



Shirley

Lidl's proposed development at Villiers Road, Shirley

**Brochure for Southampton City Council Planning
Committee – March 2018**

Planning application for a Lidl foodstore with parking,
landscaping and access works

Planning application number: 17/01206/FUL

Lidl UK GmbH



1. Executive summary

Planning Committee members will have the final vote on Lidl's planning application for a new discount foodstore on Shirley Road on 13th March 2018. The proposal site was previously occupied by a Council depot, a police station and retail units.

The development that you will be voting upon has been subject to extensive negotiations over the past seven months. Very significant changes have been made following feedback from the local community and Officers at Southampton City Council.

The proposed discount foodstore relocation will bring many benefits to Shirley. On Tuesday 13th March 2018, Planning Committee Councillors will have the final vote on an application that **is recommended for REFUSAL by Southampton City Council due to perceived impact on neighbouring residents despite:**

- ✓ the siting of the building passing local and National tests, being favourable when compared with recent precedent within Southampton and being the subject of not one objection from the most affected properties.

Lidl have employed specialists to review the impact of the proposed building on nearby residents. Analysis has shown that the building location complies with all known National and regional policy tests relating to daylight/overshadowing.

- ✓ being subject to design and layout negotiations and attracting no objection from the Urban Design Officer

Further to comments from Planning Officers and the public, the decision was made to move the store to retain and make a feature of the yew tree on the site frontage. The store has been reduced in overall size and width to move it further from the Mayflower Road boundary, and significant additional tree planting has been introduced.

"The Council's Urban Design Officer has not raised an objection to the design of the proposal. The proposal ... is acceptable and fits within the street scene and does not detract from the character of the area."

Committee report – paragraph 5.11

- ✓ offering significant investment in highway infrastructure

Lidl have committed £75,000, secured via s.106 agreement for safety improvements of the Council's choosing in the vicinity of the site. Lidl have committed to resurface Villiers Road and footpaths on either side between the Lidl bellmouth and Shirley Road. Lidl will widen Shirley Road immediately in front of the site and will improve the capacity of the right turn filter lane from Shirley Road into Villiers Road and "Keep Clear" markings will be added to make this manoeuvre easier. A combination of these measures equates to a circa £500k private investment in Shirley's transport infrastructure.

"...there are no obvious solution which will provide a perfect answer to everything. However, on balance the Highways Team feel that as long as the mitigation package (as covered above) is provided as part of the submission, the benefit it brings will provide an overall improvement to the area as outlined above."

Committee report – paragraph 7.31

- ✓ offering significant improvement to this section of the High Street

The proposal represents the most significant investment in retail on Shirley High Street since the Sainsbury's development over a decade ago. Keeping retail in-centre in accordance with planning policy benefits the centre as a whole. The tired police station and Direct Carpets façade will be replaced with a modern attractive building meeting BREEAM Excellent standards. Significant tree planting, including trees lining Villiers Road will improve this area aesthetically now and for years to come.

"This scheme would bring a vacant site back into effective use and would consequently enhance the vitality and viability of Shirley town centre."

Committee report – paragraph 6.2.3

"The development will provide regeneration benefits for the area and additional job opportunities..."

Committee report – paragraph 6.2.1



Promoting choice, competition and job opportunities within Shirley

Comprehensive highway upgrade package

- Adjustments to Villiers Road/Shirley Road junction
- Resurfacing of Villiers Road and footpaths
- Local widening of Shirley Road and addition of 'Keep Clear' markings to improve traffic flow
- Increased capacity right turn lane into Villiers Road
- £75,000 contribution to safety improvements on Shirley Road secured via s.106
- Total package of measures worth circa £500k



New jobs

comprising full-time, part-time and management positions.

- Existing staff retained
- Employment and skills plan to be secured via S.106



Comprehensive landscaping

including the provision of

17 new trees



and 2,124 shrubs, historic yew tree retained with improved setting



£192,150

estimated uplift in business rates over existing Lidl store

Enhanced choice and competition

providing up to

30%

cost savings



80%

of employees

(at least) are expected to be recruited locally



118 free car parking spaces

including disabled and parent and child bays.

High Quality Produce

We buy British wherever possible



Sustainable construction, building management and store operations



2. Residential Amenity

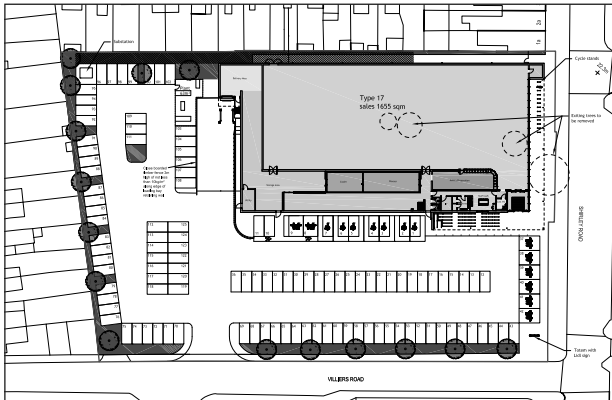
The only unresolved issue with the application is the perceived impact of the building on the residential amenity of residents immediately behind the proposed store on Mayflower Road.

The building satisfies widely applied local and National tests with regard to building proximity and overshadowing. The Case Officer's recommendation for refusal is a subjective judgement.

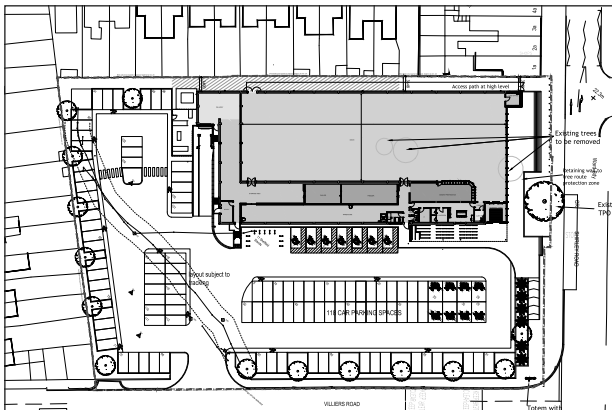
We have worked hard with the Case Officer over a number of months to improve the proposal, and then justify the siting of the building, but regrettably we have not been able to reach agreement. A summary of the work undertaken is listed below:

Building Relocation

The building has been reduced in overall size and width since the original application, enabling the building to be moved nearly a metre further from the Mayflower Road boundary to a minimum distance of 3.4m. The site levels were also adjusted to set the building 15cm lower.



Original submission plan



Current proposal

Southampton City Council Residential Design Guide Compliance

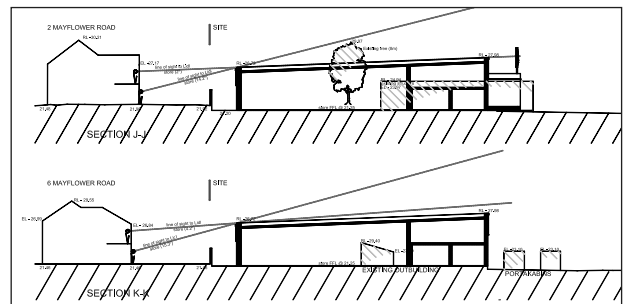
The Residential Design Guide was adopted in 2006 with the intention of setting criteria for good quality new residential development. Whilst this document makes no mention of the relationship between commercial property and residential property, we were directed to it by the Case Officer as the standard to which she expected us to conform.

"To prevent over-development, loss of privacy and dominance over neighbouring houses and to secure a reasonable standard of amenity and outlook for all, it is important to leave an appropriate gap or space between neighbouring buildings and extensions."

"The best way of ensuring privacy between houses is to avoid windows to habitable rooms ... directly facing one another."

Residential design Guide Part 2 paragraphs 2.2.2 and 2.2.3

It should be noted that there are no windows on the Mayflower Road elevation of the store. Sloping down towards this boundary, the height on this side would be about 5.5m, which is comparable to the eaves level of houses on Mayflower Road at around 5.2m. The highest point of our roof would be 6.7m, this point would be 35m from the Mayflower Road boundary. The ridge height of the properties on Mayflower Road is at around 8m.



It is therefore fair to say that the proposed building is of 2 storey height in residential terms.



The Design Guide states at 2.2.4 that distance standards between windows in "...single and 2 storey housing and other similar housing = 21 m" (emphasis added) and that:

The City Council may apply the above standards more flexibly, depending on the context of the site e.g in inner city locations where back to back distances are characteristically less than those detailed above, and providing that the developer puts forward a reasoned case for alternative back-to-back distances, supported by a character appraisal of the area

Residential design Guide Part 2 paragraph 2.2.5

Through repeated references to windows, the guidance is clearly aimed at avoiding the loss of privacy.

Given the absence of windows in the proposed elevation there is no threat to privacy, we deem paragraph 2.2.7 to be the most relevant to the proposal:

The separation distances between habitable rooms and the side (gable end) wall of another house or building are:

Single or 2 storey house to a side wall of a 2 storey building = 12.5m

Residential design Guide Part 2 paragraph 2.2.5

Whereas 2.2.4 refers to the proximity of "housing" this clause refers to the proximity of a 2 storey "building". The plan in Appendix 2 shows separation from the proposed store to Mayflower Road properties as follows:

- 2 & 4 Mayflower Road - 12.65m
- 6 & 8 Mayflower Road - 13.7m
- 10-16 Mayflower Road - 15.59m

We therefore deem the building to be compliant with SCC policy. This is confirmed by the Case Officer:

"...the separation distances have met the guidance..."

Committee Report paragraph 6.4.1

Sectional Analysis

We sent topographical surveyors back to site to obtain detailed data on the garden levels and building heights of properties surrounding our site. We used this data to draw sections through each of the properties on Mayflower and Heysham Road to check the impact on line of sight from both first floor and ground floor windows comparing the (now demolished) buildings on site with the proposal. Sections showing the worst affected properties at the

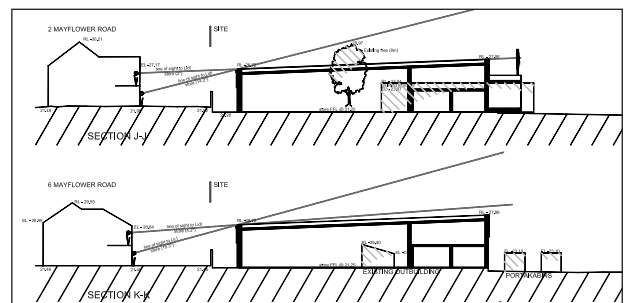
upper end of Mayflower Road are contained in Appendix 2. Heysham Road, and the lower part of Mayflower Road will experience an improved, more open outlook as a result of the scheme.

The upper end of our site was more intensively developed previously with 2 and 3 storey commercial buildings. The 3 storey police station was over 12m tall and 2 storey elements were up to 8m tall. Our building will be lower than all of these, however a number of Mayflower Road properties at the Shirley Road end of the street will have a more restricted view as a result of the development. Given the appearance, layout and state of disrepair of the buildings on the site, it was very unlikely that any other purchaser of the site would have utilised the existing buildings, so some change of outlook for Mayflower Road residents was inevitable. Given the precedent of development around commercial centres in Southampton and the large former police station that stood on the site, it is likely that whether developed for commercial or residential use, building(s) erected on the site would be at least 2 storey, but more likely 3 and 4 storey to get a return on the high land value. Accepting that a change of outlook would be experienced at 2-16 Mayflower Road, we sought to establish if the proposed building location would have an unacceptable impact on residents. We were guided towards 2 Nationally applied tests:

The 25° test

The 25° test is generally used where a development will be opposite a property/windows. The centre of the lowest habitable window is used as a reference point and a line drawn at 25° from the horizontal out towards the other building. If the whole of the proposed development falls beneath the line then there is unlikely to be a significant effect on daylight and sunlight.

Lines are shown on the plans at Appendix 2 and all are less than 17° demonstrating that the proposal is well within guidelines.



We instructed Chris Tookey, a planning specialist with RPS to review compliance of the scheme with the Councils Residential Design Guide and the 25° test. His report confirms compliance and was submitted to the Council last year.

BRE Guidance

The Building Research Establishment (BRE) is a World Leader in building science. Southampton City Council adopts BREEAM (BRE Environmental Assessment Method) as the measure of sustainability standards for commercial development within the City. BRE's guidelines are adopted by developers and planning authorities across the country.

The BRE guidelines state that at least 50% of a garden should receive at least 2 consecutive hours of sunlight on 21st March to appear adequately sunlit.

Lidl employed a specialist in overshadowing analysis who ran a comparison between the existing buildings and the proposed building on the 21st March. The study particularly focussed on 2 and 4 Mayflower Road as the Case Officer deemed these properties to be the most effected. The report is contained in Appendix 2. The study shows that the proposal does generate more overshadowing than the previous structures between 8 am and 11 am. The amount of shadowing is unchanged from 11 am onwards again showing that the test is comfortably satisfied.

2 Mayflower Road

Scenarios	08:00	9:00	10:00	11:00	12:00	13:00	14:00	15:00	16:00	Ratio	Pass/Fail
Existing	18.6%	50.6%	65.2%	71.7%	76.4%	75.3%	76%	79.8%	54.7%	1.00	Pass
Proposed	1.2%	30.8%	59.2%	71.7%	76.4%	75.3%	76%	79.8%	54.7%		

Table 1: Overshadowing results for the surrounding amenity area at 2 Mayflower Road

4 Mayflower Road

Scenarios	08:00	9:00	10:00	11:00	12:00	13:00	14:00	15:00	16:00	Ratio	Pass/Fail
Existing	33%	53.9%	65%	67.4%	67.7%	70.3%	74.6%	81%	63.3%	1.00	Pass
Proposed	5.5%	34.2%	59.2%	67.4%	67.7%	70.3%	74.6%	81%	63.3%		

Table 2: Overshadowing results for the surrounding amenity areas at 4 Mayflower Road

Southampton City Council Precedent

We have further sense-checked our proposals against other developments in the City that have been approved since the Residential Design Guide was adopted. With minimal research we identified more than ten recent developments which we believe have a more significant impact than our own. We have included the 2 most similar examples in Appendix 2 and have detailed them further below. We deem Selby Place on the former Hendy Ford site on Shirley Road, just 200m from the proposal site to be the best comparable. Here a new residential development was approved in 2011. The development includes examples of the 25° rule being exceeded with a maximum of 38° in one case. It also includes 2 storey high properties permitted 3.9m from the very large (10.3m)

Royal Mail/ Easy Gym building overlooked by a window, and in an orientation and with sufficient massing to cause significant overshadowing to the residential properties in the afternoon.



Selby Place

Another good example is the former Wickes site in Portswood. This site has now been developed for residential use. In this case the back gardens of existing properties on Gordon Avenue have rear gardens of less than 5m in length and the gable of 2 storey residential, quickly rising to 3 storey is close to the boundary.

