE (Heritage)
CD6.8	Mr Metcalfe's PoE (Noise)
CD6.11	Mr Close's Rebuttal PoE (Planning & Retail)
CD6.12	Mr Metcalfe's Rebuttal PoE (Noise)
CD6.13	Mr White's Rebuttal PoE (Highways)
Council's Appeal Documents	
CD7.1	Statement of Case
CD7.2	Mr Peckham's PoE (Noise)

CD7.3	Mr Clemons' PoE (Heritage)
CD7.4	Ms O'Kane's PoE (Planning)
CD7.5	Mr Peckham's Rebuttal PoE (Noise)
Resident' Association Appeal Documents	
CD8.2	Mr Corcoran's PoE (Parking)
CD8.3	Mrs Randolph's PoE (Planning & Retail)
CD8.4	Mr Phillips' PoE (Design & Conservation)

DOCUMENTS SUBMITTED AT THE INQUIRY

Document	1	Opening submissions on behalf of the Appellant
Document	2	Opening submissions on behalf of the Council
Document	3	Opening submissions on behalf of the RA
Document	4	Statement submitted by Mr Kuki Grewal
Document	5	Statement submitted by Cllr Caroline James
Document	6	Statement submitted by Cllr Alex Batchelor
Document	7	Statement submitted by Cllr Janet Turner
Document	8	Statement submitted by Mrs Jacqui Joseph
Document	9	Statement submitted by Mr Edwin Glasgow
Document	10	Statement submitted by Mr David Fraser
Document	11	Statement submitted by Mrs Shweta Kapadia
Document	12	A3 versions of Mr Phillips' Appendices 1 - 6
Document	13	Letter from Aldi Stores Limited dated 21 June 2023 confirming agreement to the imposition of conditions dealing with noise matters and a living green wall
Document	14	Topographical Survey of appeal site and surrounding area
Document	15	Statement from Mrs Randolph setting out her position regarding the views of the Thames Ditton CAAC on this application
Document	16	Revised Noise calculations prepared by Mr Metcalfe
Document	17	Mr Corcoran's comments and criticisms of the Connect Consulting Ltd second parking survey note
Document	18	Aldi customer Google reviews, submitted by Mr Corcoran
Document	19	Photographs of events at the War Memorial, submitted by Cllr James
Document	20	Supplementary Noise SoCG between the appellant and the Council, dated 27 June 2023
Document	21	Architects' Journal article on Green Walls, dated 25 October 2021, submitted by Mr Phillips
Document	22	Green Wall article response, submitted by Ms McCleod
Document	23	Schedule of Agreed Draft Planning Conditions
Document	24	Closing Submissions on behalf of the RA
Document	25	Closing Submissions on behalf of the Council
Document	26	Court of Appeal Judgement[2007] EWCA Civ 1083, Case No C1/2007/0169 & C1/2007/0187, submitted by the Council
Document	27	Closing Submissions on behalf of the Appellant
Document	28	Application for Costs submitted by the Council
Document	29	Appellant's response to the Council's Application for Costs