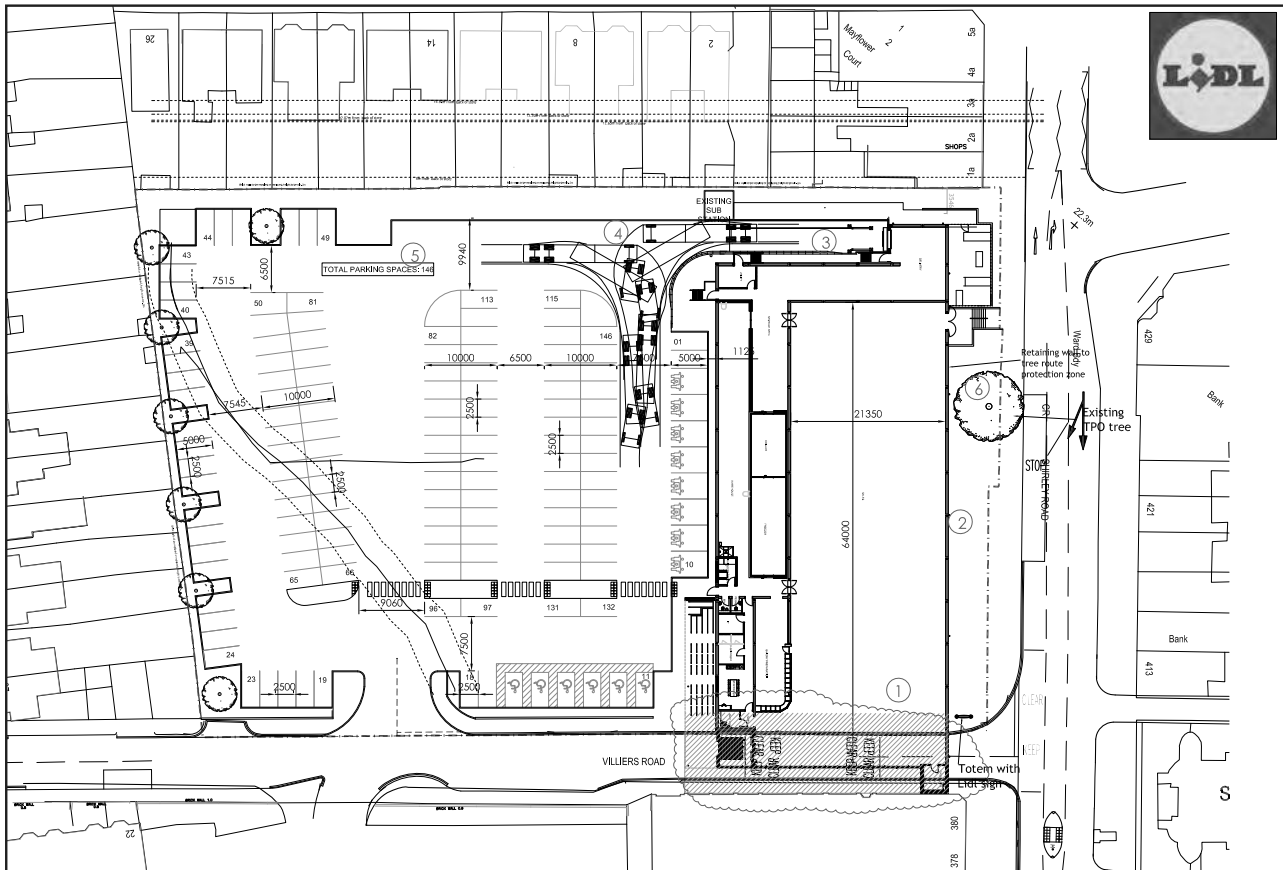


Former Wickes site

Alternative Building Positioning

The Case Officer expresses a preference to see the store rotated 90° with the long elevation of the store running parallel with Shirley Road. Lidl have explored this option and it is not viable. Lidl have invested a considerable sum in this site in order to achieve an improvement over the existing store. Whilst this site layout would achieve a huge uplift in parking (which would probably not be accepted by the Council due to exceedance of parking standards) we would achieve around a 20% increase in sales area rather than the 45% increase shown in the proposal. The end product needs to justify the investment and a £10m investment for a 20% uplift in sales area is not viable.





Feasibility plan showing store rotated through 90 degrees to reflect Case Officer preference

In considering whether it is justified to refuse the application on the basis that the store should be rotated through 90° it is important to consider that the Urban Design Officer has raised no objection to the proposal as it stands before you, and when this rotated store option was discussed in meetings with SCC he did not approve of this store orientation. Also the Case Officer states at paragraph 5.11 of her report that *“the design is acceptable in this location”* and at 5.13 that the orientation of the building *“should not in itself form a further reason for refusal”*. The plan below and attached to the covering letter reviews potential alternative building locations, and explains the rationale behind our proposal.

refusal in the Committee Report had also not been cited prior to issue of the report.

The Local Plan and Core Strategy Policies quoted are broad brush, relatively generic policies, aimed at ensuring that schemes are adequately thought through, safe and in keeping with the environment in which they stand. To say that the proposal is contrary to these policies is at odds with the lack of objection from the Urban Design Officer and comments from the Case Officer expressing satisfaction with the design, highway safety and positive impact on the town centre throughout the committee report and neatly summarised at paragraph 5.11.

Committee Report

For several months we have been asking the case officer to provide the policy basis for her objection.

Up until the release of the committee report we have been led to believe that the recommendation for refusal would be on the grounds of lack of compliance with the Residential Design Guide. Lidl were unaware that the Case Officer had accepted that the Residential Design Guide guidance had been adhered to prior to reading it in the report.

The policy justification in SDP1(i), SDP7 and SDP9 of the Amended Local Plan Review 2015 and CS13 of the Amended Core Strategy 2015 are quoted as reasons for

“The Council’s Urban Design Officer has not raised an objection to the design of the proposal. The proposal although similar to many other Lidl’s throughout the country, is acceptable and fits within the street scene and does not detract from the character of the area. There is no uniform character to this area although officers would have preferred to see a scheme that fronts the street and uses the building to screen the associated parking, and the design is therefore acceptable for this location.”

Committee report – paragraph 5.11



QC Opinion

Lidl have also approached a leading planning barrister (Rhodri Price Lewis QC) for an opinion on the merits of the Lidl proposal and the prospects of success at appeal should the recommendation be followed and the application is refused on the grounds of residential amenity and/or failure to agree a s.106. The full opinion and the QC's CV is attached at Appendix 2. You will see that he is a Deputy High Court Judge and has been practising Planning and Environmental law for over 30 years. Mr Price Lewis summarily dismisses the lack of s.106 as a reason for refusal. Lidl had in fact emailed the Case Officer on 23rd November asking to commence drafting of the s.106, but the case was not progressed to SCC's legal team. He reasons that the the proposal does accord with planning policy and concludes:

"The proposal is in accordance with the development plan and so benefits from the presumption in favour of development and should be granted planning permission."

Rhodri Price Lewis QC legal opinion paragraph 24

On the prospects of appeal he concludes:

"If planning permission were refused there would be every prospect of success on appeal. Given the operational requirements, which led to the choice of layout and design, and given the absence of unacceptable harm arising from the proposal as put forward in the application, that proposal as it is could be taken to appeal. If an Inspector took the view that the refusal was unreasonable in all the circumstances an award of costs against the Council would be obtained. There is a good prospect of obtaining such an award."

Rhodri Price Lewis QC legal opinion paragraph 25.

Conclusion

- Complies with the SCC's Residential Design Guide (cited by the officer as the standard to work to).
- Complies with the 25° test.
- Complies with BRE Standards.
- Planning barrister finds application accords with policy and should be granted consent.
- Sits favourably when compared to precedent in the immediate vicinity of the site and elsewhere in the City.
- Rotation of store by 90° is not viable.
- No objection submitted to SCC from the residents of the most affected properties.
- No concerns expressed about outlook/overshadowing when Lidl have met with Mayflower Road residents.
- Four Mayflower Road residents (at 3 separate addresses) have registered support for the proposal (Appendix 5: Support petition signature lines 193, 297, 597 and 598).
- Case Officer accepts that she has made a subjective judgement in this case.

We hope that members will be comfortable to conclude that the impact of the building location is acceptable or that on balance, when weighed against the other benefits detailed in this brochure deem that the application can be approved.



We propose to remove the parallel parking bays on Shirley Road opposite the site. These bays are hazardous particularly for cyclists in terms of vehicles opening doors into main road traffic. These spaces also hinder traffic flow, with vehicles slowing to look for a space, and then blocking the road whilst manoeuvring in to and out of spaces. These spaces will be incorporated into the highway through the removal of the block paved build outs in between. This will allow for significant widening of the carriageway in the section between Shirley Avenue and St Boniface Church with nil detriment to the footpath width. The carriageway will be re-lined to create a longer, wider right turn lane into Villiers Road, increasing capacity from 4 to 7 cars and leaving ample space for larger vehicles, for example buses to pass a queueing HGV. "Keep Clear" markings will be added to the northbound carriageway to enable the right turn lane to clear more swiftly when the northbound carriageway is congested. This will also assist right turners exiting Villiers Road.

The pedestrian refuge in front of St Boniface Church will be widened to allow for safer pedestrian passage across the now widened carriageway. All physical works would be secured within a s.278 agreement.

Lidl will have 2-3 HGVs visit the site on an average day. We run an efficient delivery system whereby all goods are received at the distribution centre in Nursling, then loaded into the delivery vehicle, so that the store does not need to receive direct deliveries from various suppliers. All store waste is then returned on the same delivery vehicle to the distribution centre for processing. All delivery vehicles will come from Shirley Road and will turn right in to Villiers Road, and left out. We have also agreed to accept a condition whereby deliveries are not made overnight, and will not be made during peak hours on the highway network.

s.106

In addition to the above we have offered £75,000 secured via s.106 agreement for highways safety improvements that SCC deem appropriate on this stretch of Shirley Road.

Parking

118 parking bays are proposed. This is beyond the Council's recommended standards, but Lidl have an excellent understanding of parking demand for its stores, and more specifically for Shirley having traded on the High Street for over 2 decades. We are keen to ensure that the parking provision is adequate to cover peak annual demand and therefore remove the risk of any customers choosing to park on residential streets.

Travel Plan

Through negotiation with SCC Highways Lidl have agreed a Travel Plan for staff which will encourage sustainable travel.

Conclusion

- **The scheme is policy compliant in an in-centre location.**
- **There is sufficient network capacity for the scheme even after robust modelling.**
- **SCC highway officer has raised no objection to the application.**
- **Works include:**
 - **Resurfacing Villiers Road carriageway and footpaths.**
 - **Local widening of Shirley Road.**
 - **Lengthened right turn lane into Villiers Road.**
 - **Enlarged pedestrian refuge in front of St Boniface Church.**
 - **Rationalised vehicular access points from Villiers Road.**
- **£75,000 contribution secured via s.106 for Shirley Road safety improvements.**
- **Proposed measures more than mitigate the impact of the development and will benefit all passing through the area.**
- **Lidl are willing to enter into s.106 agreement as they have on other sites in Southampton. Listing as a reason for refusal is a technicality. All measures requested are agreed.**
- **In combination the proposed measures represent a c.£500,000 private investment in highway efficiency and safety measures. These benefits are only realised in the event that our scheme is approved.**



4. Urban Design

The design of the scheme has evolved significantly since the original plans were submitted. We have worked closely with the Council's Urban Design Officer to reach an agreeable position which we feel will offer an attractive modern building to replace the dated police station building and 1970s unattractive extension on the front of the Direct Carpets store with a modern foodstore that integrates well with the High Street and offers a comprehensive landscaping scheme. The key benefits are listed below:

Yew Tree

As you will most likely be aware, regrettably Lidl misjudged the strength of opinion with regard to the retention of the yew tree at the front of the site and originally proposed that the new store would maintain a consistent building line with the adjacent units at the expense of the yew tree.

Having received comments from the Council's Tree Officer and numerous members of the public, the building was moved back to save the tree. Efforts have been made to make a feature of the tree with it becoming the focal point of the frontage in what will appear to be a raised bed. The hardstanding will be removed to soft landscape the entirety of the root protection area, and the building will be set further away from the tree to improve its access to both light and water, enabling it to thrive for years to come.

Landscaping

We propose to remove 3 trees from the site (2 of which are TPO'd but are of low quality and barely visible from the public realm) and replace with 17 new trees designed to thrive in an urban environment (landscaping plan enclosed in Appendix 4).

"The loss of the other trees can be adequately mitigated by the provision of 17 replacement trees which is a welcome improvement to the streetscape and will deliver many ecosystem benefits in the future."

Committee Report paragraph 5.34

We have listened to requests from officers to provide a tree lined Villiers Road frontage, and have also provided a row of trees to the Shirley Road frontage to both provide vertical massing to maintain the building line and screen the car park. We also propose trees to the other boundaries where possible (respecting sewer and cable easements) to screen surrounding residential properties.

Overall we will provide 650sqm more permeable area than the previous land use and will plant over 2,000 shrubs to the site boundaries. The resulting scheme will punctuate relatively hard urban environment with greenery, and will provide benefits in terms of natural drainage. Below and in Appendix 4 is an artist's impression of how the scheme will look after the landscaping has matured.



Computer generated image of store after trees have established

Milestone



Contrary to popular belief we have never intended to remove the milestone. It was omitted from the original plans as it is currently located at the foot of the yew tree which at that time we proposed to remove. We intended through the application process to discuss with SCC heritage as to whether they wanted it to remain in situ, or be

relocated to its original location. We believe that the 19th century milestone was moved from its original location in front of the former Direct Carpets unit to its current location in the 1970s and with us owning both sites, we had a rare opportunity to reinstate it to its correct location.

With the yew tree now retained, the milestone will remain untouched.



Residential Boundaries

Whilst the proposal site has been in commercial use for over 100 years, Lidl have endeavoured to be as sympathetic as possible. As you will see in the public consultation section below, we have met with residents of Mayflower Road to discuss and attempt to address concerns. We have planted trees where possible to the boundaries which will give a number of residents of Heysham and Mayflower Road a more green and open outlook.

Almost all of the neighbouring residents of Mayflower and Heysham Road have a brick wall to the rear boundary of their gardens. Often this wall is part of a structure which we are demolishing. We have agreed to repair, build rebuild or retain the wall as appropriate to create a fully walled boundary to the residential properties. We will be re-grading our site to position the building as low as possible within the site, but must also retain safe levels for trolley use in the car park, and create safe pedestrian connectivity with Shirley Road. We will re-grade the whole site, but there is a natural gradient already with the site falling away from Shirley Road to Heysham Road. The levels in neighbouring rear gardens differ from our site, sometimes being higher and sometimes being lower. At the request of residents, the boundary wall will be no less than 2m high from the highest side ensuring that the privacy of the homes and their gardens is maintained.

Pedestrian linkage to Shirley Road

The store is slightly lower than the footpath along Shirley Road, but Lidl have endeavoured to maintain permeability to pedestrians through as much of the frontage as possible with steps and a ramped access available to reach the store entrance.

Conclusion

- **Yew tree retained.**
- **Milestone untouched.**
- **Positive comparison with previous buildings or the now vacant site.**
- **Hugely improved landscaped setting.**
- **Good interaction with the High Street.**
- **No objection raised by the Urban Design Officer.**
- **No objections from affected Mayflower residents.**



5. Planning Policy

As mentioned above, both local and national planning policy obliges retailers to prioritise in-centre sites.

This site sits within the defined centre under SCC planning policy and as such presented Lidl with a rare opportunity to pursue a much needed improvement compared to our existing store whilst remaining within the centre.

SCC's core strategy states compared with new:

"New development should make a positive contribution to the centre's viability and vitality and enhance its attractiveness."

Policy CS3 Core Strategy Review 2015

We strongly believe that a new, improved Lidl store as a replacement for the old unit improves the strength of the town centre and the various physical, visual and financial enhancements make a significant contribution to the viability, vitality and attractiveness of the centre.

Officers agree that the proposal accords with planning policy:

"In principle, redeveloping the site to provide a Lidl foodstore is supported."

Committee Report paragraph 6.2

Conclusion

- Lidl have outgrown their existing Shirley site.
- Proposal site is currently owned by Lidl.
- Proposed site is compliant with planning policy – principle of development is accepted.
- Officer recognises that the development would contribute to the vitality and viability of the centre.
- Further enhancements to the centre achievable through the redevelopment or re-use of Lidl's existing store/ site.



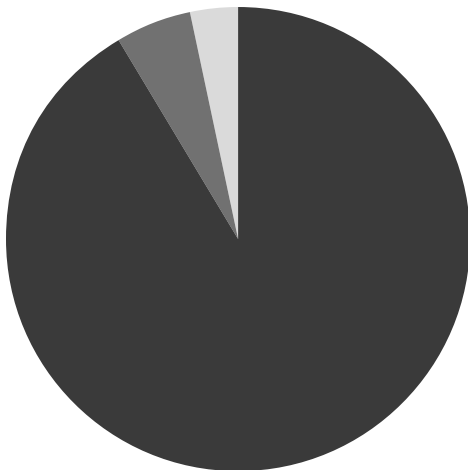
6. Public Consultation

We pride ourselves on our public consultation process. We steadfastly believe that we go above and beyond what almost any other commercial body would do in relation to a scheme of a similar size. Indeed the planning committee for our Woolston application praised Lidl for the efforts made to fully consult the public.

For this application we sent a letter to all businesses and residential addresses within the perceived catchment of the store. This amounted to 16,898 letters. The letter contained details of the proposal, a "have your say" card with prepaid return envelope in order that views on the proposal could be registered. The letter also contained a link to a dedicated website with details of the application www.shirley.lidl.co.uk with email addresses to register support and objection to the application (full schedule of support, objection and neutral comment is contained in Appendix 5) and a link to a petition in favour of the application. The letter encouraged all to make their views known to their local ward councillor. Details of all councillors were included for ease of reference.

Results from this public consultation exercise were as follows:

Respondents: 1,568



- Support: 1,434 (91.5%)
- Object: 84 (5.3%)
- Undecided: 50 (3.2%)

It should be noted that further consultation has not been undertaken since the decision was taken to retain the yew tree and reaching an agreeable highways solution. Looking at the comments made, this would probably have resulted in a reduced volume of objectors.

Public Meetings

From the initial public consultation exercise it was clear that there were 2 main issues with the proposal: 1. The loss of the yew tree. 2. Traffic concerns. Having been contacted by constituents about the application a couple of local ward councilors asked Lidl to attend a public meeting to answer queries on the proposals. Representatives of the Lidl property team accepted the invitation to both meetings to which they were invited. The meetings were different only in that they were organised by different political parties. Both meetings were attended by 80-100 residents and in both meetings the subject of about 50% of questions related to the loss of the yew trees and 50% related to highway concerns.

We hope that members will agree that both of these concerns have now been comprehensively addressed.

Mayflower Road Meetings

At the second public meeting that we attended we were approached by a resident of Mayflower Road who invited Lidl to a meeting of residents of Mayflower Road. She contacted all residents that shared a boundary with the site to the meeting, which was ultimately attended by 10-15 residents. Concerns of these residents focused on maintaining a secure rear boundary, privacy, light pollution and noise pollution. They were generally content with the proposal as they were concerned that the site would be developed for flats.

Lidl's property team took the concerns on board and revisited the same group with revised proposals for a smaller building, moved further from the boundary, including a higher brick boundary wall between the properties as detailed above. Residents were content, and pleased that we had taken their views on board. One expressed that they were pleased that they lived behind the proposed building as the secure fenced area to the rear of the store would improve the security of their rear boundary.

We believe that it is an important consideration that we have positively and directly engaged with neighbouring residents of Mayflower Road, and those directly affected have not registered an objection to the application.

Conclusion

- 16,898 local residents and businesses consulted.
- 1,568 responses.
- 91.5% support.
- Positive engagement with affected Mayflower Road residents.



7. Ensuring Lidl's continued presence on Shirley High Street

Lidl's Shirley High Street store was one of the first in the UK having opened in December 1994.

" Good value shop. Parking needs to be better than the current site but looks like it is."

Mr Parsons, signature 9

"Yes I think it is a good idea. Ours at the moment does seem to be crowded and short of space"

Mrs M.S Betteridge, signature 114

"Can only see this as an asset to Shirley, hopefully proving to be as good as the new store in Woolston."

Mr & Mrs Callaway signature 195 &196

Lidl's current store sits on a site of around 1 acre and offers just 72 parking bays. There is a footpath to the east, a road to the south and residential properties to the north and west, which make much needed expansion of the store impossible. With both the building and the car park being smaller than ideal, we are not able to offer the customer experience that we would like to, and that has been so positively received in Woolston. This large site presents a rare opportunity for us to offer a good shopping environment whilst remaining within the town centre.

The new Lidl store will be larger but will sell no more lines than the old store. Stock levels should be much improved and freshness will also benefit from larger back of house chillers. The improved offer should encourage more local people to shop locally. The limited range of products will promote linked trips with independent retailers in the town centre, as well as other supermarkets. The Competition Commission has repeatedly acknowledged that Lidl is not a one-stop shop. The spin-off trade that is generated by Lidl's limited range allows Lidl to act as a complementary retailer, as opposed to a threat to the traditional high street.

"I have been a very loyal customer of Lidl at its present site in Shirley since it first opened and do my weekly shop there every week. Would love to see a new bigger store with larger car park in Shirley."

Ms Lynda Gharibian, signature 439

"The present building is an eye sore. I think a new Lidl would lift the area. Your present position is in No Mans Land, best of luck."

Mr Edmundo Johnson, signature 582

"We really need a larger Lidl as we only have Sainsbury in Shirley (Tesco Express) doesnt really count and we need more choice and a reasonably priced shop. We had 7 large supermarkets in days gone by."

Mr & Mrs Twynning signature 1,072 &1,073

Investment into Shirley and job creation

The proposed Lidl redevelopment will represent an investment of around £10m. This represents the most significant retail investment in Shirley Town Centre for more than a decade.

Our recent new store in Woolston has proved very successful, and is well regarded by local residents, and appreciated by staff.

Aside from the regeneration aspect, Lidl will also be securing the employment of existing staff whilst providing a better working environment as well as creating new roles for local residents. All Lidl recruitment specifically targets the store's primary catchment area (5 minute drive time). Lidl are willing to work in partnership with the Local Authority including entering into an Employment and Skills Plan to maximise employment opportunities for local people.

In November 2017 Lidl was the first supermarket to announce that it would adopt the voluntary living wage as set by the Living Wage Foundation as of March 2018, increasing the minimum hourly rate of staff to £8.75 per hour.



Existing Lidl Shirley store

If the application is approved on Tuesday, the local recruitment campaign would commence in Q3 2018.



Lidl Woolston



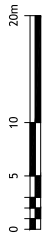
8. Summary

TEST	JUSTIFICATION
Siting	<ul style="list-style-type: none"> ✓ Satisfies local and National policy tests for daylight/overshadowing. ✓ No objection from worst affected residents. ✓ All neighbouring homes on Heysham Road and 5 homes on Mayflower Road will have a more open outlook as a result of the proposals
Strengthens Shirley's Town Centre offer	<ul style="list-style-type: none"> ✓ Encourages local people to shop locally ✓ Limited product range encourages linked trips with independent retailers ✓ Improved customer experience over existing store ✓ Proposed store is better connected to the high street ✓ Offers an opportunity for a new use/occupier on the existing site
No policy objection	<ul style="list-style-type: none"> ✓ As an in centre proposal, the store accords with planning policy
Attractive package of developer-funded highway measures	<ul style="list-style-type: none"> ✓ Robust traffic modelling demonstrates sufficient capacity for the proposal ✓ Improved capacity of dedicated right turn lane into Villiers Road with associated widening and 'keep clear' markings to improve traffic flow ✓ Resurfacing of footpaths and carriageway on Villiers Road between Shirley and the Lidl site's bellmouth offers benefits to all users ✓ £75,000 contribution towards safety improvements in the vicinity ✓ Adequate parking provision with 90 minute maximum stay to ensure that Lidl shoppers do not need to park in surrounding streets ✓ Deliveries conditioned to arrive outside peak hours ✓ Widened pedestrian refuge opposite St Boniface Church ✓ Lidl will commit to all of the above measures via s.106 agreement
Provides employment and investment	<ul style="list-style-type: none"> ✓ New full and part-time jobs will be created for local residents as well as safeguarding existing jobs and providing a better working environment ✓ The redevelopment represents a c.£10m investment for Shirley ✓ The local recruitment campaign would commence in Q3 2018 ✓ All jobs pay the voluntary living wage as a minimum with many opportunities for progression
Design/landscaping	<ul style="list-style-type: none"> ✓ Yew tree retained. Setting of yew tree improved to help it to thrive ✓ Substantial planting regime with 17 new trees and over 2,000 new shrubs to be planted ✓ The Lidl store will achieve BREEAM Excellent ✓ Boundary wall to preserve privacy and security of local residents ✓ No objection from Urban Design Officer
Will provide choice and competition	<ul style="list-style-type: none"> ✓ Sainsbury's is the only food store over 1,000sqm on the high street. Improved competition should bring lower prices ✓ Improved availability within the Lidl store and better shopping environment including customer WCs ✓ Hugely improved staff facilities ✓ Lidl is not a one stop shop. Lidl will generate spin-off trade generating mutually beneficial linked trips on the high street
Heritage/Archaeology	<ul style="list-style-type: none"> ✓ Milestone retained ✓ Building recording exercise already completed for demolished units ✓ Lidl in agreement with archaeology conditions should the application be approved
Is supported by the local community	<ul style="list-style-type: none"> ✓ 1,568 respondents to public consultation ✓ 1,434 (91.5%) in favour ✓ 84 (5.3%) opposed ✓ 50 (3.2%) undecided ✓ Scheme adapted to satisfy objections

Appendix 1

Key Planning Drawings



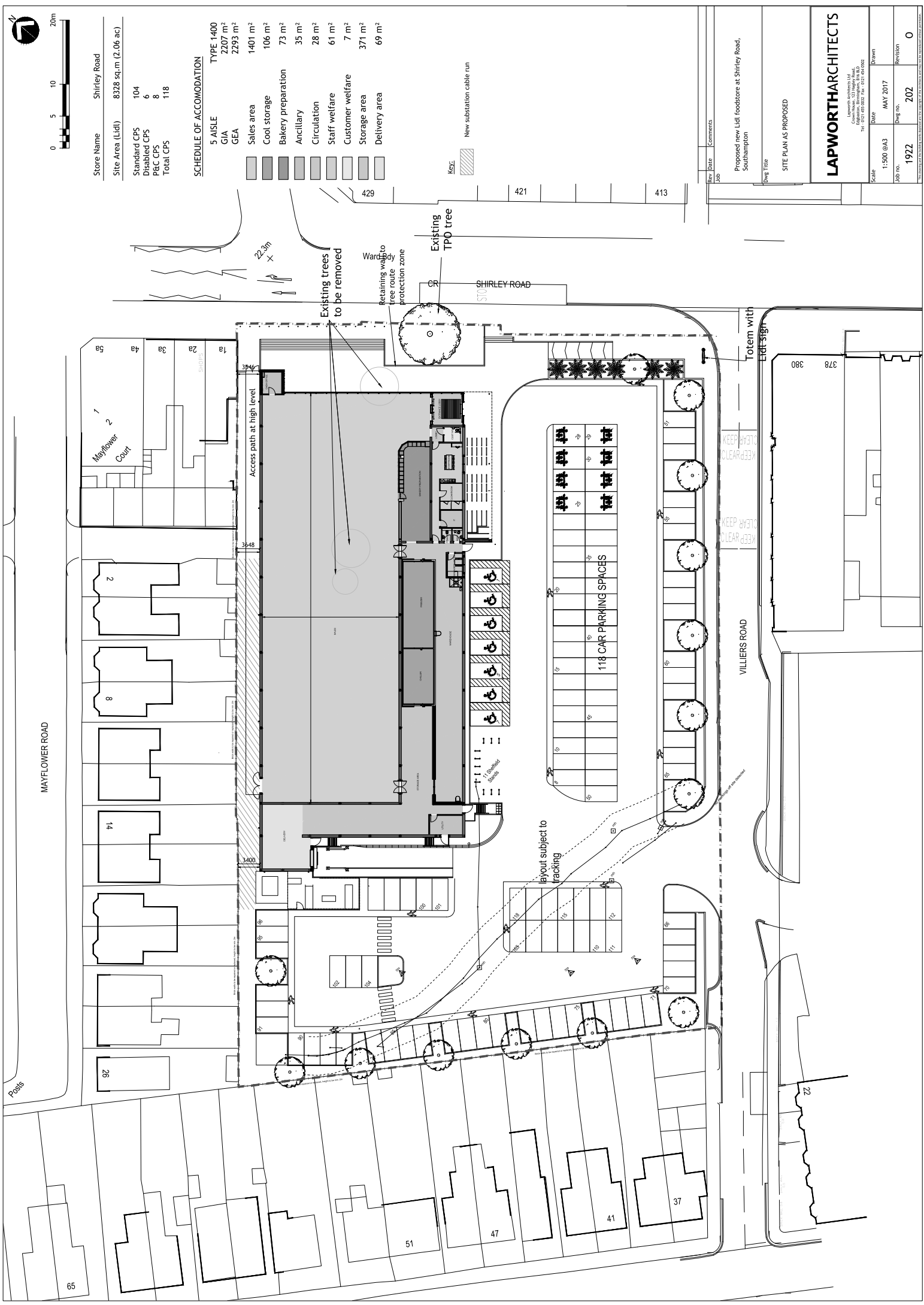


Store Name	Shirley Road
Site Area (Lidl)	8328 sq.m (2.06 ac)
Standard CPS	104
Disabled CPS	6
PEC CPS	8
Total CPS	118

SCHEDULE OF ACCOMMODATION

TYPE	1400
5 AISLE	2207 m ²
G/A	2293 m ²
GEA	1401 m ²
Sales area	106 m ²
Cool storage	73 m ²
Bakery preparation	35 m ²
Ancillary	28 m ²
Circulation	61 m ²
Staff welfare	7 m ²
Customer welfare	371 m ²
Storage area	69 m ²
Delivery area	

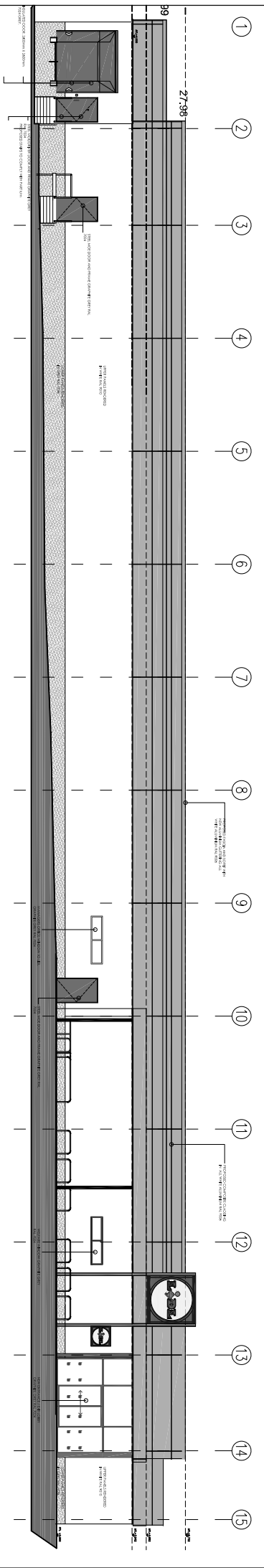
Key: New substation cable run



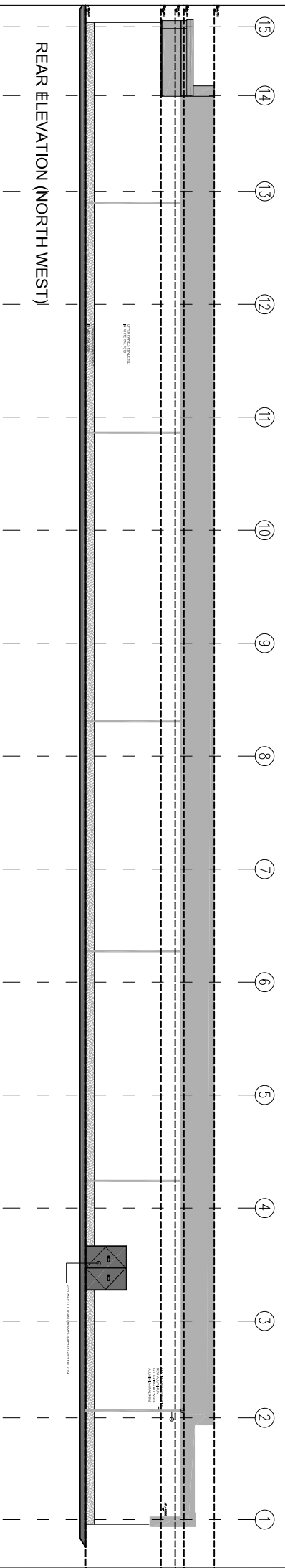
Rev	Date	Comments
1		Proposed new Lidl foodstore at Shirley Road, Southampton

Page Title		SITE PLAN AS PROPOSED	
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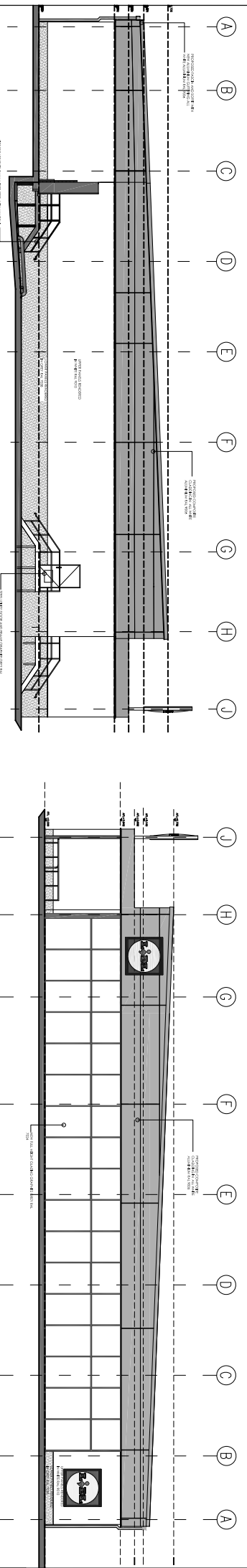
LAPWORTH ARCHITECTS			
Lapworth Architects Ltd 100, The Arcade, Southampton, SO14 3AB Tel: 01703 450011 Fax: 01703 450002			
Scale	Date	Drawn	
1:500 @ A3	MAY 2017		
Job no.	1922	Rev'd no.	202
		Revision	0



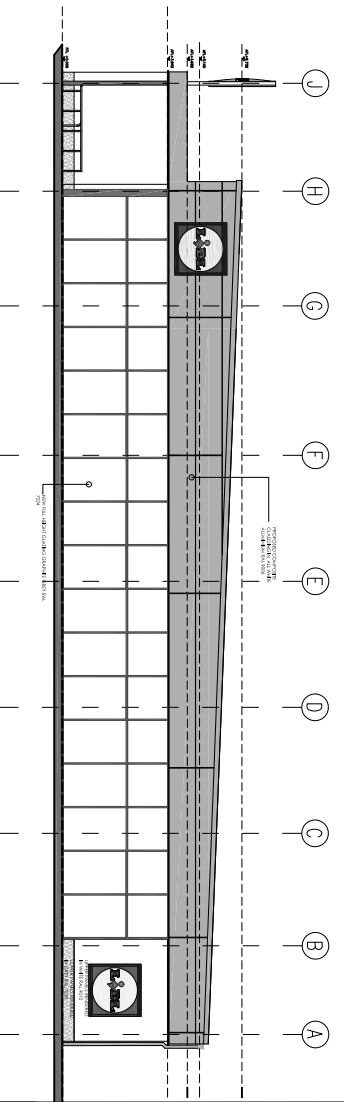
FRONT ELEVATION (SOUTH EAST)



REAR ELEVATION (NORTH WEST)



SIDE ELEVATION (SOUTH EAST)



SIDE ELEVATION (NORTH EAST)

REV	DATE	COMMENTS
200		

Proposed new/ Lift foodstore at Shirley Road,
 Southampton

Drawing Title
 ELEVATIONS AS PROPOSED TYPE 17/20

LAPWORTHARCHITECTS
 Lapworth Architects Ltd
 Crown House, 131 Shirley Road,
 Southampton, Hampshire, SO9 4JG
 Tel: +44 (0)1703 600077 Fax: +44 (0)1703 600082

SCALE	DATE	DRAWN
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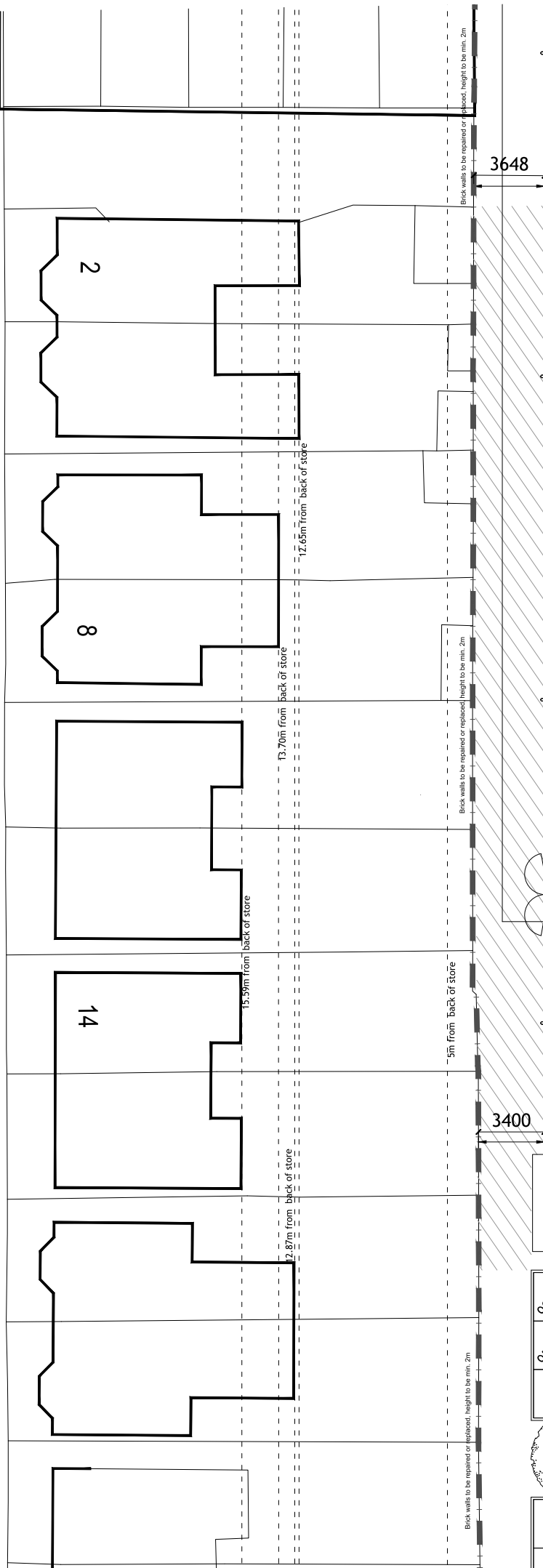
DWG NO.	REV NO.	REVISION
1922	205	K

Appendix 2 Residential Amenity





MAYFLOWER ROAD



Brick walls to be repaired or replaced, height to be min. 2m

7.65m from back of store

13.70m from back of store

15.59m from back of store

7.87m from back of store

5m from back of store

3648

3400

Brick walls to be repaired or replaced, height to be min. 2m

96

95

DELIVERY

SALES

102

Rev	Date	Comments
1	2017	

Proposed new Lidl foodstore at Shirley Road, Southampton

Distances between existing properties on Mayflower Road and Lidl store as proposed

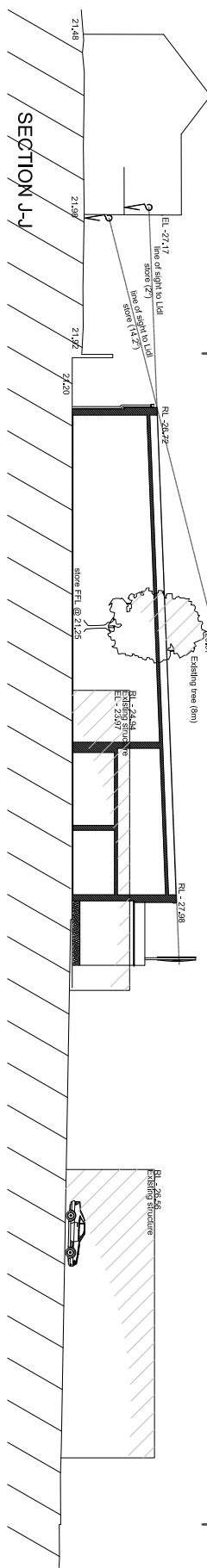
LAPWORTH ARCHITECTS

Scale	1:200 @ A3	Date	DEC 2017	Drawn	
Job No.	1922	Rev. No.	216	Revision	

2 MAYFLOWER ROAD
RL - 28.21

SITE

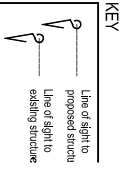
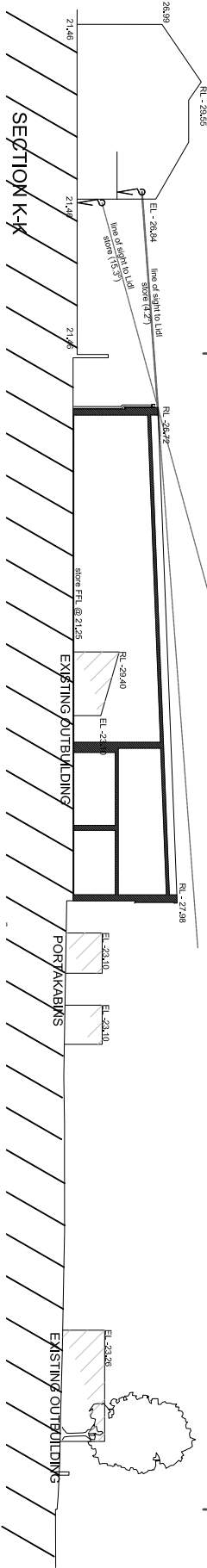
VILLIERS ROAD



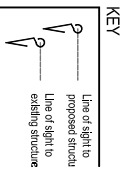
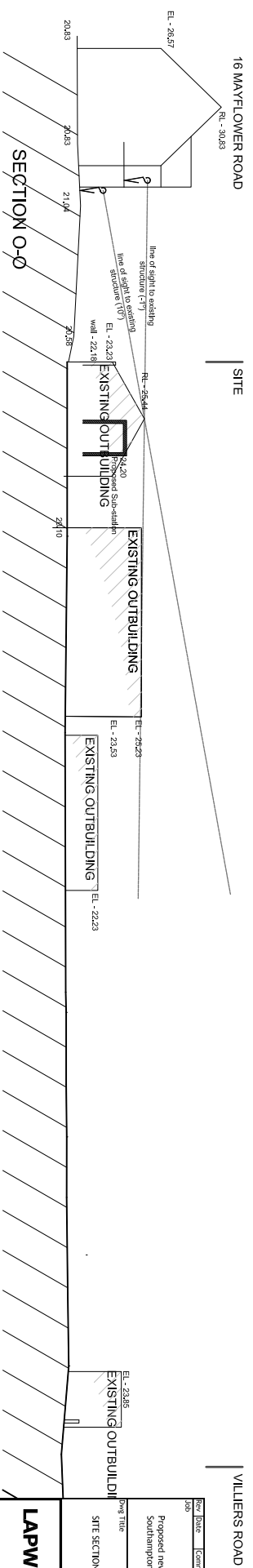
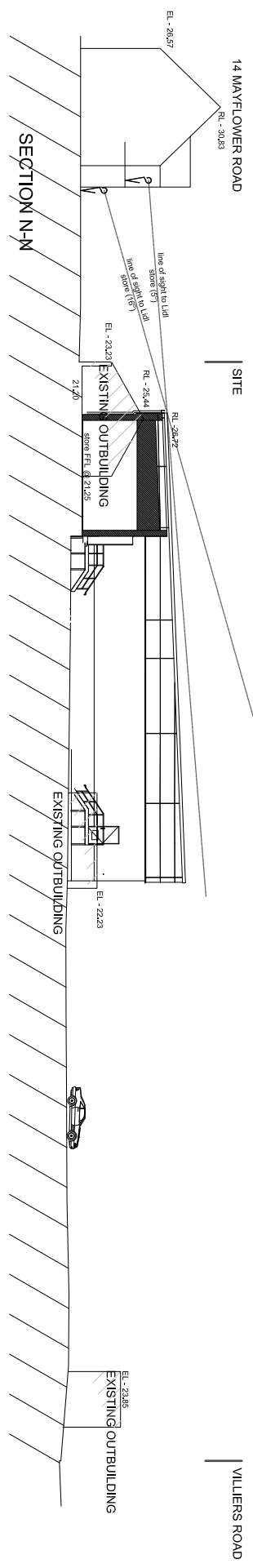
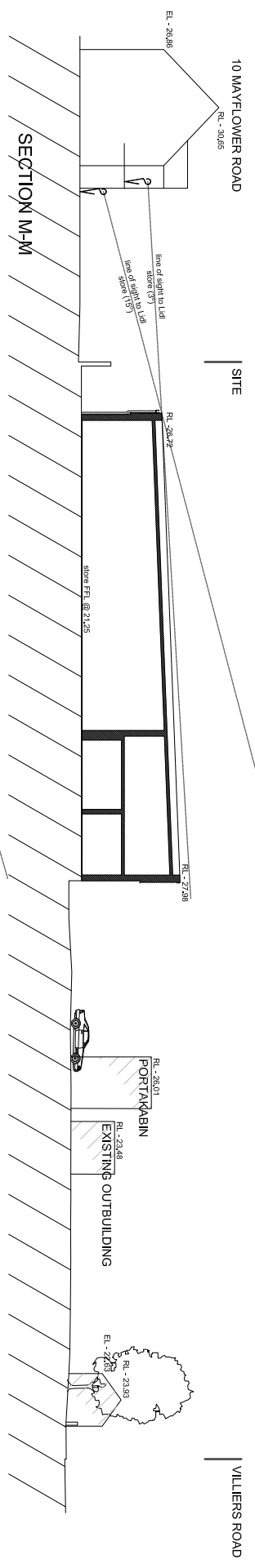
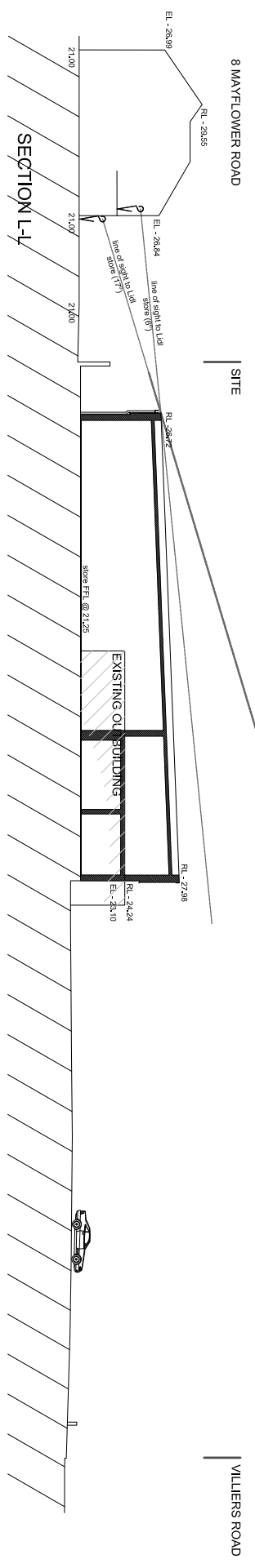
6 MAYFLOWER ROAD

SITE

VILLIERS ROAD



REV	DATE	COMMENTS
200		
<p>Proposed new Lidl foodstore at Shirley Road, Southampton</p>		
<p>DWG TITLE</p>		
<p>SITE SECTIONS & PLAN</p>		
<p>LAPWORTH ARCHITECTS</p> <p>14, Market Street, Southampton, SO9 4AA Tel: +44 (0)1703 80027 Fax: +44 (0)1703 80082</p>		
SCALE	DATE	DRAWN
1:300 @A3	DEC 2017	
DWG NO.	REV NO.	REVISION
1922	217	



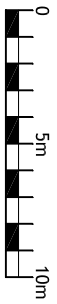
REV	DATE	COMMENTS
200		

Proposed new Lidl foodstore at Shirley Road,
 Southampton

Prop Title: SITE SECTIONS

Scale: 1:300 @A3
 Date: DEC 2017
 Drawn: [blank]
 DWG no.: 1922
 Rev no.: 218
 Revision: A

LAPWORTH ARCHITECTS
 Lymington Architects Ltd
 Crown Road, 131 Shirley Road,
 Southampton, Hampshire, SO9 4JG
 Tel: +44 (0)1703 60057 Fax: +44 (0)1703 60062





35 New Bridge Street, London EC4V 6BW

T +44 (0)20 7280 3240 F +44 (0)20) 7283 9248 E rpslon@rpsgroup.com W rpsgroup.com

Our ref: HLEU61292/001L_Rv3

Date: 16th February 2018

Mr. Chris Ambler
Lidl UK
Foxes Park
Brownhill Way
Southampton
SO16 0AW

Dear Mr. Ambler,

Re: Overshadowing Assessment for the proposed development at Lidl, 392 Shirley Road, Southampton (Planning Application 17/01206/FUL).

I am writing to you regarding the comments received by Southampton City Council on 31st January 2018 with regards to the sunlight availability on the neighbouring gardens at 2&4 Mayflower Road. An overshadowing assessment was carried out in accordance with the BRE Guide methodology and results are presented below along with conclusions drawn.

Executive Summary

- The planning officer has expressed concerns over a conflict with the guidance in the Council's residential design guide in terms of impact on light and overlooking, but the proposed store will exceed the minimum separation distance and therefore does not conflict with the design guide.
- The 25degree test provides a rough indication of whether a new building may overshadow existing ones and the proposed store also satisfies that test.
- A detailed overshadowing analysis has been undertaken in relation to the two houses the planning officer is concerned about and this shows that the effect of the proposed store will not be significantly different to the existing buildings.
- The established BRE guidance commonly used by developers and planning authorities, and accepted by Planning Inspectors to assess whether gardens and open spaces will be adequately sunlit, suggests that at least half of a garden or amenity area should receive at least 2 consecutive hours of sunlight a day. After the Lidl is built, the houses along Mayflower Road will meet this standard.



- In conclusion, when considered against current national and local guidance, and having carried out a specific modelling exercise to assess the level of overshadowing that will result from the Lidl, it is evident that the proposed development will not have a significant adverse impact in terms of loss of sunlight.
- We understand that none of the residents along Mayflower Road have objected to the planning application, which suggest that they also do not anticipate a significant impact on their properties.

1. Scope

This document intends to assess how the introduction of the proposed development will affect the overshadowing of the surrounding properties at 2 & 4 Mayflower Road.

In United Kingdom, there are no universally agreed daylight/sunlight criteria for buildings, defined within Building Regulations. However, the BRE Guide - Building Research Establishment (BRE) report "Site layout planning for daylight and sunlight: A guide to good practice" is widely accepted as the most appropriate tool. Local authorities recognise the Guide set out in the BRE Guide as the most appropriate method for daylight and sunlight assessments. Consequently, the BRE Guide is used to set compliance criteria and allow demonstration of compliance.

Whilst the BRE Guide provides numerical guide for daylight and sunlight, these criteria should not be seen as absolute targets. The Guide is not an instrument of planning policy, therefore whilst the methods given are technically robust, some level of flexibility should be applied where appropriate.

2. Sources of Information

The calculations in this report have been based on a topographical survey and 2D AutoCAD drawings (site plan, floor plans and elevations) for the proposed development provided by the architect Lapworth Architects (February 2018). Computer specialist software has been used to carry out the sunlight impact assessment.

3. BRE Guide – Overshadowing to Gardens and Open Spaces

The sunlight criteria, specified within the BRE Guide, have been used to assess the potential impacts of the proposed development to the surrounding amenity areas/garden spaces.

The BRE Guide sets the following standard under Section 3.3.17: *"It is suggested that, for it to appear adequately sunlit throughout the year, at least half of a garden or amenity area should receive at least*

two hours of sunlight on 21st March. If as a result of new development, an existing garden or amenity area does not meet the above, and the area which can receive two hours of sun on 21st March is less than 0.8 times its former value, then the loss of sunlight is likely to be noticeable".

If an existing garden or outdoor space is already heavily obstructed then any further loss of sunlight should be kept to a minimum.

Assessment points that do not meet the above criteria require further considerations to show the level of impact likely to be incurred.

4. The Site

The proposed site is bounded by the Shirley Road to the north east, Villiers Road to the south east and residential properties to the southwest and northwest. The site is currently occupied by the former police station with a detached three storey building and car parking. The site also comprises a Southampton Council depot with a range of buildings utilised for a variety of purposes including offices, storage and workshops and a carpet shop. The remainder of the depot site is used for car parking / open storage.

It is understood from the information provided that the proposed development consists of the demolition of the existing buildings onsite and erection of a single storey building to provide a Lidl food store. The proposed site layout is shown in Figure 1.

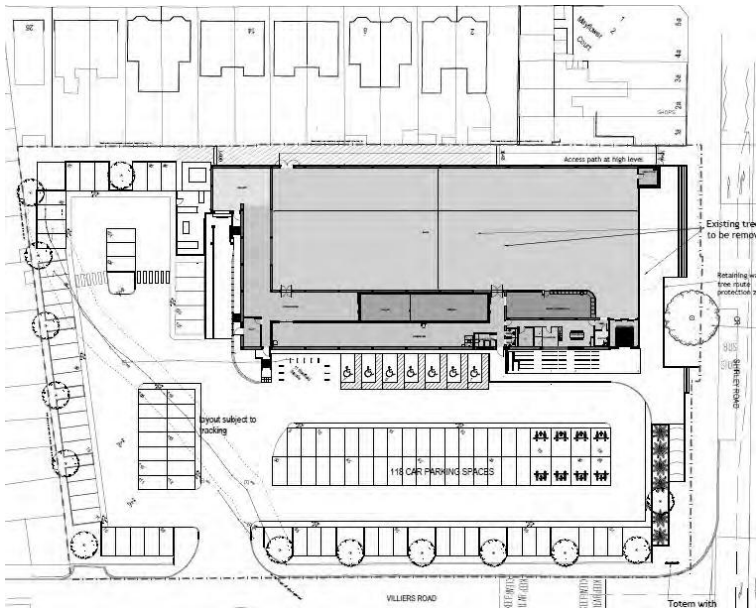


Figure 1: Proposed site plan

In response to comments from the planning officer that the development conflicts with the Council’s ‘Residential Design Guide’ in terms of overshadowing of properties on Mayflower Road, RPS responded to Lidl in a letter dated 21st December 2017 that was subsequently forwarded on to the planning officer. This letter established that:

- The Design Guide’s recommended minimum separation distance between the rear of a proposed building and the windows of any adjoining houses is 12.5m. Detailed measurements provided by Lidl’s architects show the nearest houses (Nos 2 & 4 Mayflower Road) will be 12.7m away, meaning the development satisfies the Council’s Design Guide.
- The 25 degree test is commonly used to assess whether a new building is likely to cause excessive over-shadowing, and in this case the proposed store building passes the test and so is unlikely to have a significant impact in terms of reduced daylight and sunlight.

5. Existing Surrounding Gardens

It has been identified that the closest residential gardens adjacent to the site that could potentially be affected by the proposed development are the northwest gardens at 2-16 Mayflower Road. However, for the purpose of this analysis only the two closest rear gardens at 2 & 4 Mayflower Road have been assessed, as requested by the Southampton City Council in the email received on 31st January 2018.

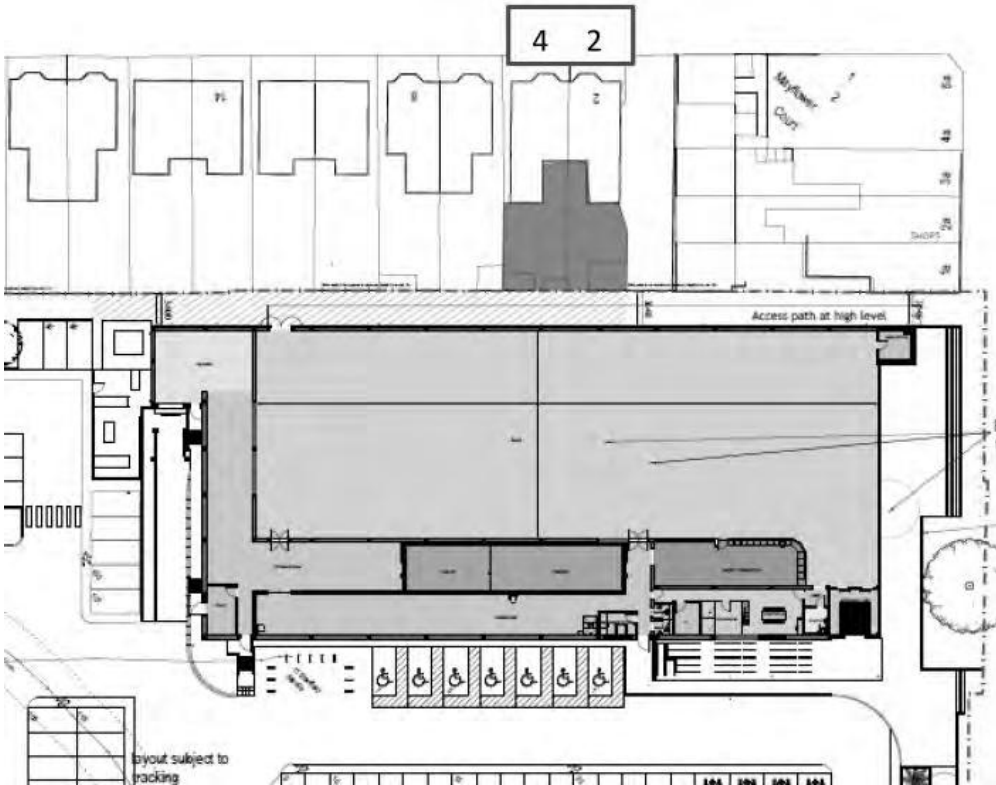
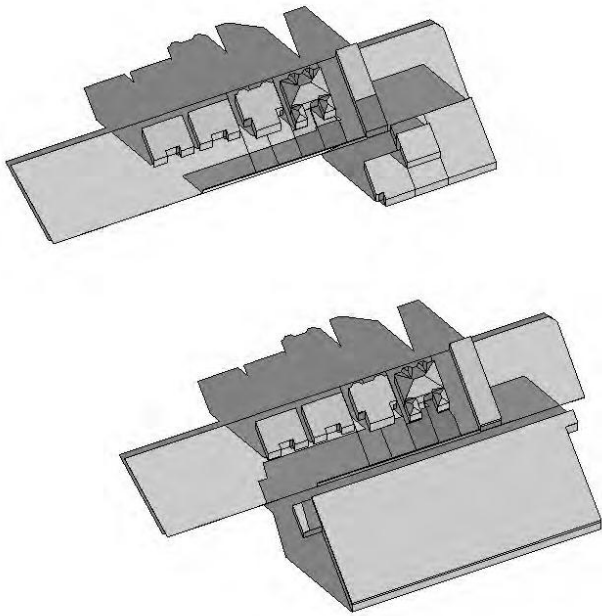


Figure 2: Assessed northwest surrounding gardens at 2 & 4 Mayflower Road (shown in purple)

6. Overshadowing Assessment

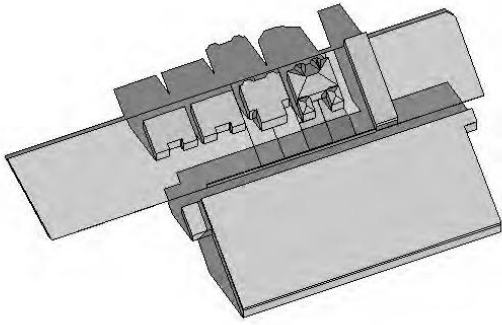
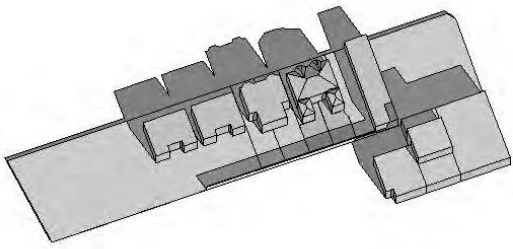
The following model images for the example hours between 08:00am to 16:00pm represent the overshadowing impacts of the proposed development on the closest existing surrounding amenity spaces/ gardens during the afternoon hours. These private gardens will be the nearest to the proposal and these are the ones the Planning Officer has highlighted to be assessed. It is considered that the properties situated further along the street, will experience less overshadowing impacts than the impacts on the assessed gardens.

For every hour assessed, the images on top show the existing scenario and the images on the bottom the proposed scenario.

Time	Overshadowing effects from the proposed development on the surrounding amenity areas/gardens on the 21 st of March
08:00am	<div style="text-align: center;"> <small>21 Mar 08:00</small>  </div>

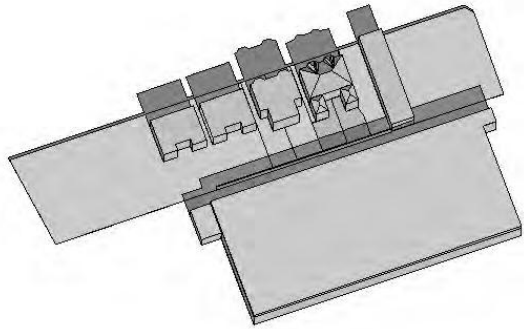
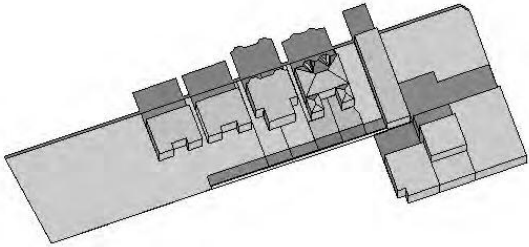
09:00am

21 Mar 09:00

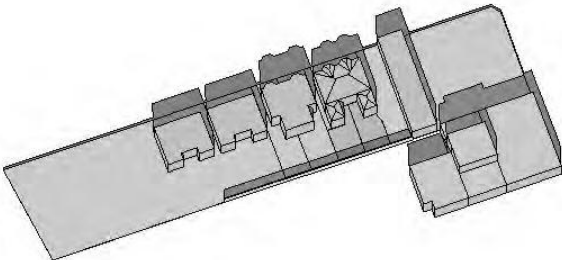


10:00am

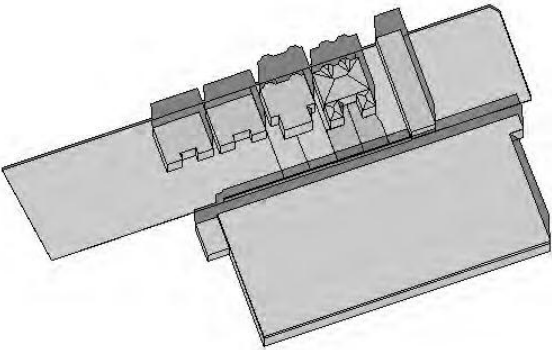
21 Mar 10:00



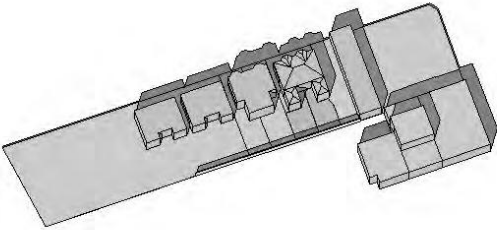
21 Mar 11:00



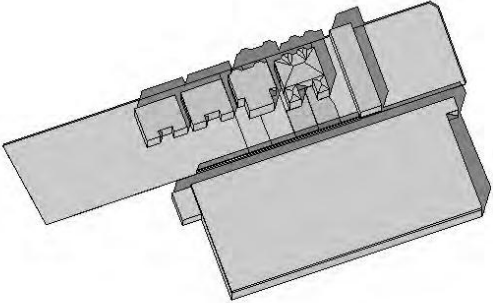
11:00am



21 Mar 12:00

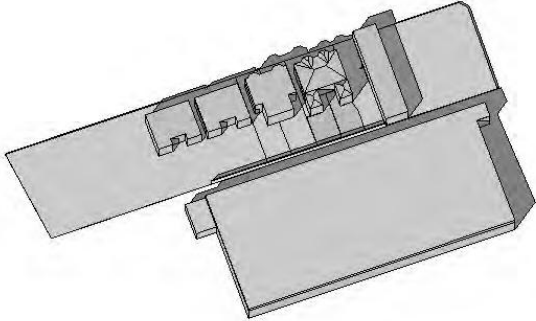
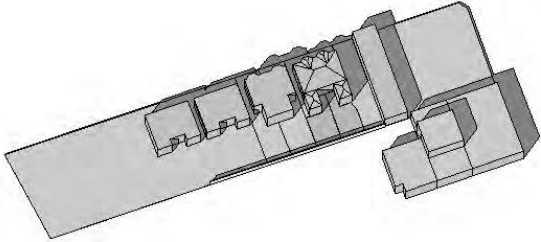


12:00pm



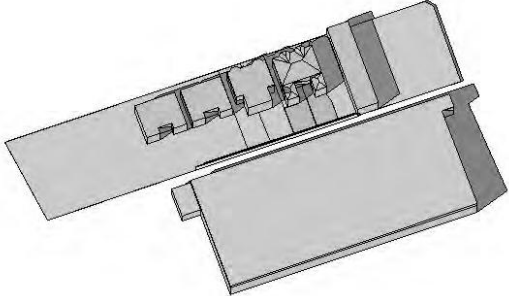
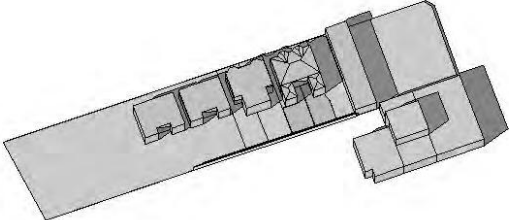
21 Mar 13:00

13:00pm



21 Mar 14:00

14:00pm



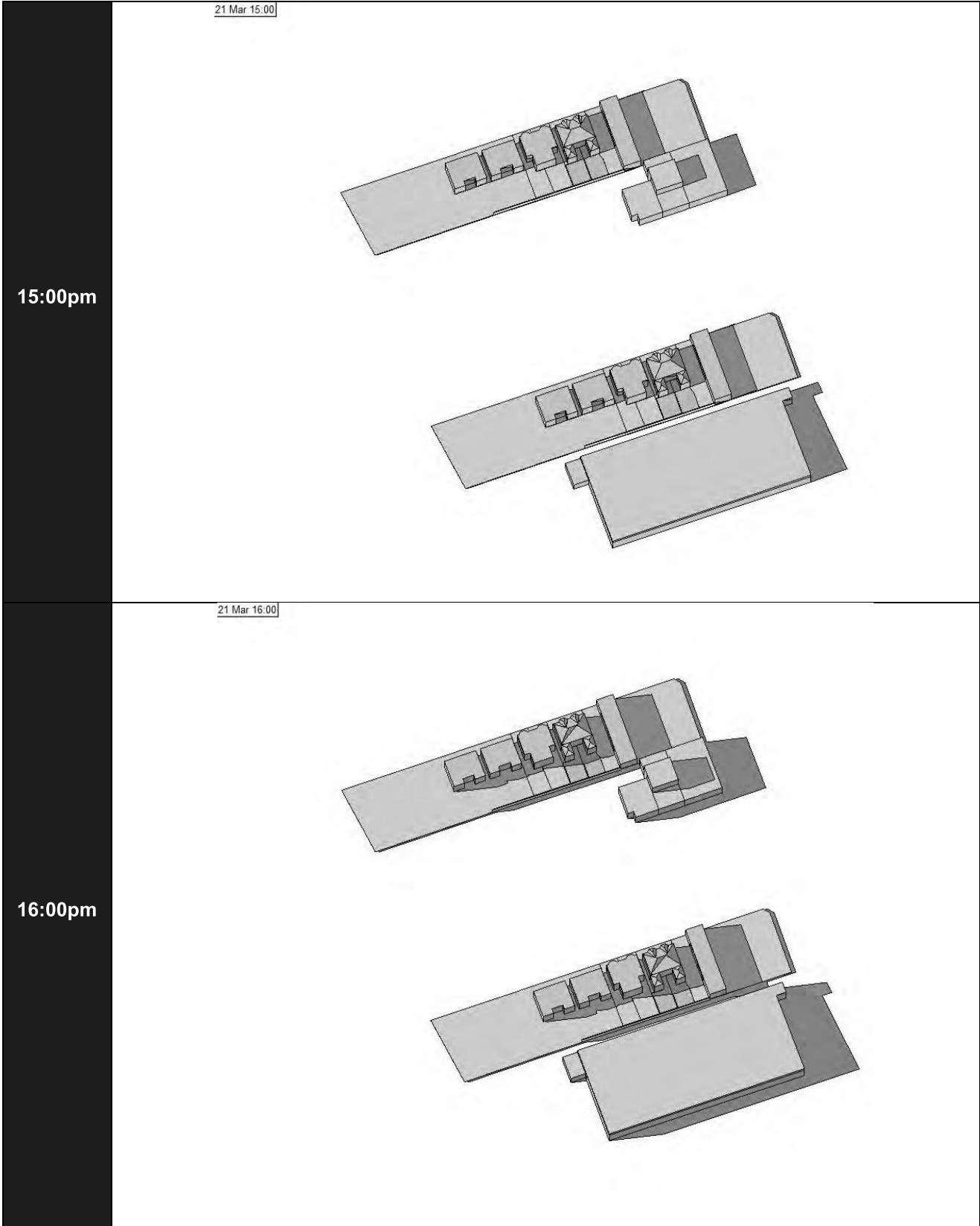


Figure 3: Overshadowing effects from proposed development on the surrounding gardens



As can be seen from the images above and Table 1, when the proposed development is in place, both existing amenity areas will continue to receive very good levels of sunlight for more than 2 consecutive hours (13:00am to 16:00pm) on 21st March.

Table 1 shows a quantitative assessment of the sunlight levels received between 8:00am – 16:00pm on the 21st March. The ratios have been calculated based on the three highest percentages during the day, where the gardens receive maximum levels of sunlight.

2 Mayflower Road

Scenarios	08:00	9:00	10:00	11:00	12:00	13:00	14:00	15:00	16:00	Ratio	Pass/ Fail
Existing	18.6%	50.6%	65.2%	71.7%	76.4%	75.3%	76%	79.8%	54.7%	1.00	Pass
Proposed	1.2%	30.8%	59.2%	71.7%	76.4%	75.3%	76%	79.8%	54.7%		

Table 1: Overshadowing results for the surrounding amenity area at 2 Mayflower Road

4 Mayflower Road

Scenarios	08:00	9:00	10:00	11:00	12:00	13:00	14:00	15:00	16:00	Ratio	Pass/ Fail
Existing	33%	53.9%	65%	67.4%	67.7%	70.3%	74.6%	81%	63.3%	1.00	Pass
Proposed	5.5%	34.2%	59.2%	67.4%	67.7%	70.3%	74.6%	81%	63.3%		

Table 2: Overshadowing results for the surrounding amenity areas at 4 Mayflower Road

The detailed results presented in Table 1 demonstrate that 100% of the assessed individual garden areas will meet the requirements set in the BRE Guide and therefore there will be no negative impact from the proposal to the assessed neighbouring properties. More than 50% of the existing gardens at both 2&4 Mayflower Road will continue to receive very good levels of sunlight for more than 2 consecutive hours during the afternoon hours (between 13:00pm – 15:00pm) on the 21st March, thus satisfying the BRE guidelines.

It is also noted that the amount of sunlight achieved is not significantly worse with the proposal than it is with the existing buildings (if that's the case); and b) in assessing this issue the guidance is only whether a property will have at least 2 consecutive hours a day and that test is met.

7. Conclusion

The overshadowing analysis for the surrounding gardens at 2&4 Mayflower Road has shown that more than half of both individual gardens will continue to be adequately sunlit (at least 2 hours) on the 21st March, thus satisfying the BRE guidelines. Overall, it is considered that sunlight availability should not be a constraint upon the development of the proposed site.



I trust the above provides clarification on the issues raised. If you have any queries, please do not hesitate to contact me.

Yours sincerely,

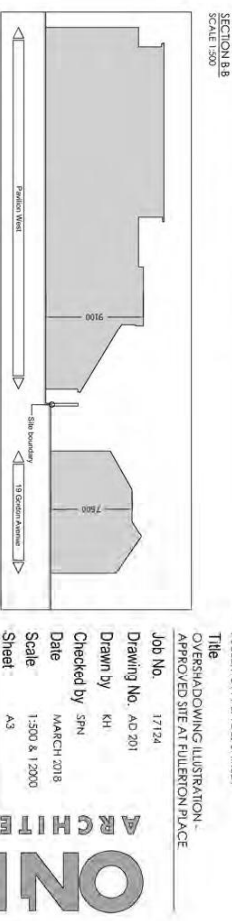
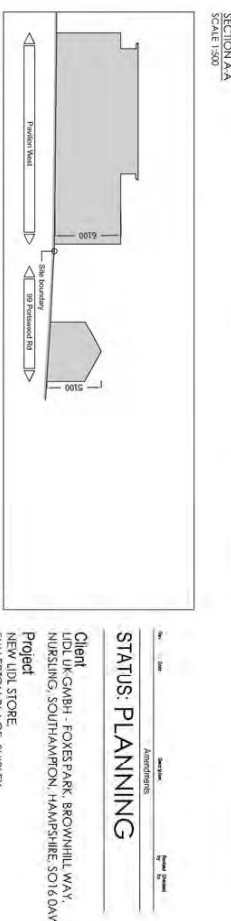
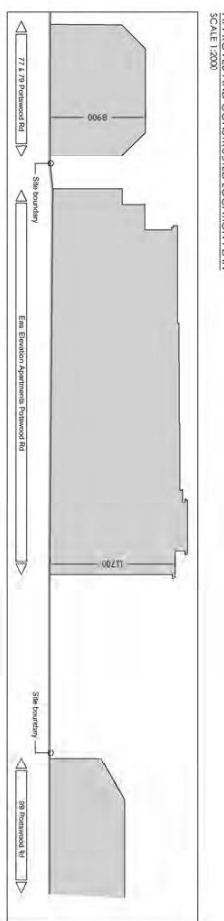
For RPS Planning & Environment

A handwritten signature in black ink, appearing to read 'P. Nikolaou' with a stylized flourish at the end.

Rallou Nikolaou
Senior Consultant

IMPORTANT INFORMATION

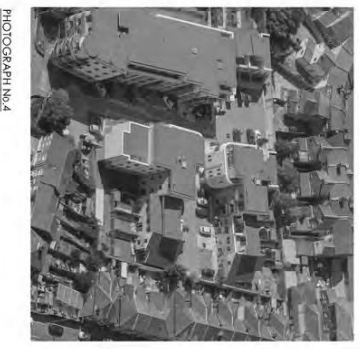
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 All materials and works are to be carried out in accordance with the Building Regulations and Planning Approval or current Building Regulations and Codes of Practice.
 Party Wall Act - Notices under the Party Wall Act are to be served by the property owner or appointed third party by property owner and Safety -
 CDW 2015 Regulations apply to all construction works to be carried out and apply to designers, contractors and the client. As such all parties have duties under these regulations.
ALL SECTION INFORMATION INDICATED FROM OS PLAN DATA ONLY



STATUS: PLANNING

Client
 LIDL UK GMBH - FOXES PARK, BROWN HILL WAY,
 NURSING, SOUTHAMPTON, HAMPSHIRE, SO16 0AW
Project
 NEW LIDL STORE,
 FULLERTON PLACE, SHIRELY
Title
 OVERSHADOWING ILLUSTRATION -
 APPROVED SITE AT FULLERTON PLACE
Job No. 17124
Drawing No. AD 201
Drawn by KH
Checked by SPN
Date MARCH 2018
Scale 1:500 & 1:2000
Sheet A3

ONE DESIGN
 ARCHITECTURAL SERVICES
 One Design Architectural Services Ltd
 Unit 1, Merchants Quay,
 Phase 1, Ashley Lane, Shipley
 West Yorkshire, BD17 7DB
 0 1 2 7 4 5 9 1 1 8 8
 www.onedesignarch.com
 info@onedesignarch.com
 Registered in England and Wales. Co. No. 835942



APPROVED AND CONSTRUCTED SITE LAYOUT
 NOT TO SCALE

PHOTOGRAPH NO.1

PHOTOGRAPH NO.2

PHOTOGRAPH NO.3

PHOTOGRAPH NO.4



APPROVED AND CONSTRUCTED SITE LAYOUT
SCALE 1:500

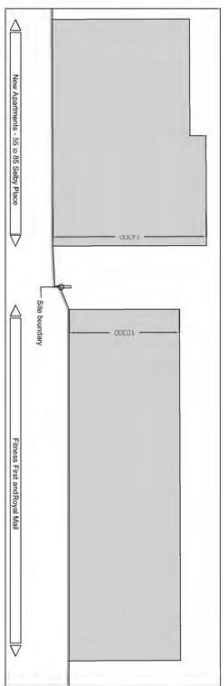


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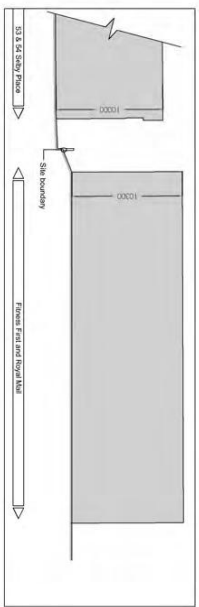
PHOTOGRAPH NO.2

PHOTOGRAPH NO.3

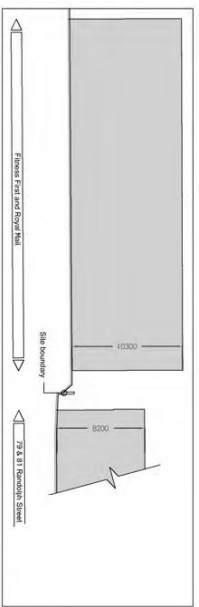
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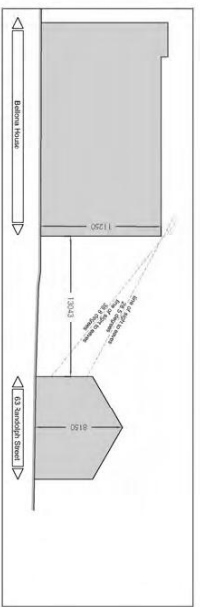
MASSING SECTION A.A.
SCALE 1:500



MASSING SECTION B.B.
SCALE 1:500



MASSING SECTION C.C.
SCALE 1:500



MASSING SECTION D.D.
SCALE 1:500

IMPORTANT INFORMATION

Dimensions to be confirmed on site prior to start of works and ODA5 is to be informed of discrepancies immediately. No dimensions to be scaled from this drawing.
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Health and Safety - CDW 2015 Regulations apply to all construction works to be carried out and apply to designers, contractors and the client. As such all parties have duties under these regulations.
ALL SECTION INFORMATION INDICATED FROM OS PLAN DATA ONLY

STATUS: PLANNING

Client
LIDL UK GmbH - FOXES PARK, BROWN HILL WAY, NURSING, SOUTHAMPTON, HAMPSHIRE, SO16 0AW
Project
NEW LIDL STORE, VILLERS ROAD, SHIRLEY
Title
OVERSHADOWING ILLUSTRATION - APPROVED SITE AT SELBY PLACE, HENDY
Job No.
17124
Drawing No.
AD 200
Drawn by
SPN
Checked by
AM
Date
MARCH 2018
Scale
1:500 & 1:2000
Sheet
A3

ONE DESIGN
ARCHITECTURAL SERVICES
Chartered Institute of Architectural Technicians Registered Practice
One Design Architectural Services Ltd
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RHODRI PRICE LEWIS QC

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AREAS OF LAW

- Planning
- Public
- Environment
- Mediation

Rhodri Price Lewis QC has practised in planning and environmental law for over 30 years. He is a deputy High Court Judge sitting in the Administrative Court where he hears all types of public law cases. He has been appointed to sit in the newly created Planning Court. He is a Recorder of the Crown Court, an assistant Parliamentary Boundary Commissioner and he has sat as the Inspector in many village green cases.

In his practice he specialises in major infrastructure projects such as proposals for energy, waste and transport developments but his work covers the whole range of planning and environmental law including housing, business and retail development and compulsory purchase.

Rhodri has acted for many of the leading companies in the environmental field such as Veolia, Viridor, Sita, WRG, Southern Water and Miller Argent.

He has advised and appeared for many major housebuilders such as Crest, Bovis Homes, Berkeley Homes, Miller Homes and Redrow. In the retail field he has been particularly instrumental in helping the development of deep discount shopping both in town and out of town having advised Lidl on many matters and appeared for them at a number of public inquiries.

He has acted for public authorities promoting major transport developments such as the Baldock bypass and the Hastings relief road. He promoted a new railway through the Snowdonia National Park.

He has advised in and appeared in energy cases including surface mining schemes and energy from waste schemes. He has acted in many cases relating to mineral extraction of all kinds both for mineral operators and for mineral planning authorities.

He has promoted business parks and other large-scale commercial developments all over the country.

He has guided development plans of all kinds including core strategies, area action plans, local plans, minerals plans and waste plans through the statutory processes on behalf of the promoting authorities. He has also advised and acted in objections to such plans.

He has advised registration authorities, applicants and objectors in village green matters and, as well as on many occasions acting as the Inspector conducting the inquiry and advising the registration authority, he has appeared frequently at such inquiries on behalf of objectors to registration.

Rhodri has extensive experience of appearing in the higher courts in planning and environmental matters both in judicial review and statutory challenges.

Rhodri is listed as a leading silk in planning and environmental law in recent Legal 500 and Chambers & Partners directories:

"He is excellent on his feet and gets straight to the key issues." Chambers & Partners 2014

"Gives sensible, pragmatic advice." The Legal 500 2014

"Lauded by peers for his 'punchy yet beautiful' advocacy style." [2013]

"A 'good planning lawyer who knows what he's doing. He's also quite fun.'" [2013]

Rhodri "has 'the ability to identify the important commercial issues' and 'will not pursue legal points for their own sake'." [2012]

Rhodri read Jurisprudence at Pembroke College, Oxford and Criminology at Sidney Sussex College, Cambridge. He is a Recorder and was appointed an Assistant Parliamentary Boundary Commissioner in 2000. He is also a qualified ADR Group Accredited Mediator.

CASES

19 Feb 2016 Wealden District Council v Secretary of State for Communities and Local Government and Knight Developments Limited [2016] EWHC 247 (Admin)

INQUIRIES

Currently being updated

PUBLICATIONS

2 Nov 2015 Plan-making under the Planning (Wales) Act 2015

12 Mar 2012 What is a Village Green?

31 Oct 2011 Planning & Environmental Law in Wales: 2011 Update - Waste Planning in Wales

OPINION

LIDL UK

PROPOSED LIDL STORE, 390-392 SHIRLEY ROAD,

SOUTHAMPTON

Introduction:

1. I am asked to advise Lidl UK in relation to an application for full planning permission for a new store at the above address that they have made to Southampton City Council, the local planning authority. I am asked to advise, in summary, on the merits of the application proposal particularly in terms of residential amenity issues and on the prospects of success on appeal were the City Council to refuse the application, and on associated ancillary issues.
2. I have read the report that has been prepared by the case officer for presentation to the relevant panel of the City Council which recommends that the members refuse planning permission on the following grounds:

“1. – REASON FOR REFUSAL – Impact on neighbouring occupiers

The proposed building due to its height, unbroken elevation extending along the common boundary, orientation to the south-east of its residential neighbours and proximity to the neighbouring properties at Mayflower Road would have a detrimental impact on the existing residential amenities of these occupiers in terms of providing an oppressive and overbearing outlook when viewed from habitable room windows in the rear of these dwellings and their associated garden space with additional shading within the rear garden areas. As such the proposal is contrary to ‘saved’ policies SDP1(i), SDP7 and SDP9 of the Amended Local Plan Review (2015) and policy CS13 of the Amended Core Strategy (2015).

2. REASON FOR REFUSAL – Lack of Section 106 agreement

In the absence of a completed Section 106 Legal Agreement, the proposals fail to mitigate against their direct impacts and do not, therefore, satisfy the provisions of Policy CS25 of the adopted Local Development Framework Core Strategy (2015) as supported by the Council's Developer Contributions Supplementary Planning Document (2013) in the following ways: - [there are then set out five matters dealing with (a) highway improvements in the vicinity of the site, (b) local labour and employment initiatives, (c) highway survey and repairs (d) servicing management, travel and waste management plans and (e) a carbon management plan.]

3. The main issue is therefore the relationship of the proposed store building to the houses on Mayflower Road which back onto the site and any impact that relationship might have on the amenities of the people living in those houses when they look out of their rear windows and when they are in their gardens.
4. I am instructed that Lidl have no objection to providing planning obligations by an agreement under section 106 of the Town and Country Planning Act 1990 to address the matters listed as (a) to (e) in the second recommended reason for refusal. The report to committee recognises in a number of paragraphs (see, for example, paragraph 6.8) that if the scheme were granted planning permission, these matters would be addressed by planning obligations. However, I am instructed that the case officer has not engaged with Lidl in discussing heads of terms to deal with those matters and so it is disingenuous and misleading for the officer to write in her report that "it has not been possible to secure planning obligations through the completion of a section 106 agreement": see paragraph 7.1 of the report. In fact I have been provided with an e-mail to her from Lidl on 23rd November 2017 where they asked to begin negotiations on a s106 agreement in order to minimise any delay in a planning permission being granted, but I am instructed that she did not respond to that request. Had she accepted that invitation or sought discussions on draft heads of terms it would have been clear that it is entirely

possible to secure the appropriate planning obligations through the completion of a section 106 agreement to address these matters. Indeed I am instructed that Lidl have developed other stores in Southampton where those matters, where relevant, have been successfully addressed with the Council by means of appropriate planning obligations. I shall concentrate therefore in this Opinion on the matters raised by the first potential reason for refusal that has been recommended by the case officer.

The Law:

The Development Plan:

5. This application for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise: see section 38(6) of the Planning and Compulsory Purchase Act 2004.
6. The development plan here comprises the saved policies of the City Of Southampton Local Plan Review (as amended 2015) and the City Of Southampton Core Strategy (as amended 2015).
7. Nowhere in her report does the case officer advise the members whether it is her opinion that the application is in accordance with the development plan as a whole or whether it is not. As the courts have stressed, the development plan must be looked at as a whole in order to reach that judgment. In *R. (Cummins) v Camden LBC [2001] EWHC 1116 (Admin)* (Ouseley J.; December 21, 2001) the court observed that the “accordance” of a determination has to be in accordance with the plan, not with each relevant policy of the plan. It might be necessary in a case where policies pull in different directions to decide which is the dominant policy. It is therefore not appropriate to examine each

individual relevant policy against the planning application. The implication that a breach of one necessarily showed that a proposal was out of accord with the development plan would impose a legalistic straitjacket upon the appraisal process. It was very much a matter for planning judgement, and a purposive view has to be taken by the local planning authority of the group of policies overall.

8. That is particularly important in this case because it is recognised in the report that in principle redeveloping this site to provide a Lidl foodstore is supported by development plan policy: see paragraph 6.2 of the report. Core Strategy policy CS3, as the report recognises in that paragraph, states that: *“The Council will support the role of town and district centres in providing shops and local services in safe, accessible locations. New development should make a contribution to the centre’s vitality and viability, promote and enhance its attractiveness, respect where possible the historic street patterns and building lines and improve its connectivity to surrounding residential neighbourhoods.”* The site is partly within Shirley Town Centre as designated by that policy. The report recognises that the scheme would bring a vacant site back into effective use and would consequently enhance the vitality and viability of Shirley Town Centre: see paragraph 6.2.3. It recognises in paragraph 5.15 that the site is in a sustainable location in terms of walking and connection with public transport and all highway matters have been successfully addressed: see paragraphs 5.19 to 5.30. Indeed the view is that with the planning obligations in place, as they easily can be, there is a highway “benefit that will provide an overall improvement to the area”: see paragraph 5.30. The report recognises that there is no uniform character in the

area and that although officers would have preferred to see a scheme that fronts the street “the design is acceptable in this location”: see paragraph 5.11. Indeed the Council employs an officer whose specific remit is to consider the design of schemes in their settings and that officer has not only not raised any objection to the design of the proposal but indeed is reported as expressing the view that the proposal “is acceptable and fits in with the street scene and does not detract from the character of the area”: see paragraph 5.11 again.

9. This proposal is therefore entirely in accordance with this policy CS3, a primary policy of the development plan dealing with town centres and their vitality and viability, with shopping, safety, accessibility and design. The report does not suggest any conflict with this primary relevant policy. It does say that “the principle of the use and the redevelopment is accepted” but it fails to recognise that the primary policy says that the Council will support proposals for the town centre in these circumstances.
10. Furthermore, specific issues have had to be addressed by reason of the precise location of the site. They have all been successfully addressed and the relevant policies satisfied. So the setting of St Boniface’s Church, a locally listed building situated across the road, has been considered and there would be no adverse impact. A historic milestone is retained: see paragraph 6.2.2. An important yew tree is retained with a landscaping scheme that “enhances the street scene and the character of the area”: see paragraph 6.6 of the report. There will be an “a welcome improvement to the streetscape” which “will deliver many ecosystem benefits into the future”: see paragraph 5.34.

11. These interests are all addressed by policies of the development plan set out in Appendix 1 to the report and in all cases those policy requirements are satisfied.
12. The policies where the case officer argues there is a conflict are policies SDP1(i), SDP7 and SDP9 of the Local Plan Review and policy CS13 of the Core Strategy.
13. Policy SDP1 is an overarching policy dealing with all types of development in all types of locations and says: “ Planning permission will only be granted for development which: (i) does not unacceptably affect the health, safety and amenity of the city and its citizens.” The high level nature of this policy is clear. There is no question of any harm to the health, safety or amenity of the city. There is no question of any harm to the health or safety of any of its citizens. The only relevant issue is whether there is unacceptable affect on the amenity of occupiers of Mayflower Road. But in terms of accordance with the development plan as a whole, as section 38(6) requires, that has to be judged in relation to a site whose redevelopment for a foodstore is supported by policy and where all other policy requirements are met.
14. Policy SDP7 addresses development that will “cause material harm to the character and appearance of an area”. The remainder of the policy addresses specific examples of that potential harm to the character and appearance of an area. It is not relevant to residential amenity and those words are not used in the policy or in its reasoned justification in paragraphs 2.49 to 51 of the Local Plan. The report to the panel here does not suggest any harm to the character or appearance of the area – on the contrary it recognises improvements: see paragraphs 5.34 and 6.6.

15. Policy SDP9 is entitled “Scale, Massing and Appearance” and provides that “Planning permission will only be granted where the building design is of a high quality”. The Council’s Design Officer here is satisfied that the design is “acceptable and fits in with the street scene and does not detract from the character of the area”: see paragraph 5.11 of the report. The policy goes on to provide that “Proposals should respect their surroundings in terms of (i) scale, massing and visual impact” and “(v) the impact on surrounding land uses and local amenity.” It seems clear from the reasoned justification to this policy in paragraphs 2.57-60 that “local amenity” is not referring to residential amenity in dwellings but to the more general appearance of an area. Even if it were, the context of a partly town centre site whose redevelopment for a foodstore is supported by the dominant and most relevant policy has to be taken into account.
16. Policy CS13 of the Core Strategy is another high-level policy dealing with what it calls “Fundamentals of Design”. It is not a specific policy dealing with residential amenity although “the amenity of the city and its citizens” is sought to be protected.
17. These policies SDP 7, SDP9 and CS13 are not referred to in the body of the case officer’s report at all, let alone in the section dealing with residential amenity at paragraphs 6.4 to 6.4.2. Policy SDP1 (i) is referred to in that section but it is not quoted and its actual wording of “development which does not unacceptably affect the amenity of the city and its citizens” is not applied to the circumstances here, let alone in the context of a site whose redevelopment for a foodstore is supported by the primary relevant development plan policy. Further, the first reference to policy SDP1 (i) in

paragraph 6.4.2 appears to be referring only to the view “from the garden space of these dwellings.” It is difficult to see how there is any conflict with the actual policy wording in these circumstances. Similarly the second reference in that paragraph appears to refer to shading to the garden area of the houses. Again it is difficult to see that produces an unacceptable effect on the amenity of the city and its citizens, in the words of the policy.

18. In my opinion, although it is a matter for planning judgment, there is a strong case that this proposal does accord with the development plan read as a whole and therefore benefits from the presumption in favour of the presumption in favour of such sustainable development as explained in paragraphs 14, 196 and 197 of the National Planning Policy Framework and planning permission should be granted.

Material Considerations:

19. Section 38(6) and paragraph 196 of the Framework recognise, of course, that applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise. The amenities of the residents of Mayflower Road are a material consideration, of course, but the development plan policies as a whole which support the redevelopment of this site for a foodstore should be borne in mind when considering any effect on those amenities.
20. Furthermore, there are no development plan policies which specify acceptable distances between housing and commercial development such as is proposed. The Council has an adopted supplementary planning document entitled

Residential Design Guide dated 2006 and so pre-dating the adopted development plan documents. It is not referred to in the first recommended reason for refusal nor in the wording of policy SDP1 and is clearly specific to the relationship between one residential development and another (see its paragraph 2.1.1) and not between existing housing and the commercial redevelopment of a town centre site supported by policy. Any weight it carries must therefore be very limited in assessing the situation here. The guidance it does give which is nearest to the situation here is where in paragraph 2.2.7 it advises that “the separation distance between windows of habitable rooms and the side (gable end) wall of another house or building” should be from “a two-storey house to a side wall of a two storey building = 12.5 m”. The officer’s report here accepts that the distances between “the rear elevation of the proposed store and the nearest properties at 2 and 4 Mayflower Road is approximately 12.5m” (the applicant’s consultants measure it at 12.7m) and “the distance between 12 and 14 Mayflower Road is 15.5 m”: see paragraph 6.4.

21. So the application proposal complies with the nearest analogous guidance of its own that the Council can point to. The officer seeks to argue that the situation here is unacceptable because there would be an unbroken rear wall to the proposed store along this boundary whereas one house backing on to another might have some “relief in the elevations”. That is the subjective view of one officer. It is not supported by any published policy or guidance. Most significantly, it is not the view of the vast largest majority of the occupiers of the houses on Mayflower Road, almost none of whom has objected to the proposal – the Council’s comments register shows that only the occupier of

number 18 Mayflower Road has lodged objections to the proposed development, and I have noted that none of his concerns relate to the impact on the outlook from the rear of his property, which is probably because number 18 will not back onto the rear of the proposed store but on to the car park. One might think that if the proposed relationship between the foodstore and the outlook from the houses or their gardens was a genuine cause for concern producing a genuinely unacceptable effect on the amenities of the occupiers of the houses, it would be they who are best placed to judge that. None of them has expressed any concern on the impact on the outlook from their properties, despite the extensive publicity given to, and consultation undertaken on, this application. The single objector along Mayflower Road at number 18 has raised a number of issues almost all of which have already been addressed to the Council's satisfaction (the sole exception being his concern on over-shadowing),

22. The view of the case officer in her report appears to be a subjective view unsupported by any guidance or policy. The members are of course free to form their own views on this issue and can also be guided by the professional judgments of the applicant's advisers. Those advisers have produced sections showing the actual distances between the rear wall of the proposed foodstore and the windows of the houses on Mayflower Road. The members should take care to consider those sections. They also show that there would be no adverse effect on daylight to windows applying a test (the 25 degree test) that is widely applied in assessing such issues. Furthermore, an exercise has been carried out in accordance with the Building Research Establishment guidance entitled "Site layout planning for daylight and sunlight: a guide to good

practice” that is widely used again in such assessments. The report dated the 16th February 2018 should be read carefully by members. It shows that the existing gardens will continue to receive acceptable levels of sunlight and daylight with the foodstore constructed, in accordance with that guidance. There will be some reduction in sunlight by shadowing in March between 8 am and 9 am at the curtilages of the houses which would back onto the proposed building but thereafter levels will be much as now. It is therefore not surprising that the large majority of residents who enjoy the existing situation have not raised any concern about the proposals. (I have been informed that all the buildings that used to be on the application site have been demolished). The case officer’s report does not seek to challenge the findings of this professional assessment in the 16th February report and appears to accept them. It should be noted that the draft revisions to the Framework published by the Government for consultation this week indicate that sunlight and daylight guidance should be applied flexibly and in such a way as to not to restrict development (see draft paragraph 123c). That is in the context of density of housing in new developments but in my opinion it indicates that the Government is concerned that an overly restrictive approach to such matters can stymie sustainable development. In any event of course the guidance is met here.

23. In the light of all this information that the applicant can put before the Council it is difficult to see how the conclusion can reasonably or sensibly be reached that the proposed foodstore would unacceptably affect the amenities of the residents of Mayflower Road, who do not themselves see any problems with it. It is a truism of planning that no one is entitled to a view and any effect of

the proposal here is very far from resulting in unacceptable harm to the amenities of these residents.

Conclusions:

24. The National Planning Policy Framework, itself of course a material consideration, advises that local planning authorities should look for solutions rather than problems, and decision-takers at every level should seek to approve applications for sustainable development where possible. Local planning authorities should work proactively with applicants to secure developments that improve the economic, social and environmental conditions of the area. See paragraph 187. This application proposal would do just that. It secures the redevelopment of an accessible, sustainable town centre site with a foodstore supported by policy in all regards that will add to the vitality and viability of the centre. It provides regeneration benefits for the area and provides much needed local jobs. All genuine concerns have been addressed and met. Suitable planning obligations are offered and can readily be secured on the grant of planning permission. In terms of the relationship of the proposed building and existing housing, the only published guidance from the Council which assists in assessing this matter is met. Professional advice has been obtained which shows that effects on daylight and sunlight are acceptable. Those most potentially affected do not object. The proposal is in accordance with the development plan and so benefits from the presumption in favour of development and should be granted planning permission.

25. If planning permission were refused there would be every prospect of success on appeal. Given the operational requirements, which led to the choice of layout and design, and given the absence of unacceptable harm arising from the proposal as put forward in the application, that proposal as it is could be taken to appeal. If an Inspector took the view that the refusal was unreasonable in all the circumstances an award of costs against the Council would be obtained. There is a good prospect of obtaining such an award.
26. I trust I have answered all the points in my instructions. If I can be of any further assistance I can be contacted through chambers.

Rhodri Price Lewis QC
Landmark Chambers
London EC4A2 HG

8 iii 2018

Appendix 3 Highways



Villiers Road Photo Schedule





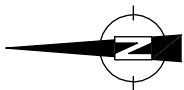












ADDITIONALLY: SECTION 106
TRANSPORT CONTRIBUTIONS
TOWARDS LOCAL TRAFFIC
MANAGEMENT AND ROAD
SAFETY MEASURES

KERB REALIGNMENT AND
NEW FOOTWAY
CONSTRUCTION

REMOVAL OF
HAZARDOUS PARKING

RIGHT TURN LANE WIDENED
TO 3m AND EXTENDED
FOR 7 VEHICLES

EXTRA ROAD WIDTH TO
ALLOW FOR UNIMPEDED
THROUGH MOVEMENTS

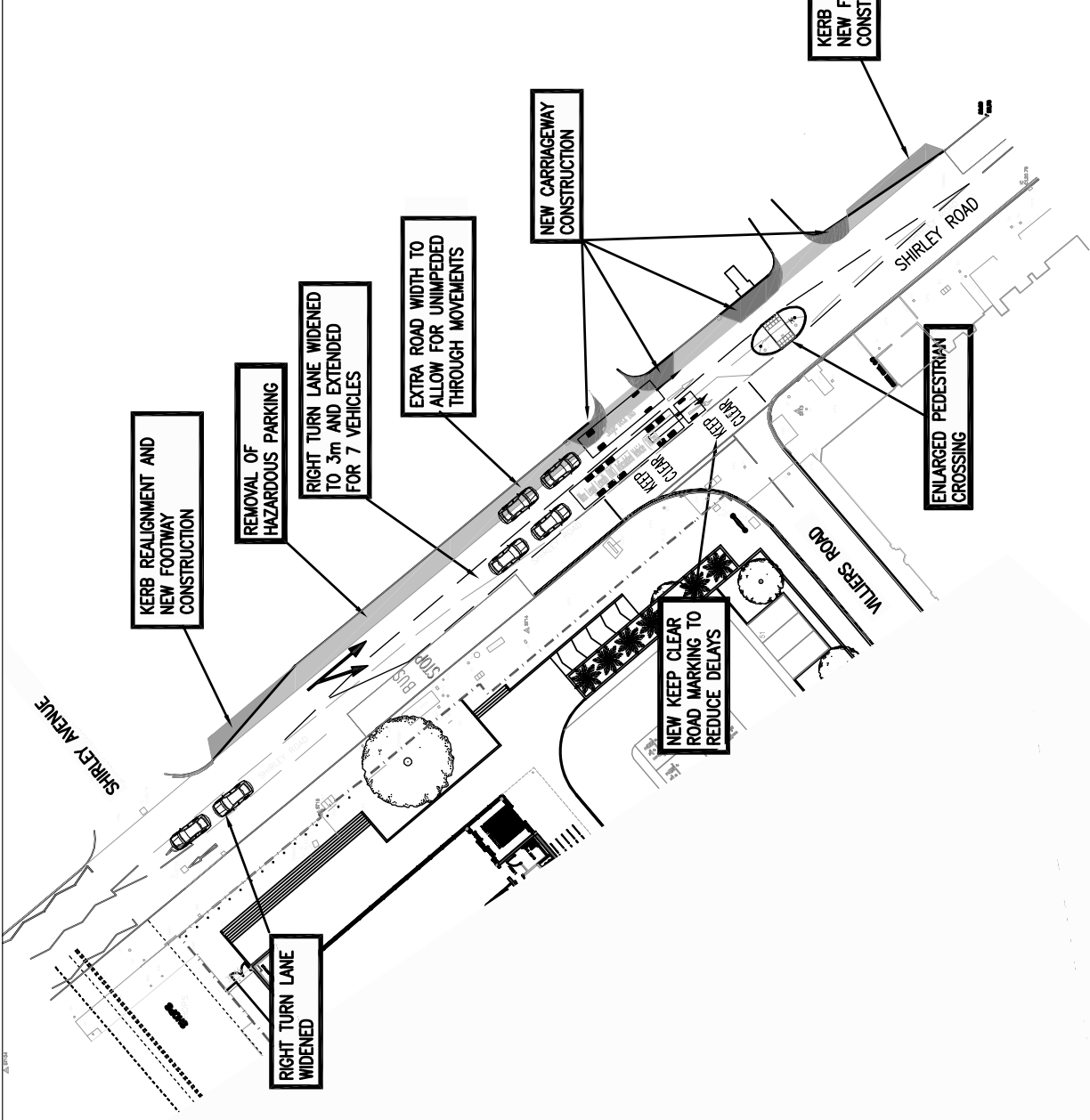
NEW CARRIAGEWAY
CONSTRUCTION

KERB REALIGNMENT AND
NEW FOOTWAY
CONSTRUCTION

ENLARGED PEDESTRIAN
CROSSING

NEW KEEP CLEAR
ROAD MARKING TO
REDUCE DELAYS

RIGHT TURN LANE
WIDENED



Rev	Description	Drawn	Checked	Date
A	PEDESTRIAN REFUGE ENLARGED AND MINOR REFORMATING OF ROAD MARKINGS	JGP	SMA	06.03.18

Preliminary	Approval	Tender	Const.

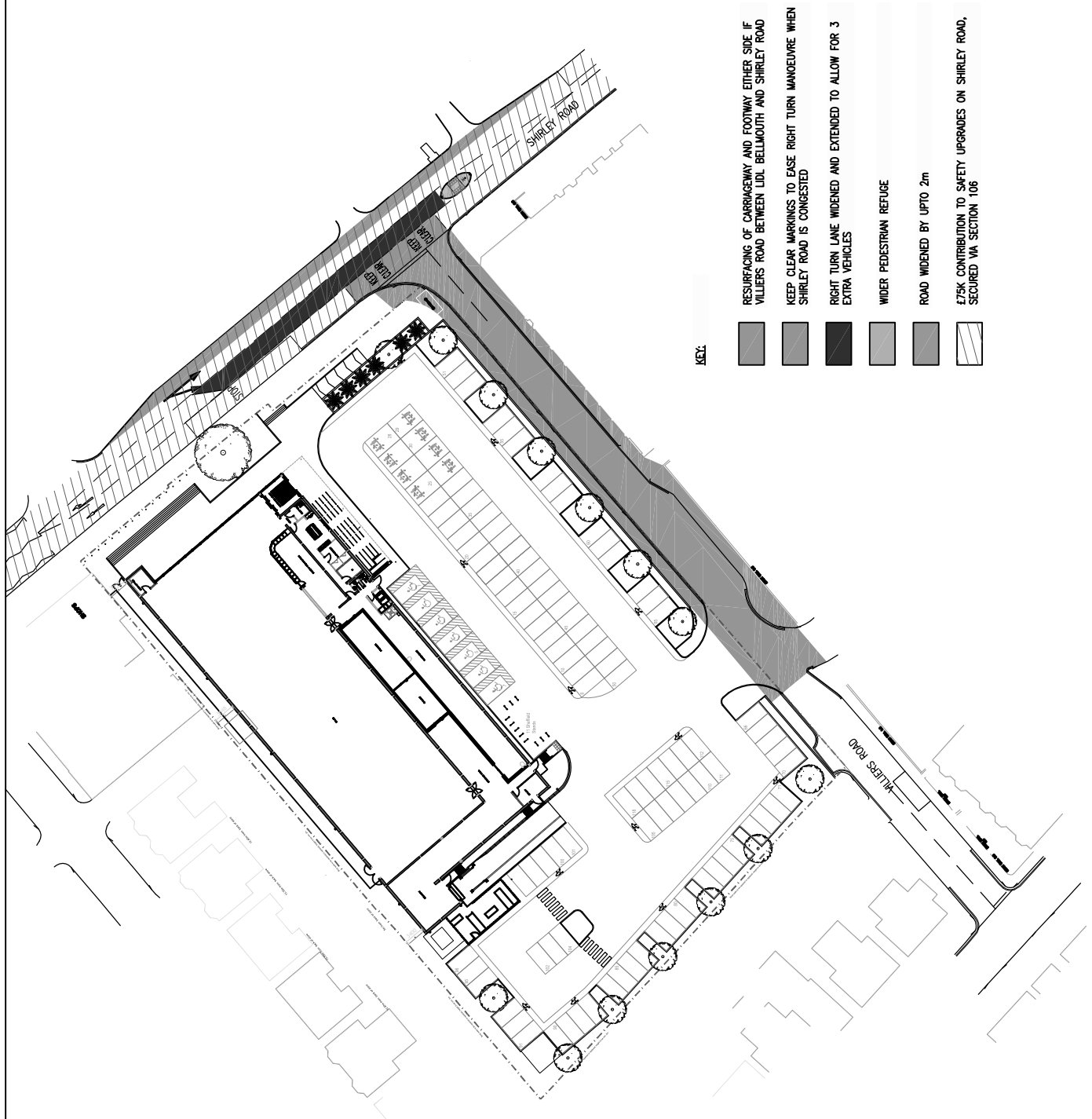
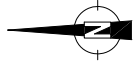
DATE	DRAWING STATUS	ISSUE CHECKBOX
MAR' 18	JGP	SMA

DRAWING No: 5414.011
SCALE: 1:500
DATE: MAR' 18
JOB TITLE: PROPOSED LIDL STORE, SHIRLEY
ASSOCIATED HIGHWAY IMPROVEMENTS AT SHIRLEY ROAD
VILLIERS ROAD







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KEY:

-  RESURFACING OF CARRIAGEWAY AND FOOTWAY EITHER SIDE OF VILLERS ROAD BETWEEN LIDL, BELLMOUTH AND SHIRLEY ROAD
-  KEEP CLEAR MARKINGS TO EASE RIGHT TURN MANOEUVRE WHEN SHIRLEY ROAD IS CONGESTED
-  RIGHT TURN LANE WIDENED AND EXTENDED TO ALLOW FOR 3 EXTRA VEHICLES
-  WIDER PEDESTRIAN REFUGE
-  ROAD WIDENED BY UPTO 2m
-  £75K CONTRIBUTION TO SAFETY UPGRADES ON SHIRLEY ROAD, SECURED VIA SECTION 106

Rev	Description	Drn	Chk	Date

REVISIONS	
Submitted for S104	
Issued for Tender	
Submitted for S38	
Submitted for Construction	
As Built	

DRAWING STATUS



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DATE: MAR '18 DRAWN: JGP CHECKED: SMA

PROJECT NO.: 5414.010 SCALE: 1:500

PROPOSED LIDL STORE,
SHIRLEY

ASSOCIATED HIGHWAY IMPROVEMENTS

DATE: MAR '18 DRAWN: JGP CHECKED: SMA
PROJECT NO.: 5414.010 SCALE: 1:500

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Appendix 4

Urban Design

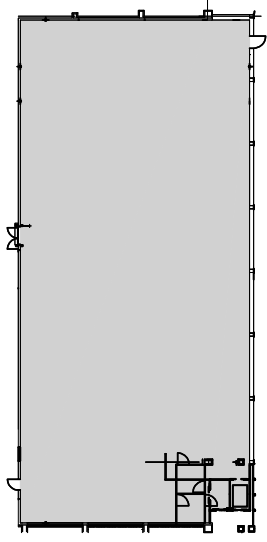




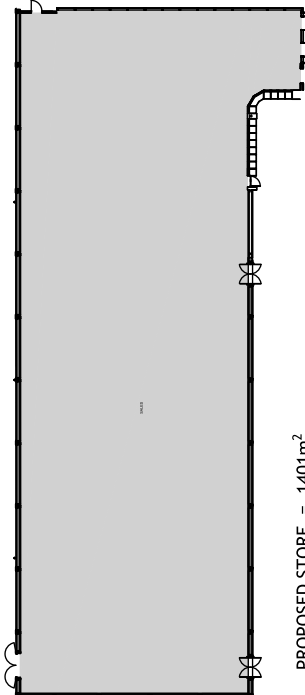
EXISTING SITE LAYOUT (CHURCH END) @ 1:1000

PROPOSED SITE LAYOUT (SHIRLEY ROAD) @ 1:1000

SALES AREAS 1:500

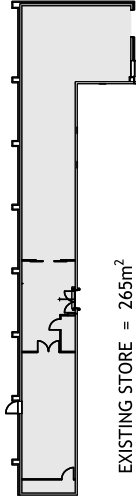


EXISTING STORE = 1006m²

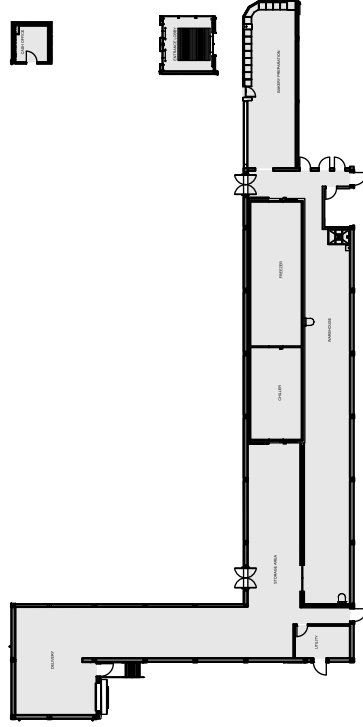


PROPOSED STORE = 1401m²

ANCILLARY AREAS 1:500



EXISTING STORE = 265m²

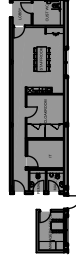


PROPOSED STORE = 659m²

WELFARE AREAS 1:500



EXISTING STORE = 43m²

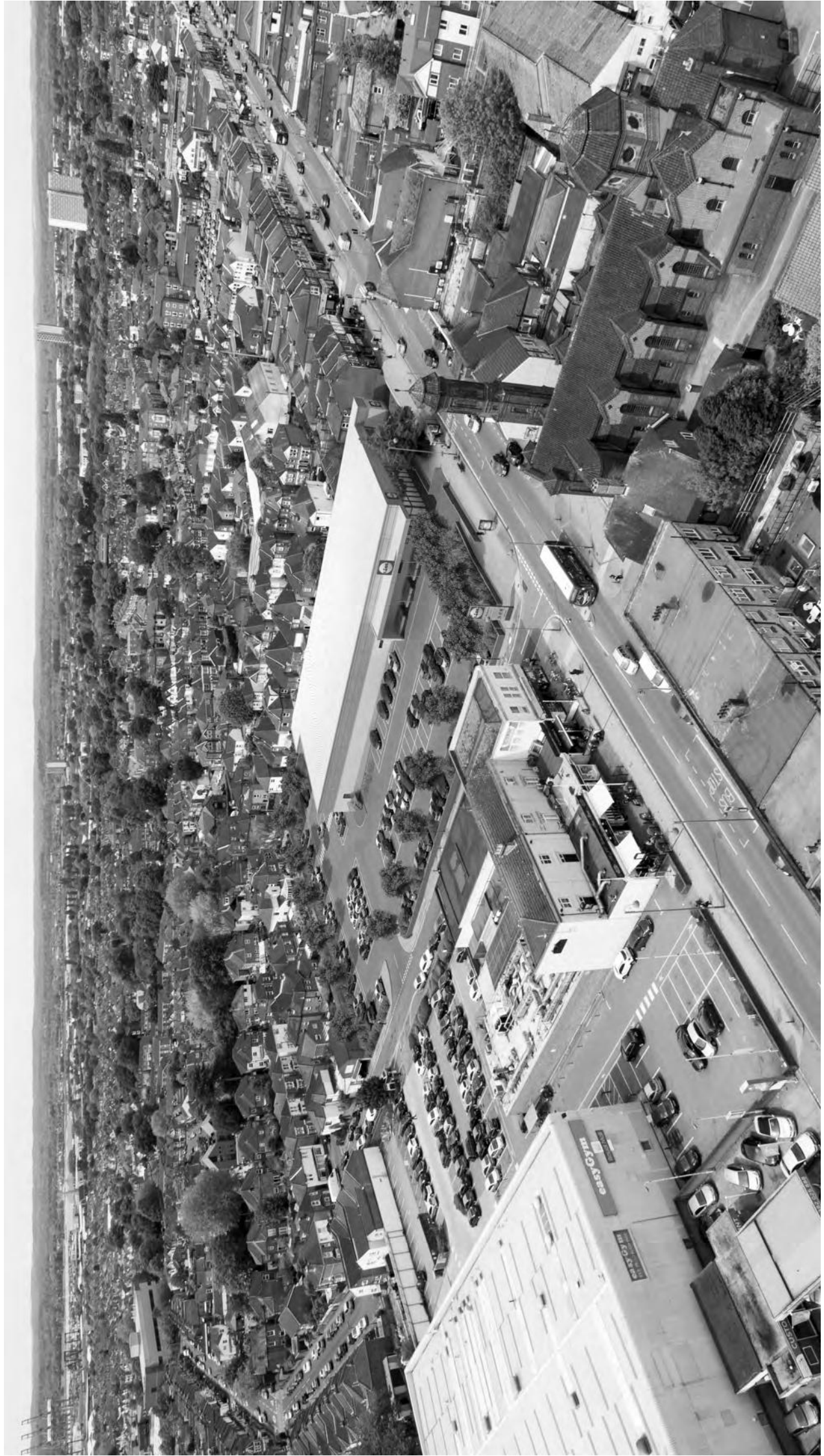


PROPOSED STORE = 90m²



NOTES: Drawings of the existing store and site layout are as per those plans produced by WITTING - European & Asian Engineering And Consulting LTD. in 2011

Rev	Date	Comments
		Proposed new Lidl foodstore at Shirley Road, Southampton
<p>Drawn Title Existing & Proposed Shirley Lidl Store comparison</p>		
<p>LAPWORTH ARCHITECTS 4 Elmwood, Southampton, SO15 1JX Tel: 01703 450002</p>		
Scale	1:1000 @ A3	Drawn
Date	FEB 2018	Revision
Job No	1922	301





Photos of cleared site



Photos of site prior to demolition











Appendix 5

Public Consultation

